A D D E N D U M

to

CONFIRMATION HEARING ON FEDERAL APPOINTMENTS

This Addendum is available at:

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Submitted by Ranking Member Durbin:

ALLIANCE FOR JUSTICE

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PRESIDENT
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August 27, 2025

Senator Charles Grassley
Chair, Senate Judiciary Committee

Senator Richard Durbin
Ranking Member, Senate Judiciary Committee

Dear Chairman Grassley and Ranking Member Durbin,

On behalf of Alliance for Justice (AFJ), a national association representing nearly 140 public interest and civil rights organizations, I write to strongly oppose the nomination of Robert "Bobby" Porter Chamberlin to the United States District Court for the Northern District of Mississippi.

Judge Chamberlin is not merely a jurist with conservative leanings; he is an extremist politician-turned-judge whose record reveals a consistent hostility toward reproductive freedom, LGBTQ+ equality, voting rights, and the separation of church and state. Throughout his time in the Mississippi Senate and on the state's highest court, he weaponized the law as an instrument to entrench ideological priorities and protect powerful stakeholders while limiting the rights of everyday people and marginalized communities. His career leaves little doubt that, if given the power of a lifetime federal judgeship, he would continue this pattern of harm on a national scale with broader consequences.

Previously, when considering Judge Brindisi for the U.S. District Court for the Northern District of New York, Republican members of this committee argued that a nominee's time in the legislature should raise "serious concerns" about their ability to serve as an impartial judge. If Republican members believe this is true, it is difficult to understand how they could support Judge Chamberlin's nomination. Chamberlin's legislative record is an unbroken chain of bills and votes designed to roll back hard-won rights. To ignore this history would be to apply one standard to judicial nominees of another administration and an entirely different one for Trump's.

Chamberlin's legislative record makes his worldview clear. He co-sponsored a sweeping "personhood" bill that redefines even an embryo or fetus as a "human being" — a direct challenge to reproductive autonomy designed to lay the foundation for banning reproductive health care nationwide, including IVF treatments, and charging abortion patients with homicide. He introduced conscience laws empowering doctors, hospitals, and insurers to deny abortion care, which threatens life-saving emergency care, and proudly championed "Choose Life" license plates as part of his campaign against reproductive freedom.

His anti-freedom agenda was not limited to abortion: Chamberlin introduced legislation to prohibit gay couples from adopting children, spearheaded efforts to ban same-sex marriage at the federal level, and declared that Mississippi would not recognize marriages lawfully performed elsewhere. He justified these discriminatory measures as "preventative medicine," making plain that he saw LGBTQ+ families not as equal citizens but as threats to be preemptively extinguished.

As a state supreme court justice, Chamberlin has doubled down on this rights-stripping record. He upheld a new criminal court system in Jackson — Mississippi's majority-Black capital — that eliminates residents' right to appeal. He also limited taxpayer standing to challenge the diversion of funds from public schools, shielded the state from accountability, and undermined education for working families. Time and again, his judicial opinions mirror the same instincts he displayed in the legislature: to narrow rights, close courthouse doors, and empower the powerful over the vulnerable.

The consistency of this record is evidence of a deep-seated ideology that views constitutional rights for marginalized communities as obstacles to be trimmed back, not guarantees to be enforced. Chamberlin has worked to blur the line between church and state, mandating "In God We Trust" in classrooms, while shielding gun manufacturers from accountability for dangerous products. His deference to entrenched power — whether religious, political, or corporate — continually comes at the expense of the people the law is meant to serve.

Confirming Chamberlin would not simply place another conservative voice on the federal bench; it would elevate a man who has spent decades bending the law to fit an ideological agenda — first as a legislator, then as a state judge. To grant him lifetime tenure on a federal court would be to guarantee that agenda an enduring foothold in our judiciary.

Senators on the committee have warned before that a nominee's legislative career can and should raise questions about bias and impartiality. Those warnings must be heeded here because of the extremist legislative record of this nominee. Bobby Chamberlin's record speaks for itself, and it tells us plainly that he cannot be trusted to administer equal justice under law. He is a political actor with a political agenda, one that undermines the Constitution and eviscerates fundamental rights.

For these reasons, the Alliance for Justice urges you to reject the nomination of Robert "Bobby" Porter Chamberlin to the U.S. District Court for the Northern District of Mississippi.

Sincerely,

Rachel Rossi

Rachel Rossi
President, Alliance for Justice

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Ranking Member, Senate Judiciary Committee

Dear Chairman Grassley and Ranking Member Durbin,

On behalf of Alliance for Justice (AFJ), a national association representing nearly 140 public interest and civil rights organizations, I write to express our strong opposition to the nomination of Edmund G. LaCour, Jr. to the United States District Court for the Northern District of Alabama.

The federal bench is reserved for jurists who can be trusted to serve as impartial guardians of the Constitution. LaCour has built his career proving the opposite. His record is not that of an advocate merely representing clients or defending state interests; it is the record of a man who seeks every opportunity to advance an extremely far-right ideological crusade. Whether in the courtroom or the public arena, LaCour has consistently chosen to erode democracy, dismantle fundamental rights, and expand power for the privileged few.

His work tells a consistent and harrowing story: voting rights are an obstacle to overcome, not a guarantee to be protected; reproductive freedom is illegitimate, not a cornerstone of personal autonomy; equality for LGBTQ+ people is something to be rolled back, not secured; and corporate and political elites are the rightful winners while workers, consumers, and communities are left to fend for themselves. On issue after issue, LaCour has elevated the interests of the powerful over the rights of ordinary people, particularly Black voters, women, immigrants, and LGBTQ+ communities.

This is not an incidental record — it is a worldview. In case after case, LaCour has volunteered sweeping, radical arguments designed not only to win a case, but to reshape the law itself. He urged the Supreme Court to gut the Voting Rights Act, attempted to undermine its enforcement by claiming that states should be immune from private enforcement, and defended discriminatory maps that silenced Black voters. He also defended an Alabama law criminalizing doctors who provided gender-affirming care, backed an order that would force patients to delay abortion procedures even when their health was at risk, and shielded state officials from accountability for civil rights violations. His advocacy against wage protections and in favor of abusive policing practices further underscores the same point: The law, in his hands, is a weapon to fortify power, not a shield to protect the vulnerable.

If given the privilege of a lifetime appointment, there is no reason to believe that LaCour will leave these convictions at the courthouse door. His confirmation would ensure that far-right litigants have a ready ally in their efforts to dismantle the rights and protections that define modern constitutional democracy. The danger is not just in the rulings he would issue, but in the biases he would bring: a reflexive skepticism of equality claims, a hostility to democratic participation, and a deference to the interests of the powerful.

The people of Alabama — and the nation — deserve judges who will uphold the Constitution for everyone, not just for those who already hold the levers of power. Edmund LaCour has shown us exactly who he is as a lawyer. There is every reason to believe he would be the same kind of judge.

For these reasons, the Alliance for Justice strongly urges you to reject the nomination of Edmund G. LaCour, Jr. to the United States District Court for the Northern District of Alabama.

Sincerely,

Rachel Rossi

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August 27, 2025

Senator Charles Grassley
Chair, Senate Judiciary Committee

Senator Richard Durbin
Ranking Member, Senate Judiciary Committee

Dear Chairman Grassley and Ranking Member Durbin,

On behalf of the Alliance for Justice (AFJ), a national association representing nearly 140 public interest and civil rights organizations, we strongly urge you and your colleagues on the Senate Judiciary Committee to reject the nomination of Jennifer Mascott to the U.S. Court of Appeals for the Third Circuit.

Mascott's nomination to the U.S. Court of Appeals for the Third Circuit raises profound concerns about her contempt for the Constitution's separation of powers. Over the course of her career, she has promoted an expansive view of executive authority — shielding presidents from accountability, while at the same time working to weaken Congress's ability to delegate power to federal agencies and enact protections for the public. This selective approach to separation of powers is not grounded in principle but in ideology, consistently producing outcomes that favor unchecked presidential power, corporate interests, and the rollback of fundamental rights. Her record makes clear that, if confirmed, she would tilt the judiciary further away from its constitutional role as a check on abuse of power and a guarantor of equal justice.

One of the most alarming aspects of Mascott's record is her embrace of an expansive vision of presidential authority, including immunity from accountability. In testimony regarding *Trump v. United States*, she argued that subjecting a president to criminal prosecution for official acts (as loosely defined) would be an unacceptable threat to the office. She has seemingly aligned herself with the unitary executive theory, a fringe belief that further centralizes power in the presidency and undermines the system of checks and balances the Framers designed. Confirming a nominee who embraces a view that places presidents above the law and erodes vital oversight mechanisms would be a grave threat to the American people and our nation's democracy.

At the same time, Mascott has vocally opposed deference to agency expertise, even when Congress clearly delegated that authority. She attacked the Consumer Financial Protection Bureau (CFPB), criticized longstanding precedent preserving independent agencies, and played an active role in overturning Chevron, precedent that for four decades ensured agencies could implement laws passed by Congress.

In *Biden v. Nebraska*, she filed a brief on behalf of Republican lawmakers arguing that separation-of-powers concerns prevented the President from forgiving student loans. Yet, it remains unclear whether Mascott would apply those same principles of congressional control when evaluating assertions of executive power under a Republican president. Her record raises a serious concern: she is willing to wield separation-of-powers arguments strategically to obstruct congressional priorities, while simultaneously defending the expansion of unilateral presidential authority, only when politically expedient. This selective vision of constitutional structure threatens both Congress's Article I powers and the integrity of checks and balances.

Her hostility toward regulatory protections extends across issue areas. On behalf of the Alliance for Hippocratic Medicine, she filed a brief challenging FDA authority, attacking access to safe and effective medication. She also praised the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* as a "master stroke" and has implied that there needs to be a re-evaluation of substantive due process protections, threatening not only abortion rights but also contraception, marriage equality, and LGBTQ+ protections. Further, she endorsed the Supreme Court's decision in *West Virginia v. EPA*, which curtailed federal authority to address climate change, and has consistently sided with corporate interests over environmental justice and workers' health and safety.

Mascott has clearly revealed her judicial philosophy — one that embraces an anti-rights version of originalism as the only legitimate method of constitutional interpretation, accompanied by unchecked presidential power, and a strong opposition to robust congressional and agency authority to implement critical protections for everyday people in the United States. Such views not only erode civil rights and consumer safeguards but would further destabilize the important balance of power among the branches of government that we are witnessing the erosion of under this administration.

The Canons and Code of Judicial Conduct for United States Judges require a federal judge to act in a manner that promotes public confidence in the judiciary's impartiality and independence. Mascott's record gives no assurance that she would meet this standard. Instead, it demonstrates an unwavering commitment to a political project that weakens democratic accountability and leaves the public more vulnerable to abuse by powerful interests.

For these reasons, we strongly urge you to oppose Jennifer Mascott's nomination to the U.S. Court of Appeals for the Third Circuit.

Sincerely,

Rachel Rossi

Rachel Rossi
President, Alliance for Justice

Sincerely,

Rachel Rossi

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President, Alliance for Justice

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September 2, 2025

VIA EMAIL

The Honorable Chuck Grassley
Chair
U.S. Senate Committee on the Judiciary
135 Hart Senate Office Building
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The Honorable Dick Durbin
Ranking Member
U.S. Senate Committee on the Judiciary
711 Hart Senate Office Building
Washington, DC 20510

Re: Nomination of Jennifer Mascott to the U.S. Court of Appeals for the Third Circuit

Dear Senators Grassley and Durbin:

On behalf of the National Women's Law Center (the "Law Center"), an organization that has advocated on behalf of women and girls for over fifty years, we write in strong opposition to the nomination of Ms. Jennifer Mascott for the U.S. Court of Appeals for the Third Circuit.

Ms. Mascott's legal record demonstrates a dedication to undermining abortion access and eroding Title IX sexual harassment protections for students, as well as biased and ideological scholarship on executive overreach. During her time as law professor, she submitted briefs that challenged the FDA's approval of medication abortion in a case against the Biden administration[1] and that sought to block a California law that protected pregnant people against deceitful and dangerous practices.[2] Ms. Mascott's legal scholarship is focused on the separation of powers and the regulatory state, yet she manipulates her academic positions to support her political biases. For example, she defended the controversial Texas abortion ban and bounty law (SB 8)[3] despite the fact that law implicates troubling critical separation of powers concerns and

[1] Brief of Amicus Curiae Mountain States Legal Foundation in Support of Respondents, *U.S. Food & Drug Admin. v. Alliance for Hippocratic Med.*, Nos. 23-235, 23-236 (U.S. Feb. 29, 2024), https://www.supremecourt.gov/DocketPDF/23/23-235/301868/20240229130657908_23-235%20Amicus%20Brief%20of%20%20Mountain%20States%20Legal%20Foundation.pdf.
[2] Brief for 144 Members of Congress as Amici Curiae in Support of Petitioners, *Nat'l Inst. of Family & Life Advocates v. Becerra*, No. 16-1140 (U.S. Jan. 16, 2018), https://www.supremecourt.gov/DocketPDF/16/16-1140/28001/20180116165204024_16-1140%20tsac%20144%20Members%20of%20Congress.pdf.
[3] Tex. Health & Safety Code § 171.201–171.212 (2021).

despite the author's clear intent to circumvent judicial review and violate constitutional rights.[4] Ms. Mascott has also taken widely varying positions on the power of the presidency based on who is president, for example, by championing legal immunity for President Trump.[5] Further, Ms. Mascott defended Secretary Betsy Devos's Title IX regulation that undermined reporting and investigation of sex-based harassment in colleges and stigmatized and endangered student survivors.[6] Ms. Macott's dedication to upending the legal rights and protections critical to women and girls and clear bias for President Trump calls into question her ability to be fair-minded jurist.

Ms. Mascott submitted briefs that supported anti-abortion groups' efforts to end access to medication abortion and protections for pregnant people seeking care.

Throughout her career, Ms. Mascott has shown that her positions on executive power depends more on the party of the president than any coherent legal theory. For example, while serving as the Associate Professor of Law at Catholic University Law School, Ms. Mascott applied her selectively narrow view of federal agency power to support efforts to end medication abortion. Her Supreme Court amicus brief filed on behalf of Mountain States Legal Foundation supported Alliance for Hippocratic Medicine's (AHM) challenge to the FDA approval of mifepristone, an abortion medication thoroughly tested and safely used for more than two decades.[7] The brief

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[4] Jennifer L. Mascott, *Jurisdiction and the Supreme Court's Orders Docket*, U.S. Senate Comm. on the Judiciary, Hearing on *Texas's Unconstitutional Abortion Ban and the Role of the Shadow Docket* (Sept. 29, 2021), at 2, https://www.judiciary.senate.gov/imo/media/doc/Professor%20Mascott%20-%20Statement.pdf.

[5] Jennifer L. Mascott, *Prepared Testimony on Presidential Immunity Doctrines*, U.S. Senate Comm. on the Judiciary (Sept. 24, 2024), https://www.judiciary.senate.gov/imo/media/doc/2024-09-24_-_testimony_-_mascott.pdf; Senate Judiciary Committee, *When the President Does It, that Means It's Not Illegal: The Supreme Court's Unprecedented Immunity Decision*, 118th Cong. (2024), https://www.judiciary.senate.gov/committee-activity/hearings/when-the-president-does-it-that-means-its-not-illegal-the-supreme-courts-unprecedented-immunity-decision; *but see* Brianna Herlihy, Former Attorney in Barr's DOJ Wins Award for Work Used to Fight Biden's Executive Overreach, *Fox News* (Mar. 17, 2025), https://www.foxnews.com/politics/former-attorney-barrs-doj-wins-award-work-fight-bidens-executive-overreach.

[6] *Victim Rights Law Center v. Cardona*, 552 F. Supp 3d 104 (D. Mass 2021) (Young J.*); Victim Rights Law Center v. Cardona*, 2021 WL 3516475 (D. Mass Aug 10, 2021)(clarification order), https://scholar.google.com/scholar_case?case=4878928060372774 05&q=Victim+Rights+Law+Center+v.+Cardona,+552+F.+Supp.+3d+104+(D.+Mass.+2021)&hl=en&as_sdt=20000006; Dept. of Education, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 85 Fed. Reg. 30026 (May 19, 2020), https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal.

[7] Brief of Amicus Curiae Mountain States Legal Foundation in Support of Respondents, *U.S. Food & Drug Admin. v. Alliance for Hippocratic Med.*, Nos. 23-235, 23-236 (U.S. Feb. 29, 2024), https://www.supremecourt.gov/DocketPDF/23/23-235/301868/20240229130657908_23-235%20Amicus%20Brief%20of%20%20Mountain%20States%20Legal%20Foundation.pdf; U.S. Food & Drug Administration, *Questions and Answers on Mifepristone for Medical Termination of Pregnancy Through Ten Weeks Gestation*, FDA (last updated Jan. 3, 2023), https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/questions-and-answers-mifepristone-medical-termination-pregnancy-through-ten-weeks-gestation.

focused on the issue of standing, seeking to bolster AHM's notoriously weak theory of injury[8] by arguing that the organization had standing to challenge approval of the medication decades prior merely because it filed a citizen petition to revoke approval and the agency's response was delayed.[9] Such a rule would hamstring the FDA's ability to approve drugs, potentially allowing them to be removed from the market many years after approval and without medically significant new information showing adverse effects, harming patients' ability to receive medications they rely on. Ultimately, and fortunately, the Supreme Court did not agree with Ms. Mascott, finding AHM lacked standing to bring suit.[10]

In *National Institute of Family Life (NIFLA) v. Becerra*, Ms. Mascott submitted an amicus brief on behalf of 144 members of Congress asserting a radical view of religious privilege to challenge a California law that implemented protections for pregnant people seeking family care.[11] The California FACT Act required unlicensed entities that provide family planning, such as anti-abortion centers,[12] to notify pregnant people seeking support that they are medically unlicensed and have no medically licensed provider and to provide state information regarding state family planning services, including services providing contraception and abortion.[13] This brief argued that that the FACT Act, should "be evaluated against the backdrop of Congress's longstanding and bipartisan legislative tradition of protecting conscientious objectors in the abortion context."[14] In other words, she argued that the unlicensed groups actively working to deceive women and deny them health care are comparable to conscientious objectors.

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[8] AHM represents anti-abortion doctors who do not prescribe or use mifepristone. They argued that they had standing to challenge approval of mifepristone to prevent *other* doctors from prescribing it and *other* patients from receiving it because they may eventually treat a patient who suffers from an injury caused by the medication, which they object to on religious grounds. The Supreme Court rejected this speculative and tenuous theory of standing. *See Food and Drug Administration v. Alliance for Hippocratic Medicine*, 602 U.S. __,13-21* (2024), https://www.supremecourt.gov/opinions/23pdf/23-235_n7ip.pdf.

[9] Brief of Amicus Curiae Mountain States Legal Foundation in Support of Respondents, *U.S. Food & Drug Admin. v. Alliance for Hippocratic Med.*, Nos. 23-235, 23-236 (U.S. Feb. 29, 2024), at 2-3, https://www.supremecourt.gov/DocketPDF/23/23-235/301868/20240229130657908_23-235%20Amicus%20Brief%20of%20%20Mountain%20States%20Legal%20Foundation.pdf.

[10] *Food & Drug Admin. v. Alliance for Hippocratic Med*., 602 U.S. 367 (2024).

[11] Brief for 144 Members of Congress as Amici Curiae in Support of Petitioners, *Nat'l Inst. of Family & Life Advocates v. Becerra*, No. 16-1140 (U.S. Jan. 16, 2018), https://www.supremecourt.gov/DocketPDF/16/16-1140/28001/20180116165204024_16-1140%20tsac%20144%20Members%20of%20Congress.pdf; *See* Cal. Health & Safety Code §§ 123470–123473, https://law.justia.com/codes/california/code-hsc/division-106/part-2/chapter-2/article-2-7/.

[12] Anti-abortion centers, also called crisis pregnancy centers, are unregulated entities that claim to provide support for pregnant people with the intent of delaying, deceiving, or shaming pregnant people to prevent them from having an abortion. *See* Sawyeh Esmaili, Clarke Wheeler, & Equity Forward, Anti-Abortion Centers and Their Fake Economic Solutions, National Women's Law Center (Oct. 8, 2024), https://nwlc.org/anti-abortion-centers-and-their-fake-economic-solutions/.

[13] Cal. Health & Safety Code §§ 123470–123473, https://law.justia.com/codes/california/code-hsc/division-106/part-2/chapter-2/article-2-7/.

[14] Brief for 144 Members of Congress as Amici Curiae in Support of Petitioners, *Nat'l Inst. of Family & Life Advocates v. Becerra*, No. 16-1140 (U.S. Jan. 16, 2018), at 8, https://www.supremecourt.gov/DocketPDF/16/16-1140/28001/20180116165204024_16-1140%20tsac%20144%20Members%20of%20Congress.pdf

Further, Ms. Mascott asserted that California passed this law due to bias against anti-abortion viewpoints, disputing the legislature's clear intent to protect pregnant people seeking family planning care from efforts to confuse or misinform them.[15] She downplayed the legitimate criticism of anti-abortion centers' deceptive tactics, claiming that they "lack any evidentiary support whatsoever in either the legislative record or the record in this case."[16] Yet, there is significant evidence, including numerous academic medical journals and studies that have found that anti-abortion centers do intentionally try to misguide pregnant people.[17]

Ms. Mascott's support for these harmful and deceptive anti-abortion centers was reflected in her service as a volunteer board member for the Rockville Pregnancy Clinic, now known as the Rockville Women's Center (RWC).[18] The RWC is a listed as a crisis pregnancy center on a third-party online directory and listed as a pro-life pregnancy center on the Roman Catholic Archdiocese of Washington resource page, but intentionally does not so identify on its website.[19] In fact, RWC's website purposefully uses language like "choice" and "decision," and under Pregnancy Services, it includes "Options/Abortion Consultation," "Abortion Costs," and "Abortion Aftercare," all to mislead pregnant people as to the organization's anti-abortion stance.[20] As a board member, Ms. Mascott would have been responsible for overseeing how RWC is governed and its activities.

In the two amicus briefs Ms. Mascott submitted as a law professor challenging medication abortions and required disclosures for anti-abortion centers, she sought to undermine access to abortion care and protections for pregnant people. In both cases, she favored the views of religious providers over the patients they are supposed to be serving. As a Third Circuit judge, Ms. Mascott's broad view of religious privilege and slight regard for the rights of patients could have a disastrous impact on health care for women and LGBTQ people.

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[15] *Id.* at 16.
[16] *Id.*
[17] *See, e.g.,* Joanne D. Rosen, *The Public Health Risks of Crisis Pregnancy Centers*, 44 *Perspectives on Sexual and Reproductive Health* 201 (2012), https://www.jstor.org/stable/42004128; Amy G. Bryant et al., Crisis Pregnancy Center Websites: Information, Misinformation, and Disinformation, 90 *Contraception* 601 (2014), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9189146/.
[18] The United States Senate Committee on the Judiciary, *Questionnaire for Judicial Nominee*: *Jennifer Mascott*.
[19] Rockville Women's Center, *Yelp*, https://www.yelp.com/biz/rockville-womens-center-rockville-2?osq=Crisis+Pregnancy+Centers, ("Consumer Notice: This is a Crisis Pregnancy Center. Crisis Pregnancy Centers do not offer abortions or referrals to abortion providers."); Archdiocese of Washington, *Pregnant? Need Help?*, https://adw.org/about-us/resources/pregnant-need-help/; *Rockville Women's Center*, https://rockvillewomenscenter.com/.
[20] *Rockville Women's Center*, https://rockvillewomenscenter.com/.

Ms. Mascott defended the Texas anti-abortion and bounty law, which was written to circumvent judicial review and violate constitutional rights.

While testifying before the Senate Judiciary Committee, Ms. Mascott downplayed the devastating impact of an extreme Texas abortion ban by stating that "women seeking abortions are not subject to potential penalties or prosecution under the bill."[21] The Texas six-week abortion ban, SB 8, grants any person standing to sue any person (except the patient themselves) who "provides, aids, or abets" an abortion after the sixth week of pregnancy.[22] Bounty style laws like SB 8, allow for "citizen enforcement," rather than enforcement by Texas authorities, who may be subject to suit for violating constitutional rights. While a court may prevent Texas officials from applying an unconstitutional law, there is no simple way to prevent dozens or even hundreds of random individuals from bringing suits against physicians that provide abortions under this law. This ruinous threat of liability—even if there is no violation of the law—soon made it impossible to offer abortion services in Texas. The structure of this law is incompatible with our legal system, because the flood of litigation it engenders could be used to chill or block a wide range of constitutionally protected actions.[23] In other words, in addition to endangering the lives of pregnant people, this law is an aberration that weaponizes the legal system.

In her testimony before the Senate Judiciary Committee, Ms. Mascott defended the Supreme Court's refusal to address the law's brazen attempt to evade legal review in *Whole Woman's Health v. Jackson.*[24] She effectively endorsed Texas's gamesmanship, explaining that the *Ex Parte Young* exception to state sovereignty required those challenging unconstitutional state action to sue a state official, and Texas had crafted a law that is not technically enforced by any state official. Therefore, she argued, the doctors and patients impacted by this law have no ability to enjoin the violation of their constitutional rights, and she justified that untenable result as "consistent with the Court's lack of power to generally review in an advisory fashion."[25]

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[21] Jennifer L. Mascott, *Jurisdiction and the Supreme Court's Orders Docket*, U.S. Senate Comm. on the Judiciary, Hearing on *Texas's Unconstitutional Abortion Ban and the Role of the Shadow Docket* (Sept. 29, 2021), at 2, https://www.judiciary.senate.gov/imo/media/doc/Professor%20Mascott%20-%20Statement.pdf.
[22] S.B. No. 8, 87th Leg., R.S. (Tex. 2021), https://capitol.texas.gov/tlodocs/87R/billtext/html/SB00008F.htm.
[23] *See Texas's Unconstitutional Abortion Ban and the Role of the Shadow Docket*, S. Hrg. 117-851, 117th Cong. (September 29, 2021), https://www.judiciary.senate.gov/committee-activity/hearings/texass-unconstitutional-abortion-ban-and-the-role-of-the-shadow-docket.
[24] Jennifer L. Mascott, *Jurisdiction and the Supreme Court's Orders Docket*, U.S. Senate Comm. on the Judiciary, Hearing on *Texas's Unconstitutional Abortion Ban and the Role of the Shadow Docket* (Sept. 29, 2021), at 3, https://www.judiciary.senate.gov/imo/media/doc/Professor%20Mascott%20-%20Statement.pdf; *Whole Woman's Health v. Jackson*, 595 U.S. 30 (2021).
[25] Mascott (Sept. 29, 2021).

Ms. Mascott defended a Title IX regulation that harms student survivors of sexual harassment and assault.

In *Victim Rights Law Center v. Devos*, Ms. Mascott represented the Department of Education in defending a Title IX rule that undermined legal protections for student survivors of sexual harassment and assault.[26] Secretary Betsy Devos's Title IX regulation undermined schools' obligations to respond to sexual harassment and assault, eliminated key legal protections for survivors, and required schools seeking to discipline students for sexual assault to institute a trial-like procedure that was biased against survivors and subjected them to intensive and traumatic cross-examination.[27]

In this case, the rule was challenged by plaintiff Mary Doe, who was assaulted after the rule went into effect. Ms. Mascott argued that she lacked standing because she had *not yet* gone through the injurious and traumatic quasi-trial that the rule required.[28] Unfortunately, because of the rule that Ms. Mascott defended, Mary Doe faced numerous challenges following her assault, and her college provided little support. For example, the college refused to move the accused student to a different dorm to ensure the two would not cross paths. Due to the impact of the Title IX rule at her school, Mary Doe's mental health and grades greatly suffered.[29] And yet, Ms. Mascott claimed that the lack of supportive resources that her college offered Ms. Doe was due to its misunderstanding of the rule, rather than to the rule itself.[30] Ultimately, the court agreed that Mary Doe was injured and she had standing to challenge the rule.[31]

While this case demonstrates Ms. Mascott's disregard for survivors of sexual assault, the pattern is made more evident by her defense of Justice Brett Kavanaugh, in her personal capacity, after his accusations of sexual assault came to light during the nominations process in 2018.[32] We are

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[26] *Victim Rights Law Ctr. v. Cardona*, 552 F. Supp 3d 104 (D. Mass 2021) (Young J.*); Victim Rights Law Center v. Cardona*, 2021 (D. Mass Aug 10, 2021), https://scholar.google.com/scholar_case?case=4878928060372774 05&q=Victim+Rights+Law+Center+v.+Cardona,+552+F.+Supp.+3d+104+(D.+Mass.+2021)&hl=en&as_sdt=20000006; *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, U.S. Dep't of Educ., 85 Fed. Reg. 30026 (May 19, 2020), https://www.govinfo.gov/app/details/FR-2020-05-19/2020-10512.

[27] *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, U.S. Dep't of Educ., 85 Fed. Reg. 30026 (May 19, 2020), https://www.govinfo.gov/app/details/FR-2020-05-19/2020-10512.

[28] John Terhune, *Plaintiffs Sue Department of Education and Betsy DeVos Over New Title IX Rules*, B.U. News Serv. (Nov. 13, 2020), https://bunewsservice.com/plaintiffs-sue-department-of-education-and-betsy-devos-over-new-title-ix-rules/.

[29] *Id.*

[30] *Id.*

[31] *Victim Rights Law Ctr. v. Cardona*, 552 F. Supp. 3d 104, 115-117 (D. Mass. 2021), https://case-law.vlex.com/vid/victim-rights-law-ctr-907213414.

[32] Jennifer L. Mascott, *Former Kavanaugh Law Clerk Says Allegation Is the Opposite of Everything That I Know*, PBS NewsHour (Sept. 20, 2018), https://www.pbs.org/newshour/show/former-kavanaugh-law-clerk-says-allegation-is-the-opposite-of-everything-that-i-know; Jennifer L. Mascott, *Former Law Clerk to Kavanaugh Defends His*

concerned that survivors will not believe they will get a fair and impartial hearing in Ms. Mascott's courtroom due to her history of excusing and dismissing sexual assault.

As a scholar of the separation of powers, Ms. Mascott presented biased and ahistorical testimony justifying presidential immunity for President Trump.

Ms. Mascott testified before the Senate Judiciary Committee in support of presidential immunity, stating that it is an implicit power vested in the presidency through Article II of the U.S. Constitution.[33] She defended the Supreme Court's decision in *Trump v. U.S.* despite the lack of textual support for this supposed immunity and despite the severe separation of powers issues it portends.[34] As the first few months of the second Trump administration has conclusively demonstrated, presidential immunity balloons the power of the executive beyond any other "coequal" branch of government. The presidential immunity doctrine provides sweeping power to the executive to exceed its constitutional limits by undermining accountability for potentially unconstitutional or illegal actions.[35] However, Ms. Mascott has not always favored such an expansive view of presidential power. She previously asserted in response to a question on executive agency rulemaking that "the concentration of power I think in single entities is one of the greatest problems facing our system of government."[36] In fact, Ms. Mascott once won an award for challenging so-called executive overreach during the Biden administration.[37] However, her positions on the separation of powers and limited federal government stand in stark contrast to her justification of presidential immunity for President Trump.[38]

Character, MSNBC (Sept. 20, 2018), https://www.msnbc.com/ali-velshi/watch/jennifer-mascott-former-law-clerk-to-kavanaugh-defends-his-character-1323540035658.

[33] Jennifer L. Mascott, *Prepared Testimony on Presidential Immunity Doctrines*, U.S. Senate Comm. on the Judiciary (Sept. 24, 2024), https://www.judiciary.senate.gov/imo/media/doc/2024-09-24_-_testimony_-_mascott.pdf; Senate Judiciary Committee, *When the President Does It, that Means It's Not Illegal: The Supreme Court's Unprecedented Immunity Decision*, 118th Cong. (2024), https://www.judiciary.senate.gov/committee-activity/hearings/when-the-president-does-it-that-means-its-not-illegal-the-supreme-courts-unprecedented-immunity-decision.

[34] *Trump v. U.S.,* 603 U.S. __ (2024).

[35] Jennifer L. Mascott, *Prepared Testimony on Presidential Immunity Doctrines*, U.S. Senate Comm. on the Judiciary (Sept. 24, 2024), https://www.judiciary.senate.gov/imo/media/doc/2024-09-24_-_testimony_-_mascott.pdf.

[36] House Judiciary Committee, Subcommittee on Antitrust, Commercial, and Administrative Law, *The Administrative Procedure Act at 75: Ensuring the Rulemaking Process Is Transparent, Accountable, and Effective*, Hearing Before the Subcommittee on Antitrust, Commercial, and Administrative Law, Comm. on the Judiciary, 117th Cong. (Dec. 1, 2021), https://www.govinfo.gov/content/pkg/CHRG-117hhrg48551/html/CHRG-117hhrg48551.htm.

[37] Brianna Herlihy, Former Attorney in Barr's DOJ Wins Award for Work Used to Fight Biden's Executive Overreach, *Fox News* (Mar. 17, 2025), https://www.foxnews.com/politics/former-attorney-barrs-doj-wins-award-work-fight-bidens-executive-overreach.

[38] Jennifer L. Mascott, *Prepared Testimony on Presidential Immunity Doctrines*, U.S. Senate Comm. on the Judiciary (Sept. 24, 2024), https://www.judiciary.senate.gov/imo/media/doc/2024-09-24_-_testimony_-_mascott.pdf.

Ms. Mascott presented her biased views on presidential immunity with remarkable candor. She argued that presidential immunity was necessitated for President Trump, rather than any previous president, because of the "unprecedented nature" of the Special Counsel investigation into Trump's unlawful efforts to steal the 2020 election.[39] She does not, of course, grapple with the "unprecedented nature" of President Trump's misuse of his office and his efforts to illegally seize power. Ms. Mascott's actions demonstrate that her strong bias in favor of President Trump comes before her scholarship or lauded commitment to the separation of powers. Such favoritism is not acceptable in a supposedly neutral jurist.

Conclusion

Ms. Mascott portrays herself as a legal scholar with expertise and a wealth of academic writing regarding separation of powers. Instead, she has cloaked partisanship in legalism, which she uses to relentlessly undermine the rights of women and girls. Moreover, despite her reputation as a staunch advocate for limited government and separation of powers, Ms. Mascott cast aside her own scholarship to defend presidential immunity for Donald Trump, without regard for the doctrine's constitutional shortcomings, lack of precedent, or egregious consequences. A review of Ms. Macott's legal record undermining abortion rights and protections for survivors, as well as her biased application of her legal scholarship, it is clear that she cannot be a fair and impartial judge committed to equal justice for everyone.

For these reasons, the National Women's Law Center strongly opposes the confirmation of Ms. Jennifer Mascott to the U.S. Court of Appeals for the Third Circuit and urges the U.S. Senate Committee on the Judiciary to reject her nomination. If you have questions about the Law Center's opposition to Mr. Mascott's nomination, please contact me, or Alison Gill, Director of Nominations & Democracy, at agill@nwlc.org.

Sincerely

Fatima Goss Graves
President and CEO

[39] *Id.* at 3.

August 28, 2025

Senator Chuck Grassley
Chair, Senate Judiciary Committee

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee

Dear Senator Grassley and Senator Durbin:

On behalf of our hundreds of thousands of supporters and activists nationwide, People For the American Way opposes the nomination of Edmund LaCour to be a judge in the Northern District of Alabama. His hostility to fundamental rights, especially voting rights, makes him unfit for a lifetime appointment to the bench.

Introduction

The federal courts are essential to providing the checks and balances needed to prevent tyranny. At present, they are the only branch of the federal government carrying out this essential function. As we explained in detail in a May 30, 2025, letter to the Judiciary Committee, a president who defies court orders and threatens judges should not be allowed to name anyone to the one branch of the federal government that is checking his power.

Events since then have only strengthened our case. For instance, an extensively-documented whistleblower complaint has revealed that senior Justice Department official Emil Bove suggested in March that the administration violate court orders. President Trump subsequently nominated Bove to a seat on the Third Circuit. The administration now routinely defies the courts. In fact, a July study revealed that the Trump administration has defied one in three judges who have ruled against him.

This president is dangerously unqualified to be making lifetime appointments to the one branch of government that is providing checks and balances to his lawless actions.

Moreover, the record of this specific nominee also raises deep concerns.

Edmund LaCour

LaCour has spent a significant portion of his career using his legal training and abilities to further a political and legal agenda that has hurt everyday Americans and limited their rights. In choosing to leave a successful career in private practice to represent the state of Alabama, he affirmatively chose a powerful advocacy position to advance that harmful agenda.

In the area of limiting voting rights, for instance, LaCour has not let longstanding Supreme Court precedent or even judicial orders get in the way of his agenda. In *Allen v. Milligan*, he defended a congressional redistricting plan that denied a second majority-Black district in clear violation of the Voting Rights Act. The Supreme Court struck the plan down. As Chief Justice Roberts wrote for the Court, the case was not about existing law, but was "about Alabama's attempt to remake our Section 2 jurisprudence anew."[i]

However, rather than comply with the Supreme Court's ruling, Alabama defied it. The state adopted a new plan that, again, did not have the second majority-Black district. This was apparently a deeply cynical plan to get the case back to the justices in the hopes that Justice Kavanaugh might switch his vote and sway the case the other way.[ii]

Importantly, LaCour was not simply an attorney who defended the new plan after it was adopted by his client. He was so heavily involved in its creation that he was deemed its architect.[iii] A three-judge panel struck down the new plan, stating that it was "deeply troubled" and "disturbed" by the defiance of a judicial order.[iv] The Supreme Court denied LaCour's stay request without noted dissent, bringing this episode of court defiance to an end.[v]

This was not LaCour's only effort to skew the electoral process. In one of his first cases as solicitor general, he took over as the state's lead counsel in *Alabama v. Department of Commerce*, a highly disturbing lawsuit begun in 2018 relating to the 2020 census.[vi] He sought a ruling that the Constitution requires the exclusion of undocumented immigrants from the congressional apportionment calculation, which is the decennial determination of how many House seats (and electoral votes) each state will have. Such a ruling would have gone against the plain meaning of the Fourteenth Amendment, which ended the Three-Fifth Compromise by requiring apportionment by "counting the whole number of persons in each State." It would also, perhaps not coincidentally, have made it easier for Republicans to control the House of Representatives and the White House.

The premise of Alabama's claim of standing was that without a ruling in its favor, it would lose a congressional seat after the 2020 census. This was a speculative argument and, it turned out, an incorrect one. In 2021, three years after the lawsuit began, the new apportionment data showed that Alabama's representation would remain the same. Left without a case, Alabama asked for it to be dismissed.

LaCour has even used cases where Alabama was not a party to weaken voting rights. On behalf of Alabama and several other states, he recently submitted an amicus brief to the Supreme Court in *Turtle Mountain Band of Chippewa Indians v. Howe*, a conflict between native Americans and the government of North Dakota.[vii] LaCour supports North Dakota's claim that Section 2 of the VRA does not provide individuals with rights that are enforceable through Section 1983. Changing Section 2 to make it enforceable only by the attorney general would be a sharp departure from how Congress and the courts have traditionally

treated the law. It would also give victims no recourse when a state's Section 2 violations are allowed by a corrupt Justice Department.

LaCour has used his position to limit people's rights in other areas, as well. He defended his state's 2022 anti-transgender law banning critical gender-affirming care for minors.[viii] In 2019, he sharply criticized *Roe* and *Casey* as wrongly decided and acknowledged plans to use the state's newly passed abortion ban as a vehicle to have those cases overruled.[ix] He testified before the Judiciary Committee in support of the Supreme Court's decision to let Texas's lawless abortion bounty hunter law go into effect.[x] And he defended a state law eliminating Birmingham and other cities' ability to set minimum wages from a challenge that it discriminated against Black Alabamans.[xi]

Conclusion

LaCour has pursued an agenda sharply at odds with the protection of basic rights. As a judge with lifetime tenure, he would be in a position to do grave damage to the people of Alabama. We urge the Senate to reject his nomination.

Sincerely,

Marge Baker
Executive Vice President

[i] *Allen v. Milligan*, 599 U.S. 1, 23 (2023).
[ii] "FAQs About Alabama's Congressional Map Controversy," People For the American Way, Sept. 6, 2023, https://www.peoplefor.org/blog-posts/faqs-about-alabamas-congressional-map-controversy.
[iii] "Meet the architect behind Alabama's voting rights defiance," Aug. 16, 2023, https://www.al.com/news/2023/08/meet-the-architect-behind-alabamas-voting-rights-defiance.html.
[iv] *Singleton v. Allen*, 690 F. Supp. 3d 1226 (M.D. Ala. 2023).
[v] *Allen v. Milligan*, 144 S. Ct. 476 (Sept. 26, 2023).
[vi] *Alabama v. Department of Commerce*, 396 F.Supp.3d 1044 (N.D. Ala. 2019).
[vii] 2025 WL 2146629 (U.S.) (Appellate Brief).
[viii] *Eknes-Tucker v. Governor of the State of Alabama*, 80 F.4th 1205 (11th Cir., 2023).

[ix] Defendant's Response to Plaintiffs' Motion for Preliminary Injunction, *Robinson v. Marshall*, N.D. Ala., Case No. 2:19-cv-00365-MHT-SMD.
[x] "Texas's Unconstitutional Abortion Ban and the Role of the Shadow Docket," Sept. 29, 2021, Testimony of Edmund LaCour, https://www.judiciary.senate.gov/download/edmund-lacour-jr-929-testimony.
[xi] *Lewis v. Governor of Alabama*, 944 F.3d 1287 (11th Cir., 2019).

August 26, 2025

Senator Chuck Grassley
Chair, Senate Judiciary Committee

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee

Dear Senator Grassley and Senator Durbin:

On behalf of our hundreds of thousands of supporters and activists nationwide, People For the American Way opposes the nomination of Jennifer Mascott to be a judge on the Third Circuit Court of Appeals. Her lack of connections to the circuit, her lack of independence from Donald Trump, and her views of the law all warrant the Senate's rejecting her nomination.

Introduction

The federal courts are essential to providing the checks and balances needed to prevent tyranny. At present, they are the only branch of the federal government carrying out this essential function. As we explained in detail in a May 30, 2025, letter to the Judiciary Committee, a president who defies court orders and threatens judges should not be allowed to name anyone to the one branch of the federal government that is checking his power.

Events since then have only strengthened our case. For instance, an extensively-documented whistleblower complaint has revealed that senior Justice Department official Emil Bove suggested in March that the administration violate court orders. President Trump subsequently nominated Bove to a seat on the Third Circuit. The administration now routinely defies the courts. In fact, a July study revealed that the Trump administration has defied one in three judges who have ruled against him.

This president is dangerously unqualified to be making lifetime appointments to the one branch of government that is providing checks and balances to his lawless actions.

Moreover, the record of this specific nominee also raises deep concerns

Jennifer Mascott (Third Circuit)

<u>Mascott's Lack of Connections to the Third Circuit</u>

This nomination epitomizes Donald Trump's unprecedented aggrandizement of power at the expense of our constitutional checks and balances. To fill this judgeship, President Trump has selected someone who is not meaningfully connected to any state within the

Third Circuit. That is a stunning departure from a longstanding practice that the Senate has always insisted upon. For senators to accede to Trump's demand would be to yet again surrender significant power to the executive branch and make a mockery of what was once a proud body.

By law, a geographic circuit's complement of active judges must include at least one from each of the states within that circuit.[i] And by longstanding Senate custom, every additional judgeship in the circuit is associated with a particular state.[ii] Presidents have known that if they want the Senate to confirm their circuit court nominees, they should select someone from the same state as the departing judge, or at the very least from within the same circuit. A Congressional Research Service report on "state representation" in the geographic circuit courts provides no examples of a president ever selecting a nominee from outside the circuit.[iii]

The judgeship Mascott has been nominated to fill has always been occupied by someone with a deep relationship to Delaware and its legal community. John Biggs, Jr. had practiced law in Wilmington for 15 years before Franklin Roosevelt nominated him to fill this newly created seat in 1937.[iv] In 1966, Biggs was succeeded by Collins Jacques Seitz, a longtime state court judge on the Delaware Supreme Court and the Delaware Court of Chancery.[v] Seitz's successor, Jane Richards Roth, had spent 20 years in private practice in Wilmington and six as a Delaware federal district court judge before being nominated to the Third Circuit in 1991.[vi] Roth was replaced in 2006 by Kent Jordan, a Delaware federal district court judge who had previously been in private practice in Wilmington.[vii]

Current nominee Jennifer Mascott takes vacations in Delaware.[viii]

She has never practiced law, taught, or attended school in Delaware or either of the other two states comprising the Third Circuit (New Jersey or Pennsylvania). She has never been a member of the bar in any Third Circuit state. She was not admitted to practice before the Court of Appeals for the Third Circuit until May 9 of this year,[ix] apparently in preparation for this nomination.[x]

Every senator should know: If a president is allowed to do this once, it will happen again. This time, it is a Republican president moving against Democratic senators. But next time, it could be a Democratic president targeting Republican senators. If Republican senators betray their Democratic colleagues and their institutional loyalty this time, they are setting themselves up for harm in the future.

Mascott's Lack of Independence from Donald Trump

Mascott's record suggests she will not be a judge who would provide an independent check on executive power – at least not when wielded by Donald Trump. To the contrary, she would be exactly the type of judge Trump is looking for: one who will reliably rule in his favor, regardless of the facts or the law.

Mascott's choice to take a job in the White House counsel's office augurs poorly for her respect for the law. She knew Trump had fomented an insurrection to overturn the 2020 presidential election and end our democracy. Her decision to join his second-term White House Counsel's office shows that she considers Trump's personal interests and power more important than democracy and the rule of law.

This came through in her response to the Judiciary Committee questionnaire. When asked to disclose information relating to the selection process, she wrote:

> The circumstances that led to my nomination included my expression of interest in serving in the federal judiciary or any other governmental position in which the President or the Administration would be interested in having me serve.[xi]

A judge should never see their work as a way of serving a presidential administration. It would be hard to credit any vow she might take at her hearing to respect the role of the judge as separate from an advocate for the administration.

Mascott's Legal Views

Finally, Mascott's legal views, if imposed from the bench, would be harmful to the people of the Third Circuit.

Mascott is an adherent of a destructive approach to constitutional interpretation that freezes our nation's charter in amber, so that not all Americans have the constitutional protections of equality and fairness to which they are entitled. She has frequently defended "originalism," in which the judges of today perpetuate the prejudices and injustices in place when a constitutional provision was adopted. The results frequently align with the policy goals of those of wealth, power, and privilege who most vigorously advocate the doctrine. In 2022, she criticized Ketanji Brown Jackson for not being an originalist. She testified against Jackson's confirmation to the Supreme Court, stating that senators "could conclude there is reason to oppose the nomination."[xii]

She is also a believer in a presidency with dangerously unchecked powers. For instance, she defended the Supreme Court's lawless decision to grant presidents immunity from prosecution for a wide swath of illegal acts they may commit in office. In testimony before

the Judiciary Committee, she called *Trump v. United States* a "modest opinion." Using the language of the unitary executive theory, she stated that:

> [P]residential immunity is understood as inherent in the vesting of executive power in the President as the chief official over one of three coequal branches within the federal government.[xiii]

Indeed, her entire framing of the case betrayed a willingness to give a pass to Donald Trump. That case came about only because Trump was the only president in the history of the United States to take criminal actions, including violence, to try to undo his election defeat. But in her testimony, Mascott made Trump the victim:

> The unprecedented nature of the current Special Counsel prosecution of the former, and now current, rival of a sitting President led to the U.S. Supreme Court's consideration this past summer of the application of presidential immunity to criminal prosecutions of former Presidents.[xiv]

Mascott has also written in support of court cases cutting back on *Humphrey's Executor*, the seminal case recognizing that Congress can create independent agencies whose heads the president cannot fire. She has criticized *Humphrey's Executor* for "cast[ing] aside" the "teachings" of *Myers v. United States*, which had upheld a presidential firing with a very broad view of presidential power in this area.[xv]

Mascott has also criticized the line of Supreme Court cases dating back more than half a century that protect the individual's constitutional right to privacy. She has flatly stated that "the Fourteenth Amendment Due Process Clause—a guarantee of process protections—contains no substantive right."[xvi] She believes that the Supreme Court's decisions protecting the right to privacy were all wrongly decided. That includes cases recognizing a right to use contraception, a right of same-sex intimacy, and the right of same-sex couples to marry.

It also includes *Roe v. Wade*, which recognized the constitutional right to abortion. In 2021, before *Dobbs* overturned *Roe*, she testified in support of the Supreme Court's decision to let Texas put into effect its notorious abortion bounty hunter law.[xvii] The next year, she praised the Court for overturning that precedent, writing that it had "regained its legitimacy" by doing so.[xviii]

Conclusion

Jennifer Mascott's nomination to the Third Circuit is a dangerous development at a dangerous time for our country. The Senate should vote against her confirmation.

Sincerely,

Marge Baker
Executive Vice President

[i] 28 U.S.C. Sec. 44(c).
[ii] See, e.g., "'State Representation' in Appointments to Federal Circuit Courts," Congressional Research Service, March 30, 2011, Report No. RS22510, https://www.congress.gov/crs_external_products/ RS/PDF/RS22510/RS22510.14.pdf.
[iii] Id.
[iv] https://www.fjc.gov/history/judges/biggs-john-jr.
[v] https://www.fjc.gov/history/judges/seitz-collins-jacques.
[vi] https://www.fjc.gov/history/judges/roth-jane-richards.
[vii] https://www.fjc.gov/history/judges/jordan-kent.
[viii] "Senators Coons, Blunt Rochester statement on Third Circuit judicial nominee," July 18, 2025, https://www.coons.senate.gov/news/press-releases/senators-coons-blunt-rochester-statement-on-third-circuit-judicial-nominee.
[ix] Third Circuit Court of Appeals – Attorney Status Checker, https://www.ca3.uscourts.gov/attorney-admissions-checker.
[x] Her May 14 interview with the White House Counsel for this position was only five days after her admission to the Third Circuit Court of Appeals. Judiciary Committee Questionnaire pp. 85-86. The questionnaire specifically directs nominees to "[l]ist the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination." Mascott stated that she had expressed an interest in being nominated. However, the first date she provides is the May 14 interview with the White House Counsel.
[xi] Judiciary Committee Questionnaire p. 85.
[xii] Confirmation Hearing on the Nomination of Hon. Ketanji Brown Jackson to Be an Associate Justice of the Supreme Court of the United States, Senate Judiciary Committee, S. Hrg. 117-422, p. 2695.
[xiii] "'When the President Does It, that Means It's Not Illegal': The Supreme Court's Unprecedented Immunity Decision," Senate Judiciary Committee, Sept. 24, 2024, Testimony of Jennifer Mascott, https://www.judiciary.senate.gov/download/2024-09-24-testimony-mascott.

[xiv] Id.
[xv] "Executive Decisions After *Arthrex*," Jennifer Mascott and John Duffy, 2021 Sup. Ct. Rev. 225, 264 (2021).
[xvi] "Alito's Master Stroke, Between Precedent and Original Meaning; His Dobbs draft opinion clears away the underbrush", The Wall Street Journal, May 15, 2022, https://www.wsj.com/opinion/supreme-court-alito-dobbs-roe-originalism-abortion-law-11652459216.
[xvii] "Texas's Unconstitutional Abortion Ban and the Role of the Shadow Docket," Senate Judiciary Committee, S. Hrg. 117-851, statement of Jennifer Mascott, https://www.govinfo.gov/app/details/CHRG-117shrg54947/CHRG-117shrg54947.
[xviii] "The Supreme Court Reclaims Its Legitimacy," The Wall Street Journal, June 24, 2022, https://www.wsj.com/opinion/supreme-court-reclaims-legitimacy-abortion-roe-v-wade-dobbs-v-jackson-women-health-reproductive-rights-life-originalism-justice-alito-11656084197.