



April 11, 2013

The Honorable Patrick Leahy  
Chairman  
Senate Judiciary Committee  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Chuck Grassley  
Ranking Member  
Senate Judiciary Committee  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

On behalf of Justice at Stake (JAS), a nonpartisan, national partnership<sup>1</sup> of more than fifty organizations dedicated to keeping our courts fair and impartial, I write to express opposition to S. 699, which was introduced yesterday afternoon and referred to the Senate Judiciary Committee for further consideration. S. 699, titled “the Court Efficiency Act,” attempts to do several things, but most notably, eliminates three seats from the DC Circuit Court of Appeals. This proposed reduction would reduce the total number of authorized judgeships from eleven to eight.

JAS has both substantive and procedural concerns with this legislation. Substantively, we are concerned about a reduction of seats on a court that is widely regarded as the second most important federal appellate court. The DC Circuit, as you know, routinely considers cases that implicate some of the most technical issues of administrative and national security law. Procedurally, we are concerned that the legislation draws a conclusion about adjusting the number of judgeships without meaningfully engaging the entity best able to advise on this issue, the Administrative Office of the United States Courts (AO). Created in 1939, the AO has long served as the source of thoughtful, non-partisan analysis and recommendations on resource allocation within the federal courts, including the number of authorized judgeships for each federal circuit. The AO’s recommendations are based on close analysis of data, including not only the number of cases heard by a court, but also the complexity of such cases. The AO reviews this data every two years and to date, has not recommended any change to the number of authorized judgeships for the DC Circuit Court of Appeals.

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<sup>1</sup> As with any diverse partnership, the views stated in this Justice at Stake letter do not necessarily reflect the positions of every JAS partner organization or board member.

The courts are already actively engaged in conversations about how to achieve greater levels of efficiency and how to best allocate scarce resources. Legislation proposing resource allocation changes to the courts should implement, not contravene, the recommendations of the AO; absent such a relationship to AO recommendations, legislation like S. 699 is apt to be viewed as political tampering with the functioning of a fair, impartial, and independent judiciary.

Thank you for your time and consideration. If you have any questions or want any additional information on this matter, please contact Praveen Fernandes, Director of Federal Affairs & Diversity Initiatives, at [pfernandes@justiceatstake.org](mailto:pfernandes@justiceatstake.org).

Respectfully,

A handwritten signature in black ink that reads "Bert Brandenburg". The signature is written in a cursive style with a large, stylized "B" at the beginning and a long, sweeping tail that extends to the right.

Bert Brandenburg

Executive Director