

## Elected officials reveal the real ideological reasons behind their drive to split the 9<sup>th</sup> Circuit

The following are statements from elected officials who have sponsored or supported bills to split the Ninth Circuit stating that they support these measures on the explicit basis of ideological concerns, including: (1) displeasure with the court's decisions and (2) the idea that the federal courts should reflect local values.

- **Senator Conrad Burns (R-MT):** “Many times the judiciary in this country is bound to make unpopular but correct decisions, but lately, the Ninth Circuit has made decisions which I believe are both unpopular and wrong. Many Montanans who hold far more conservative views than the membership of the Ninth Circuit bench sitting in San Francisco were nonetheless bound to a particularly offensive decision made last year. The court found the phrase “under God” in the Pledge of Allegiance violated the Establishment Clause of the First Amendment when it is recited in school by our youngsters... This case highlights the disconnect between the San Francisco-based Ninth Circuit and my State of Montana which it supposedly represents... One of the other areas the Ninth Circuit has repeatedly addressed is land management, which usually has a negative effect on my State of Montana. One need only look to some of the court's recent decisions, which all share one commonality: they represent the conclusions of a bench that is thoroughly unfamiliar with land use and its implications on Montana... The problems with the Ninth Circuit are due to many factors, whether it be the geographic size of the region, the number of judges, or the impractical decisions issued by those judges. The legislation recently introduced will address this problem, so that Montanans will benefit from a more reasonable bench, which will reflect the opinions of those in our area, rather than those located near San Francisco.” (Congressional Record, S 6079-6080, May 21, 2004) [http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S6080&dbname=2004\\_record](http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=S6080&dbname=2004_record))
- **Senator Craig Crapo (R-ID):** “‘The time has come create a new 12th Circuit Court, one that is not only more reflective of the values we in the West hold dear, but one that can more efficiently and effectively deal with the caseload of our expanding population.’ Senator Crapo says ...the recent ruling against the use of the Pledge of Allegiance showed the court to be out of step with the proper interpretation of the Constitution. ‘To deny God, no matter how He is perceived, is to deny the very fiber of our national character. In its ruling regarding reciting the Pledge of Allegiance in schools, the Ninth Circuit Court of Appeals failed to make the distinction between church and state, and God and state. The ruling is shortsighted and does not properly interpret the Constitution. It is for this, and other reasons that have been discussed by legal experts for many years now, that the time has clearly come to split the Ninth circuit,’ said Senator Crapo.” Press Release, “Craig, Crapo Co-Sponsor Bill to Split the Ninth Circuit Court” (March 7, 2003). Available online at: [http://crapo.senate.gov/media/newsreleases/release\\_full.cfm?id=232426&&](http://crapo.senate.gov/media/newsreleases/release_full.cfm?id=232426&&)
- **Senator John Ensign:** “Ensign also expressed concern over the court's ideological leaning as part of his motivation to get Nevada out of the jurisdiction of the Ninth Circuit, citing specifically the court's ruling that the Pledge of Allegiance is unconstitutional because it contains the phrase ‘under God.’ ‘Many of the court's rulings reflect a set of values that are odds with the majority of the people of Nevada,’ Ensign said. “I look forward to seeing Nevada's residents served by a new court in a new location with a viewpoint closer to their own.” --Press Release, “Ensign Introduces Bill to Split Ninth Circuit Court” (June 23, 2005).

- **Senator Orrin Hatch, (R-UT):** Discussing why he supports splitting the Circuit: “It is also a court that is seriously out of balance, with 17 of its 24 active judges appointed by Democratic presidents. It is about time that we let the 9th Circuit Court of Appeals know that, as the most reversed court in the country, to think twice before they do something like this.” --Quoted in PBS Newshour, *Controversial Court* (Jan. 17, 2005). Available online at: [http://www.pbs.org/newshour/bb/law/jan-june05/controversial\\_1-17.html](http://www.pbs.org/newshour/bb/law/jan-june05/controversial_1-17.html)
- **Senator Lisa Murkowski (R-AK):** Stating that the Northwest should be its own Circuit, so that it would not be dominated by “California judges and California judicial philosophy.”—Quoted in *The Oregon State Bar Bulletin*, by Lori Irish Bauman, “Split over Splitting” (April 2004). Available online at: <http://www.osbar.org/publications/bulletin/04apr/splitsplitting.html>
- **Representative Trent Franks (R-2d AZ):** Explaining why he supports a split: “We have seen the 9th Circuit time and again ignore the Constitution without reverence for the principles that made it what it is, without reverence for families...If we do not gain control of these out-of-control courts, they will lead this Republic into a darkness that we cannot emerge from.” Quoted in Citizenlinks.com, “House Mulls Splitting 9th Circuit” November 7, 2005. [Available online at: <http://www.family.org/cforum/news/a0038507.cfm>]
- **Representative Darrell Issa (R-4<sup>th</sup>-CA):** “Architect” of the recent California recall election, Rep. Issa has argued the Ninth Circuit should split up because it is, “too liberal.” -- Quoted in Lincoln Caplan, *Legal Affairs*, “Indivisible” Jan/Feb 2004.
- **Representative Rick Renzi (R-1<sup>st</sup>-AZ):** Discussing why he introduced legislation, H.R. 4247, to split the 9<sup>th</sup> Circuit in 2004: “These Contemptuous judgments tear at the moral fabric of our nation, disregard the will of the people and force a corrupt ideology upon our society...For too long, Arizonans have been held hostage by activist judges out of San Francisco, who have constantly ruled against ranchers, farmers, miners and our timber industry. The Ninth Circuit is out of touch with the traditional western value that still hold true in our communities, and the scales of justice must be balanced.” Quoted in Fox News, “Future of 9<sup>th</sup> Circuit Under Review” (November 24, 2004). *See also*, Talon News, Jimmy Moore, “Bill Splits Controversial Ninth Circuit into Three Smaller Courts” (May 17, 2004).
- **Lindsay Slater, Chief of Staff for Representative Michael Simpson, (R-2d-ID)** who introduced S.878 to include Alaska in the 12<sup>th</sup> Circuit, “The 9th Circuit is too large... Judges in San Diego are making decisions that affect people in Idaho and Fairbanks, Alaska.” Quoted in the *Los Angeles Business Journal*, by Amanda Bronstad, “Court order: proposed legislation would break up 9th Circuit” (April 11, 2005). Available online at: [http://www.findarticles.com/p/articles/mi\\_m5072/is\\_15\\_27/ai\\_n13662166](http://www.findarticles.com/p/articles/mi_m5072/is_15_27/ai_n13662166)
- **Representative Don Young (R-at large-AK):** “I am extremely pleased that the Amendment to Separate Alaska out of the Ninth Circuit Court passed the first time. I previously introduced

similar legislation and now it has the opportunity to become law. This is good for the State of Alaska because we will no longer be governed by adverse court decisions made for and Francisco and that way of life.” Press release, “Congressman Young Supported Amendment to Split the Ninth Circuit Court” (October 5, 2004).