

AFL-CIO

LEGISLATIVE ALERT

July 31, 2017

Chairman Charles Grassley
Ranking Member Diane Feinstein
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington DC 20510-6050

Dear Chairman Grassley and Ranking Member Feinstein:

The AFL-CIO urges you to oppose the nomination of Stephen S. Schwartz to the United States Court of Federal Claims, the federal court with jurisdiction over claims against the federal government, including pay claims by federal employees. Mr. Schwartz's record makes clear that he is an ideologue who opposes the rights of workers, African Americans, and immigrants. Mr. Schwartz's hearing before the Senate Judiciary Committee provided no information to counter that established record.

Despite his youth (34 years) and limited years of practice, Mr. Schwartz has demonstrated clear hostility toward worker protections. In 2014, on behalf of four publishing companies, including the Christian Booksellers Association, Mr. Schwartz filed an amicus brief in the U.S. Supreme Court case *Burwell v. Hobby Lobby Stores, Inc.* Like the Hobby Lobby Stores, the publishing employers sought to get out from under their legal obligations to provide contraceptive coverage to women. As the AFL-CIO Executive Council observed about that case, "By allowing the owners of companies to pick and choose which provisions of the law they will follow, the Supreme Court's ruling undermines workers' rights . . . [and] raises the specter of employers arguing that religious objections should override their responsibilities under minimum wage, civil rights and other workplace laws."

Mr. Schwartz also filed suit challenging the U.S. Department of Labor's finding that a children's consignment business owner, with 80 locations in 25 states, violated the Fair Labor Standards Act (FLSA) in its use of volunteer labor for consignment sales. This case is pending.

In seeking to disenfranchise people of color, Mr. Schwartz (along with President Trump's nominee for the Eastern District of North Carolina, Thomas Farr), authored a U.S. Supreme Court petition defending North Carolina's efforts to make voting more difficult for African-Americans. Despite Mr. Schwartz's efforts, the Fourth Circuit struck down the state's voter suppression law as racially discriminatory, observing that it "target[s] African Americans with almost surgical precision."

The AFL-CIO is troubled further by Mr. Schwartz choosing to represent Governor Jeb Bush in an amicus brief to the U.S. Supreme Court supporting Arizona's petition to defend denying drivers' licenses to Deferred Action for Childhood Arrivals (DACA) recipients.

Americans deserve an open-minded and fair judge on the U.S. Court of Federal Claims, and as is clear from his record, Mr. Schwartz is far from that. The AFL-CIO urges you to oppose Stephen Schwartz's nomination to the U.S. Court of Federal Claims.

Sincerely,



William Samuel
Government Affairs Director

American Federation of Labor and Congress of Industrial Organizations

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