



SCCBA: The Bar Association of Silicon Valley™

**SANTA CLARA COUNTY BAR
ASSOCIATION**

Hon. Dianne Feinstein
United States Senate
Washington, DC 20510-0504

By FAX and EMAIL ONLY

RE: Splitting The 9th Circuit

Dear Senator Feinstein:

Thank you for the opportunity to provide you with the position of the Santa Clara County Bar Association regarding pending legislation before Congress that would serve to split the United States Court of Appeals for the Ninth Circuit. The specific bills are S. 2278; S. 562, and H.R. 2723.

The Santa Clara County Bar Association is strongly opposed to the splitting of the Ninth Circuit. Such an action would produce particularly difficult problems in the administration of justice for the State of California. Since California cases in the Ninth Circuit represent almost 60% of the Circuit's caseload, the workload and administration of a new circuit that includes all of California could cause greater delays than we currently experience. And, of course, splitting California between two new circuits would be a severe problem for Californians and attorneys representing them, in that many situations where the circuit decisions would be in conflict.

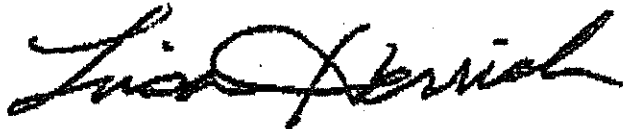
In addition, adding another circuit would only create greater difficult with precedents and only add another opportunity for conflicting decisions between circuits. As such, the U.S. Supreme Court would be called on to resolve those conflicts, which would either create longer delays in the administration of justice or result in more conflicting decisions among the circuits, since the Supreme Court cannot, does not and probably would not resolve all the conflicting decisions.

Finally, the proposal to split the Ninth Circuit is not driven by interests to improve the administration of justice. If that is the motivation, the efforts should be directed to filling the vacant positions on the Court and adding justices to the bench. The real problem with the Ninth Circuit is its caseload. Splitting the circuit will not resolve that problem. Political interests in diluting the decisions of the Ninth Circuit and creating what some characterize as a more conservative bench is not the appropriate reason to split the

Circuit. In fact, doing so for those reasons really strikes at the heart of the independence of the judiciary and its role as an independent, third branch of government.

If we can provide additional information, please do not hesitate to contact us.

Best regards,
SANTA CLARA COUNTY BAR ASSOCIATION

A handwritten signature in black ink, appearing to read "Lisa Herrick". The signature is fluid and cursive, with a large initial "L" and "H".

Lisa Herrick
President