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SAN FRANCISCO

August 16, 2017

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**The Honorable Chris Coons
Ranking Member
Subcommittee on Oversight,
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Judiciary Committee
United States Senate
Washington, DC 20510**

Dear Senators,

I write as President of The Bar Association of San Francisco (“BASF” or “The Association”) on behalf of its approximately 7,500 members who practice in Northern California to express our opposition to S. 276, S. 295, H.R. 196, H.R. 250 and H.R. 1598, the current legislative proposals to divide the United States Court of Appeals for The Ninth Judicial Circuit. I understand that Senator Flake intends to hold a Judiciary Committee field hearing in Arizona this month that may include discussion of such proposals.

BASF’s members and leadership include attorneys in all practice areas, both civil and criminal, and both public and private. Our charter is to assure representation of the views of Bay Area attorneys as well as the communities that we serve, and to assure the fair administration of justice in our courts. Our members practice in the state and territories that comprise the Ninth Circuit, and therefore have a direct interest in this proposed legislation. We ask that your committees take special consideration of the views of those practicing before the Ninth Circuit.

Nearly twenty years ago the White Commission observed that “[t]here is no persuasive evidence that the Ninth Circuit (or any other circuit, for that matter) is not working effectively, or that creating new circuits will improve the administration of justice in any



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circuit or overall.” This is equally true today. The proposed split would, on the other hand, entail substantial costs.

The proposed circuit split is unnecessary and inappropriate, as is demonstrated by the fact that it *still* is not wanted by those who would be most directly affected. The vast majority of Judges on the Ninth Circuit—regardless of party affiliation—oppose a split. Chief Judge Sidney Thomas and 33 other Ninth Circuit Judges wrote Senators Grassley and Feinstein on July 27, 2017, to state their view that “division of the Ninth Circuit would be costly, inefficient, and would harm the administration of justice in the West.”

Similarly, the parties who use the Court’s services—lawyers and litigants—currently receive both timely and complete resolution of their claims. As Chief Judge Thomas recently explained before a subcommittee of the House of Representatives, “the Circuit’s median case processing times are within a few months of the smallest circuits, and often better.” The Court’s processing times are steadily improving, too, even with the four vacancies that have existed since late 2016. The Ninth Circuit’s ability to adjudicate matters as quickly or fairly as other Circuits is not impaired by its current size. Moreover, to the extent that the Circuit is broad and encompasses a diverse range of political perspectives, this diversity helps assure that its treatment of complex matters is balanced and measured.

In sum, the Ninth Circuit is working well, and is meeting the needs of the communities that it serves. Splitting the circuit, an extreme measure, would be unnecessary, costly, and unjustified.

Thank you for your attention and consideration.

Sincerely,

Merri Baldwin
BASF President

cc: Hon. Kamala Harris
Hon. Nancy Pelosi