

A D D E N D U M
to
CONFIRMATION HEARING ON
FEDERAL APPOINTMENTS

The following submissions are available at:

<https://www.govinfo.gov/content/pkg/CHRG-119shrg61981/pdf/CHRG-119shrg61981-add1.pdf>

Submitted by Ranking Member Durbin:

People for the American Way (PFAW), letter 2

May 30, 2025

Senator Charles Grassley
Chair, Senate Judiciary Committee

Senator Richard 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 first slate of judicial nominations of President Trump's second term. The five nominees are Whitney Hermandorfer (Sixth Circuit), Zachary Bluestone (Eastern District of Missouri), Josh Divine (Eastern and Western Districts of Missouri), Maria Lanahan (Eastern District of Missouri), and Cristian Stevens (Eastern District of Missouri).

While we have concerns about some of the nominees' records, we are much more concerned about the record of the man making the nominations. The Senate should not confirm the judicial nominees of any president who defies the courts and threatens judges he disagrees with.

Just days into his second term, Trump and Vice President J. D. Vance were already signaling their plans to defy court orders they disagree with. In response to Judge Paul Engelmayer's order temporarily blocking DOGE agents' access to Treasury Department payments systems, Vance stated that "Judges aren't allowed to control the executive's legitimate power," suggesting that judicial orders holding the president accountable to the law are "illegal."ⁱ The following day, Trump stated that "No judge should, frankly, be allowed to make that kind of a decision."ⁱⁱ

A few days later, the administration violated Rhode Island district court judge John McConnell's order barring the Office of Management and Budget from freezing federal spending and from refusing to disburse congressionally appropriated funds. This led Judge McConnell to note on February 10 that "all orders and judgments of courts must be complied with promptly," and that parties who "refuse to obey an order generally risk criminal contempt even if the order is ultimately ruled incorrect."ⁱⁱⁱ

Americans saw a similar refusal to comply with court orders when the administration began to dismantle the Consumer Financial Protection Bureau, which it cannot do without congressional approval. A court ordered that reductions in force (RIFs) could occur only after a particularized assessment that an employee is not necessary to the bureau's statutorily-mandated duties. Instead of complying, the administration quickly moved to fire more than 90 percent of the bureau's employees. This led a DC Circuit court panel to reverse its

own earlier decision and strengthen the injunction the administration was already subject to, prohibiting RIFs altogether.^{iv}

Perhaps most shocking and terrifying is the administration's defiance of the courts in cases involving Trump's program of kidnapping residents and sending them to foreign prisons without due process. Most Americans are now familiar with one particular victim, Kilmar Abrego Garcia. On April 10, the Supreme Court ordered the Trump administration to facilitate his release from custody in El Salvador. More than seven weeks later, that still has not happened. Instead, his administration is defying district court judge Paula Xinis's order to turn over evidence of its efforts to comply with that order. She described the Trump administration's defiance as "a willful and bad faith refusal to comply with discovery obligations."^v

In addition to the defiance of the courts, there are the threats against judges. When Washington DC district court judge James Boasberg temporarily blocked one of the administration's programs, Trump posted, "This judge, like many of the Crooked Judges' I am forced to appear before, should be IMPEACHED!!!"^{vi} The next day, Attorney General Bondi followed his lead. On Fox News, she accused Judge Boasberg of "meddling in our government," and accused him of "trying to protect terrorists who invaded our country over American citizens."^{vii}

According to press reports, Trump's demand for Judge Boasberg's removal "set off a string of near-instant social media taunts and threats, including images of judges being marched off in handcuffs."^{viii} Judges hearing Trump cases are now facing increased threats including bomb threats and swatting.^{ix} Perhaps for the first time in history, federal judges are now worried that the White House will order the U.S. Marshals Service to withdraw the security protection it now provides judges.^x Adding fuel to the fire, on May 17, Trump "re-truthed" a supporter's post suggesting he release supposed terrorists near the homes of Supreme Court justices.^{xi}

This is not normal.

And yet it is not a surprise. When asked if he is required to "uphold the Constitution of the United States as president," Trump answered, "I don't know."^{xii}

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. When the president is defying court orders and threatening judges, he should not be allowed to name anyone to the one branch of the federal government that is checking his power.

Beyond the overarching issue of who is nominating individuals for lifetime seats on our federal courts, there are specific concerns about the records of several of the individuals in the first slate of Trump's second term judicial nominees.

As director of strategic litigation in the Tennessee attorney general's office, Sixth Circuit nominee Whitney Hermandorfer has joined amicus briefs defending Trump's blatantly illegal order abrogating the Fourteenth Amendment's grant of birthright citizenship. She has defended Tennessee's abortion ban even though the narrowness and lack of clarity of its exceptions have dissuaded medical professionals from providing necessary abortion care to people in her state. She led a six-state coalition in litigation against federal protections for transgender students, and she is helping Tennessee defend its anti-transgender laws before the Supreme Court in *U.S. v. Skrmetti*. While lawyers are expected to represent their clients' positions regardless of their own, a former Trump White House lawyer stated that Hermandorfer "has bled on the battlefield of the conservative legal movement"^{xiii} opposing abortion and transgender rights, suggesting that the legal positions she took also reflect her own views of the law.

Another recent Trump nominee whose record raises concerns is Joshua Divine (Eastern and Western Districts of Missouri), Missouri's solicitor general and director of special litigation in the state attorney general's office. That office describes him as "the architect" of Missouri's litigation that blocked President Biden's student loan forgiveness program.^{xiv} The state's lawyers devised an argument for why it had standing to sue over a policy disagreement, since the debt forgiveness plan did not actually harm the state. Divine's successful strategy led to a Supreme Court ruling that saddled millions of Americans with crushing debt. Divine also defended Missouri's laws barring transgender adolescents from receiving gender-affirming medical care, prohibiting Medicaid coverage for gender-affirming medical care for transgender people of any age, and penalizing health care professionals who provide such care to minors with the loss of their medical licenses.

Senators should also be concerned about the records of Missouri Eastern District nominees Maria Lanahan and Zachary Bluestone. Lanahan is the state's principal deputy solicitor general, working with fellow nominee Josh Divine. Among other things, she represented Missouri in legally bankrupt litigation against the availability of mifepristone. And Bluestone graduated less than a decade ago from law school, giving him significantly less professional experience than is generally considered minimally required to be a federal judge.^{xv}

While the records are concerning, ultimately, it is the qualifications of the *nominator* that senators should be most concerned with. Donald Trump's conduct in office makes him dangerously unqualified to be naming lifetime judges to the United States courts. A president who defies the courts and threatens judges cannot be allowed to name the judges tasked with checking his power.

Sincerely,



Marge Baker
Executive Vice President

ⁱ <https://x.com/JDVance/status/1888607143030391287?mx=2>.

ⁱⁱ "Trump Signals He Might Ignore the Courts," The Atlantic, Feb. 10, 2025, <https://www.theatlantic.com/politics/archive/2025/02/trump-vance-courts/681632>.

ⁱⁱⁱ "By Refusing to Obey Court Orders, Trump Is Provoking a Constitutional Crisis," Truthout, Feb. 13, 2025, <https://truthout.org/articles/by-refusing-to-obey-court-orders-trump-is-provoking-a-constitutional-crisis>.

^{iv} "Trump Judges Split on Mass Layoffs at Consumer Protection Agency," People For the American Way, May 1, 2025, <https://www.peoplefor.org/trump-judges-split-mass-layoffs-consumer-protection-agency>.

^v "Judge Accuses Government of 'Willful and Bad Faith' Stonewalling in Deportation Case," The New York Times, April 22, 2025, <https://www.nytimes.com/2025/04/22/us/politics/trump-justice-department-abrego-garcia-el-salvador.html>.

^{vi} <https://truthsocial.com/@realDonaldTrump/posts/114183576937425149>.

^{vii} "Pam Bondi should know 'our government' includes Judge James Boasberg," MSNBC, March 20, 2025, <https://www.msnbc.com/opinion/msnbc-opinion/pam-bondi-attack-judge-boasberg-offense-rcna197195>.

^{viii} "Judges Fear for Their Safety Amid a Wave of Threats," The New York Times, March 19, 2025, updated March 21, 2025, <https://www.nytimes.com/2025/03/19/us/trump-judges-threats.html>.

^{ix} *Id.*

^x "Judges Worry Trump Could Tell U.S. Marshals to Stop Protecting Them," The New York Times, April 25, 2025, <https://www.nytimes.com/2025/04/25/us/politics/trump-judges-marshals-threats.html>.

^{xi} <https://x.com/jonfavs/status/1923824696182833455>.

^{xii} "Trump, asked if he has to 'uphold the Constitution,' says, 'I don't know,'" NBC News, May 4, 2025, <https://www.nbcnews.com/politics/trump-administration/trump-asked-uphold-constitution-says-dont-know-rcna204580>.

^{xiii} “Trump Returns to Red State Appeals Lawyers to Fill Judgeships,” Bloomberg Law, May 5, 2025, <https://news.bloomberglaw.com/us-law-week/trump-returns-to-red-state-appeals-lawyers-to-fill-judgeships>.

^{xiv} “President Trump Names Two Members of Missouri Attorney General Offices Team to Serve as Federal Judgeships,” Missouri Attorney General Press Release, May 6, 2025, <https://ago.mo.gov/president-trump-names-two-members-of-missouri-attorney-general-offices-team-to-serve-as-federal-judgeships>.

^{xv} “Standing Committee on the Federal Judiciary: What It Is and How It Works,” American Bar Association, August 2023, https://www.americanbar.org/content/dam/aba/administrative/federal_judiciary/2024-background.pdf.



BILL LEE
GOVERNOR
STATE OF TENNESSEE

May 19, 2025

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Richard Durbin
Ranking Member, Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Re: Letter of support for Whitney Hermandorfer to be a Circuit Judge on the United States Court of Appeals for the Sixth Circuit

Dear Chairman Grassley and Ranking Member Durbin:

I am pleased to support President Trump's nominee Whitney Hermandorfer for the United States Court of Appeals for the Sixth Circuit. Tennesseans are proud to call Whitney one of our own, not only as a Tennessee native, but also as a champion for Tennessee's values.

In her work on behalf of Tennessee, Whitney has demonstrated her commitment to federalism, which remains as important today as it was at our nation's founding. States like Tennessee continue to lead the nation by example in policy areas of all sorts. Whitney understands that our democracy is stronger when federalism is preserved, because when States flourish, America does, too.

Whitney's effectiveness stems from her ability to balance fundamental legal principles with practical solutions. Her multi-faceted approach to the legal challenges of our time has enabled her to bring together diverse stakeholders to defend Tennessee's priorities like State autonomy and pro-family initiatives.

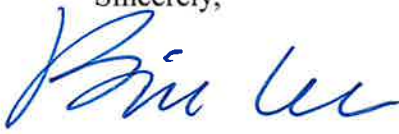
Whitney understands how state government works. Her hands-on experience with the Executive Branch will benefit her judicial analyses and provide meaningful insights to her colleagues. Whitney's practical knowledge about state government will help her discern the

appropriate role of government in any given case: accomplishing the will of the people, while guarding against overreach.

Finally, Whitney's work for Tennessee is made possible by her heart for public service. You and I understand what it takes to devote ourselves to representing our communities, and I see in Whitney that same passion for using her gifts to serve her fellow Americans.

Tennessee is proud to send one of our finest to you for consideration, and I encourage the Senate to promptly confirm Whitney to the Sixth Circuit bench.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bill Lee", with a stylized, cursive script.

Bill Lee
Governor

STATE OF TENNESSEE

Office of the Attorney General



JONATHAN SKRMETTI
ATTORNEY GENERAL AND REPORTER

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May 28, 2025

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard Durbin
Ranking Member, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Whitney Hermandorfer for the United States Court of Appeals for the Sixth Circuit

Dear Chairman Grassley and Ranking Member Durbin:

It is my joy and privilege to recommend Whitney Hermandorfer for appointment to the United States Court of Appeals for the Sixth Circuit. When my office recruited Whitney to come back home to Tennessee and stand up our new Strategic Litigation Unit, I knew she was extremely talented. But I have since come to appreciate that she is truly one of the very best attorneys in America.

I trust that you are familiar with her many accolades, some of which are unprecedented among her peers, but I would like to highlight a few for your specific attention. Whitney has built a career practicing law at the highest level in both public service and private practice. Immediately prior to joining my office, Whitney was an appellate and regulatory litigator at Williams & Connolly LLP, one of our nation's apex litigation firms. She earned respect from colleagues and opponents alike as she represented major clients in high-stakes cases.

Perhaps the most striking and unique credential on Whitney's resume is that she clerked for *three* current Supreme Court Justices. She worked for Justice Kavanaugh when he served on the D.C. Circuit and then moved up to One First Street to clerk under Justice Alito and then again under Justice Barrett. As you are aware, securing any one of these clerkships only comes at the end of

an extraordinarily competitive process. To my knowledge, she may be the only lawyer of her generation with such a distinguished clerkship pedigree.

In her role as Director of the Strategic Litigation Unit in our office, Whitney spearheaded some of the most sophisticated and impactful litigation in the nation. She led teams of lawyers from Tennessee and across the country and specialized in blockbuster constitutional and regulatory litigation against federal agencies. Due in significant part to her outstanding leadership, writing, and argumentation, Tennessee scored one major victory after another, including, most recently, against the Biden administration's unlawful and unconstitutional Title IX rule. Whitney has also defended our State in complicated constitutional cases. She has litigated in state and federal court, first-chaired proceedings in trial and appellate court, and won victories all the way up to the Supreme Court of the United States.

Beneath her dazzling resume and the litany of momentous cases, Whitney is a lawyer's lawyer. She is careful and thoughtful and cares deeply about the law as the reservoir of our nation's fundamental aspirations as expressed by the American people through time-tested institutions. She consistently delivers analytical rigor, a keen wit, sound judgment, and a relentless work ethic. One of my favorite qualities of Whitney's is her golden pen; she is an exceptional writer of punchy, intelligent, deft, and memorable prose. While she has spent years honing this talent, she comes by it honestly and in true Tennessee fashion: Whitney is the daughter of an accomplished Nashville songwriter.

Permit me also to share with you the person Whitney is. Her incomparable legal acumen and resume aside, she is, more importantly, a woman of impeccable integrity, a patriot with a deep loyalty to our nation and its laws, a loving and devoted mother and wife, a servant leader in her community, an indefatigable optimist, and a humble and kind friend. I know she is precisely the person America needs for this crucial office. She will elevate the Court's already renowned analysis and reasoning, mentor clerks to lead the next generation of dedicated attorneys, and model for the entire nation true fidelity to the Constitution and the rule of law.

I have treasured working with Whitney these past few years. My team and I will miss her in her role as an attorney, as will the people of Tennessee, whom she served with brilliance, constancy, and distinction. But her nomination fills us all with hope—hope that the elevation of Whitney, the best of Tennessee and the best of America, will sustain and strengthen the Court of Appeals and our very system of constitutional self-government for many years to come.

Thank you for your consideration of this letter, and please let me know if you need any further information or if I may otherwise assist you in connection with Whitney's nomination.

Sincerely,



Jonathan Skrmetti
Attorney General and Reporter
State of Tennessee

May 20, 2025

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Richard Durbin
Ranking Member, Committee on the Judiciary
United States Senate
Washington, DC 20510

***Re: Letter of support for Whitney Hermandorfer to be a Circuit Judge on
the United States Court of Appeals for the Sixth Circuit***

Dear Chairman Grassley and Ranking Member Durbin:

We the undersigned 24 Attorneys General write in strong support of President Trump's nomination of Whitney Hermandorfer to be a Circuit Judge on the United States Court of Appeals for the Sixth Circuit.

Whitney currently serves as the Director of Strategic Litigation for our colleague, Tennessee Attorney General Jonathan Skrmetti. Our offices have worked closely with Whitney, and we can attest to her brilliance, work ethic, and unwavering commitment to the rule of law.

We witnessed these qualities firsthand when litigating with Whitney against the Biden Administration. Whitney led many of these cases of national significance and provided much of the intellectual firepower that allowed us to protect the people we serve. For example, Whitney was one of the lead attorneys to challenge President Biden's rewrite of Title IX, which would have allowed biological boys into girls' sports, bathrooms, and locker rooms. In that fast-moving case, Whitney filed a brief in the district court, a brief in the Sixth Circuit, and a brief in the United States Supreme Court in less than two weeks. Her tireless efforts paid off. Along with attorneys from our offices, Whitney convinced the Supreme Court to unanimously hold that the key

parts of that rule could not be enforced.¹ And she led a successful effort before a Kentucky district court to vacate the rule once and for all²—a decision that President Trump decided not to appeal after taking office.

Whitney's many successes in court are unsurprising given her singularly impressive background. After graduating first in her law school class, she clerked for a third of the Supreme Court—first for then-Judge Kavanaugh on the D.C. Circuit and then for Justices Alito and Barrett. With those three Justices as her model, we have no doubt that Whitney will be an outstanding Circuit Judge on the Sixth Circuit. Beyond her many accomplishments, Whitney's humility and good nature will serve her well on the bench as a predictor of judicial temperament—just as those traits have made her a treasured colleague to many in our offices.

Although our offices will miss working with Whitney, our loss is the nation's gain. We urge the Senate to swiftly confirm Whitney.

Sincerely,



Russell Coleman
Attorney General of Kentucky



Steve Marshall
Attorney General of Alabama



Tim Griffin
Attorney General of Arkansas



James Uthmeier
Attorney General of Florida



Chris Carr
Attorney General of Georgia



Raúl R. Labrador
Attorney General of Idaho



Theodore E. Rokita
Attorney General of Indiana



Brenna Bird
Attorney General of Iowa

¹ *Dep't of Educ. v. Louisiana*, 603 U.S. 866 (2024) (per curiam).

² *Tennessee v. Cardona*, 762 F. Supp. 3d 615 (E.D. Ky. 2025).



Kris Kobach
Attorney General of Kansas



Lynn Fitch
Attorney General of Mississippi



Austin Knudsen
Attorney General of Montana



John Formella
Attorney General of New Hampshire



Gentner Drummond
Attorney General of Oklahoma



Marty Jackley
Attorney General of South Dakota



Derek E. Brown
Attorney General of Utah



Liz Murrill
Attorney General of Louisiana



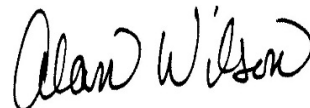
Andrew Bailey
Attorney General of Missouri



Michael T. Hilgers
Attorney General of Nebraska



Dave Yost
Attorney General of Ohio



Alan Wilson
Attorney General of South Carolina



Ken Paxton
Attorney General of Texas



Jason S. Miyares
Attorney General of Virginia

A handwritten signature in black ink that reads "John B. McCuskey". The signature is written in a cursive style with a large, sweeping initial "J".

John B. McCuskey
Attorney General of West Virginia

A handwritten signature in blue ink that reads "Bridget Hill". The signature is written in a cursive style with a large, sweeping initial "B".

Bridget Hill
Attorney General of Wyoming