

WOMEN IN THE FEDERAL JUDICIARY: STILL A LONG WAY TO GO

Over the past three decades, an increasing number of women have joined the legal profession. In recent years, law schools have seen the number of female students increase, so that they now make up nearly half of all law students.¹ In 2009, one-third of lawyers were women.² Now more than ever, women should be fairly represented among the judiciary. As Justice Ruth Bader Ginsburg recently said about the Supreme Court, “[w]omen belong in all places where decisions are being made. . . It shouldn't be that women are the exception.”³ But the number of women in the federal judiciary, including the Supreme Court, must be increased to better reflect the current face of the profession and, most importantly, the people of this country.

- The Supreme Court currently counts only two women among its nine Justices, and only three have *ever* served on the highest court in the land. Upon Elena Kagan's confirmation three women would be seated on the Supreme Court for the first time in history.
- Forty-eight of the 161 active judges currently sitting on the thirteen federal courts of appeal are female (30%).⁴ When broken down by circuit, women's representation on several of these individual courts is even lower than on the courts of appeals overall:
 - The Eighth Circuit has only one female judge among its eleven members, who is the only woman *ever* to have been appointed to that court.
 - Women are also vastly underrepresented on the Tenth Circuit (where they make up about 18 percent of judges), the Third Circuit (21 percent) and the Fourth Circuit (25 percent).
- Approximately 29 percent of active United States district (or trial) court judges are women.⁵
- For women of color, the numbers are even smaller.

¹ American Bar Association Section of Legal Education and Admissions to the Bar, “Enrollment and Degrees Awarded, 2008-2009 Academic Year,” (stating that 46.9% of law students overall are women) *available at* www.abanet.org/legaled/statistics/charts/stats%20-%201.pdf.

² Department of Labor, Bureau of Labor Statistics, “Employed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity” 2009 (stating that 32.4% of lawyers are women), *available at* <http://www.bls.gov/cps/cpsaat11.pdf>.

³ Joan Biskupic, *Ginsburg: Court Needs Another Woman*, USA TODAY, May 5, 2009, *available at* http://www.usatoday.com/news/washington/judicial/2009-05-05-ruthginsburg_N.htm.

⁴ NWLC calculations based on review of individual websites of U.S. courts of appeals and vacancy data available at http://www.uscourts.gov/cfapps/webnovada/CF_FB_301/index.cfm?fuseaction=Reports.ViewVacancies. 58 of the 216 total circuit court judges (including senior judges) are women, A Snapshot of Women in the Judiciary, Alliance for Justice, *available at* <http://afj.org/check-the-facts/women-in-the-judiciary-2010.pdf>.

⁵ NWLC calculations based on Just the Beginning Foundation's Chart on Female Article III Federal Judges, *available at* <http://www.jtbf.org/clientuploads/docs/articleIIIFemaleAlphabetical.pdf> and on data available at <http://www.uscourts.gov/judicialvac.cfm>. (exact percentage= 28.8%).

- There are 53 women of color serving as active federal judges across the country, including 28 African-American women, 19 Hispanic women, and six Asian-American women. There are no Native American women.⁶
- There are only eight women of color on the U.S. courts of appeals. Three of those women sit on the Ninth Circuit Court of Appeals, two sit on the DC Circuit, and one woman of color sits on each of the First, Fourth and Seventh Circuits. Therefore, there are eight federal courts of appeals without a single active minority woman judge.⁷
- There are signs that the number of women in the federal judiciary may soon increase.
 - Of President Obama's 78 judicial nominees to date (including his nominees to the Supreme Court), 35 are women.⁸ Fifteen of these nominees have been women of color (eight African-American women, four Asian-American women, and three Hispanic women).
 - Fifty-one percent of President Obama's confirmed nominees have been women.⁹ This has increased the number of women on the First and Eleventh Circuits as well as on a number of district courts.
 - If the seventeen remaining female nominees are confirmed, women's representation on a number of other circuits will improve -- including the Sixth Circuit (an increase to 38 percent), the Ninth Circuit (an increase to 37 percent), and the Federal Circuit (an increase to 33 percent).

By the nominations he has made to date, President Obama has taken the first step in increasing the representation of women, including women of color, on the federal bench. Now it is up to the Senate to do its part.

⁶ Statistics were compiled through the Just the Beginning Foundation's Chart on Female Article III Federal Judges, available at <http://www.jtbf.org/clientuploads/docs/articleIIIFemaleAlphabetical.pdf>, and the Confirmed Nominees list found on the Department of Justice's website, available at <http://www.usdoj.gov/olp/confirmed.htm>.

⁷ See *id.*

⁸ NWLC calculations were based on the nomination information found on the U.S. Senate Judiciary's Website, available at <http://judiciary.senate.gov/nominations/111thCongressJudicialNominations/Materials111thCongress.cfm>.

⁹ Judicial Nominations and Confirmations: 111th Congress, available at <http://judiciary.senate.gov/nominations/111thCongress.cfm> (fifteen women have been confirmed out of twenty-nine total confirmations).