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September 24, 2026

VIA EMAIL

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

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

**Re: Nomination of Judge Lee P. Rudofsky to the U.S. Court of Appeals for the Eighth 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 Judge Lee P. Rudofsky to the U.S. Court of Appeals for the Eighth Circuit.

Our opposition is grounded directly in Judge Rudofsky's judicial record. On the bench, he has repeatedly narrowed the tools civil rights plaintiffs rely on, dismissed cases on technical grounds that ignore the real-world harm alleged, and written opinions that read less like impartial adjudication than like arguments for the extreme positions he advocated for prior to his appointment as a district court judge.

Our concern is not merely rooted in disagreement with judicial outcomes, but rather *how* he judges and applies the law. As a district court judge, Judge Rudofsky has shown a willingness to rewrite settled precedent and procedural norms to forward an ideological agenda, preemptively close the courthouse door on civil rights claims, and casually dismiss the stakes for the people in front of him. Further, Judge Rudofsky is yet another Trump loyalist on an appellate court already stacked with his nominees.<sup>1</sup> President Trump did not praise Judge Rudofsky's neutrality or judicial temperament when he announced the nomination; he praised him as a "rock solid defender" of a specific political agenda—one that consistently undermines women, LGBTQ+

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<sup>1</sup>Andrew DeMillo, *Trump nominates U.S. District Judge Lee Rudofsky from Arkansas to appeals Court*, Arkansas Advocate (Aug. 13, 2026), <https://arkansasadvocate.com/2026/08/13/trump-nominates-u-s-district-judge-lee-rudofsky-from-arkansas-to-appeals-court/>; Patrick McNeil, *Trump is elevating another anti-civil rights judge to the appellate bench*, Substack (Aug. 13, 2026) <https://nominationnotes.substack.com/p/trump-is-elevating-another-anti-civil>.

people, people of color, and survivors.<sup>2</sup> Judge Rudofsky's record raises significant doubt about his ability to be an independent and evenhanded judge on the Eighth Circuit.

**Judge Rudofsky ruled that private citizens have no right to sue to enforce the Voting Rights Act, gutting the primary tool voters use to fight discrimination at the polls.**

In litigation challenging Arkansas's state house voting district map, Judge Rudofsky became the first federal judge in the nation to hold that private citizens and civil rights organizations have no right to sue to enforce Section 2 of the Voting Rights Act of 1965.<sup>3</sup> He wrote that the "narrow question" before him was "only whether ... a court should imply a private right of action to enforce § 2 of the Voting Rights Act where Congress has not expressly provided one," and answered: "Only the Attorney General of the United States can bring a case like this one."<sup>4</sup> For sixty years, private lawsuits brought under Section 2 have allowed voters facing discriminatory voting maps and vote-dilution schemes to challenge these and other discriminatory voting practices. By deciding that only the federal government can bring these claims, Judge Rudofsky tossed out decades of settled practice and closed the courthouse doors on the very people the Voting Rights Act was designed to protect.

Judge Rudofsky's reading of the VRA conflicts with the plain text of the statute. Congress knew exactly how to limit a remedy to the Attorney General alone: for example, Section 12 of the Voting Rights Act expressly authorizes only the Attorney General to sue, without mentioning private plaintiffs.<sup>5</sup> It also knew how to do the opposite: Sections 3 and 14 expressly created a private right of action by extending relief to "the Attorney General or an aggrieved person."<sup>6</sup> However, Judge Rudofsky says that this private right of action no longer applies to Section 2 of the VRA after it was amended in 1982 to prohibit election laws with a discriminatory impact, rather than just discriminatory intent.<sup>7,8</sup> He assumes that Section 3 no longer provides a private right of action because enforcement of the amended Section 2 is no longer a "proceeding under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment..."<sup>9</sup> This is an absurd reading given that Congress passed the VRA specifically to actualize the promises of the Fourteenth and Fifteenth Amendment; the VRA is clearly a "statute to enforce the[se] voting guarantees."<sup>10</sup> It is difficult to see this as anything other than a purposeful misreading of the law to strip away rights from voters and undermine the VRA.

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<sup>2</sup>@realDonaldTrump, TRUTH SOCIAL, (Aug. 12, 2026, 6:58 PM) <https://truthsocial.com/@realDonaldTrump/posts/117085013643913800>.

<sup>3</sup> *Ark. State Conf. NAACP v. Ark. Bd. of Apportionment*, No. 4:21-cv-01239-LPR, (E.D. Ark. Feb. 17, 2022).

<sup>4</sup> *Ark. State Conf. NAACP v. Ark. Bd. of Apportionment*, No. 4:21-cv-01239-LPR, Order at 16–17 (E.D. Ark. Feb. 17, 2022).

<sup>5</sup> 52 U.S.C. § 10308(d).

<sup>6</sup> 52 U.S.C. § 10302(a), 10310(e).

<sup>7</sup> Pub. L. 97-205, §3, June 29, 1982, 96 Stat. 134.

<sup>8</sup> *Ark. State Conf. NAACP*, No. 4:21-cv-01239-LPR, Order at 18-24.

<sup>9</sup> 52 U.S.C. § 10302(a).

<sup>10</sup> *Id.*

The consequences of this ruling have not been confined to Arkansas. The Eighth Circuit affirmed Judge Rudofsky’s novel reasoning and then extended it in *Turtle Mountain Band of Chippewa Indians v. Howe*, stripping Native voters in North Dakota of the ability to challenge a legislative map that a district court had already found diluted their votes.<sup>11</sup> The Supreme Court stayed that ruling and vacated and remanded it for reconsideration in light of the *Louisiana v. Callais* decision, leaving the ability of millions of voters across Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota to sue and enforce their voting rights unsettled.<sup>12</sup> The Eighth Circuit remains the only circuit in the country to have reached this conclusion, tracing directly back to Judge Rudofsky’s outlier decision; the Fifth and Eleventh Circuits have both held the opposite.<sup>13</sup>

Putting aside the absurdity of ruling that a law that has been enforced by private plaintiffs for 60 years, without Congressional action to restrict this enforcement, was not intended to be enforced by private plaintiffs, Judge Rudofsky’s theory rests on the premise that the Department of Justice (DOJ) can simply take over enforcement. That premise does not survive contact with the record. Private plaintiffs have brought the overwhelming majority of Section 2 cases since 1982—by one count, nearly 93 percent of them, and more than ten times as many merits decisions as DOJ has obtained on its own.<sup>14</sup> The DOJ has never had the staffing to police every discriminatory voting map and election rule in the country, and it has openly said so.

That gap is not hypothetical; it is happening now. Since taking office, the Trump DOJ has abandoned VRA cases it inherited: it dropped a Section 2 suit alleging intentional discrimination against Black voters in Georgia, and it withdrew the government’s claims in a redistricting challenge to Texas’s congressional and state house maps.<sup>15</sup> If Judge Rudofsky’s misinterpretation becomes settled Eighth Circuit law then voters will lose access to one of the most important tools to fight discriminatory voting practices ever created and more power will be granted to a DOJ currently more interested in using the law to seize control of elections than to ensure they are fairly conducted.

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<sup>11</sup> *Turtle Mountain Band of Chippewa Indians v. Howe*, No. 23-3655 (8th Cir. 2025), *vacated*, No. 25-253 (U.S. May 18, 2026).

<sup>12</sup> *Id.*

<sup>13</sup> See *Robinson v. Ardoin*, 86 F.4th 533, 543–44 (5th Cir. 2023) (holding that Section 2 of the Voting Rights Act contains an implied private right of action); *Ala. State Conf. of the NAACP v. Alabama*, 949 F.3d 647, 651–52 (11th Cir. 2020) (concluding that Congress intended to provide a private right of action to aggrieved individuals under Section 2), *vacated as moot*, 141 S. Ct. 2618 (2021).

<sup>14</sup> Andrew Garber, *Appeals Court Strips Voter’s Ability to File Voting Rights Act Lawsuits in 7 States*, Brennan Center for Justice, May 29, 2025, <https://www.brennancenter.org/our-work/analysis-opinion/appeals-court-strips-voters-ability-file-voting-rights-act-lawsuits-7>.

<sup>15</sup> Hansi Lo Wang, *Under Trump, the Justice Department is stepping away from some voting rights cases*, NPR, Mar. 31, 2025, <https://www.npr.org/2025/03/24/nx-s1-5332145/voting-rights-act-1965-justice-department>.

**Judge Rudofsky dismissed a challenge to Arkansas’s removal of an AP African American Studies course pursuant to a school censorship law, reasoning that discriminating against “ideas” cannot violate the Constitution.**

In *Walls v. Sanders*, Arkansas officials pulled a pilot Advanced Placement African American Studies course from the list of approved classes under the state’s ban on classroom “indoctrination.” Students, families, and teachers sued, raising both a First Amendment claim that students have an independent right to receive information and an equal protection claim alleging that the removal was motivated by a discriminatory purpose and fell disproportionately on Black students.<sup>16</sup> The Eighth Circuit held that no free-speech right was implicated by the school censorship law because the curriculum was government speech, leaving only the equal protection claim before Judge Rudofsky on remand.<sup>17</sup> He dismissed it outright.

His language was dismissive. “A desire to protect students from ‘left-wing indoctrination’ is not tantamount to a discriminatory intent or purpose to adversely impact African American students,” he wrote, “End of story.”<sup>18</sup> He went further, reasoning that “discriminating against ideas is not the same as discriminating against people” because “there is no such thing as a ‘black idea’ or a ‘white idea’”—and, by his own logic, no such thing as a “black course” or a “white course” either.<sup>19</sup> A claim brought by Black students challenging the removal of a course about Black history was resolved with a rhetorical flourish about the racelessness of ideas in the abstract. But the course Arkansas eliminated was dedicated to African American history and experience. Waving away that reality by insisting the state was only regulating “ideas” allowed officials to engage in targeted censorship of inclusive, historically accurate education about African American history while congratulating themselves for being ‘neutral.’

**Judge Rudofsky failed to provide appropriate oversight when a *pro se* survivor of sexual abuse was held to an unfair and exacting standard, resulting in a dismissal benefiting institutional defendants.**

Judge Rudofsky’s record reveals a stark double standard in how he treats individual litigants compared to institutional defendants. In *Richardson v. Duncan*, an incarcerated woman filed a handwritten, *pro se* complaint alleging she had been sexually abused by a prison official.<sup>20</sup> The defendant never answered the complaint or appeared in the case at all, and as the Federal Rules dictate, the clerk entered default. However, rather than awarding the plaintiff a default judgment, the magistrate judge in effect treated the defendant’s failure to appear in the case as a motion to dismiss, created and accepted an argument that the defendant failed to make, and ruled that the

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<sup>16</sup> *Walls v. Sanders*, No. 4:24-cv-00270, (E.D. Ark. 2024).

<sup>17</sup> *Walls v. Sanders*, 144 F.4th 995 (8<sup>th</sup> Cir. 2025); *Walls v. Sanders*, No. 4:24-cv-00270, (E.D. Ark. 2026).

<sup>18</sup> *Walls*, No. 4:24-cv-00270, Order at 5–6.

<sup>19</sup> *Id.* at 8.

<sup>20</sup> *Richardson v. Duncan*, No. 23-1414 (8<sup>th</sup> Cir. Sept. 20, 2024).

plaintiff did not adequately allege that the encounters were nonconsensual.<sup>21</sup> As the judge overseeing this matter, Judge Rudofsky uncritically accepted the magistrate judge’s recommendation and dismissed the case, effectively denying this *pro se* litigant the default judgment which she was due and shouldering the sophisticated institutional defendant’s burden in the case.

The standard applied was exacting almost to the point of being a magic words test: rather than accepting all alleged facts in the complaint as true and drawing all inferences in favor of the plaintiff—the applicable standard if the defendant had in fact appeared and moved to dismiss the case for failing to state a claim, the magistrate judge recommended that the complaint be dismissed because the plaintiff did not allege that she “communicated ... by conduct or words, that she was not a willing participant,” her claim failed—even though she alleged she felt “trapped,” that she “had to do it,” and that the officer had leverage over her because of what she knew about a prior sexual assault.<sup>22</sup> Judge Rudofsky rubberstamped the magistrate judge’s recommendation to require an unrepresented, incarcerated plaintiff to anticipate and rebut a legal defense she had no lawyer to help her recognize, against a defendant who never showed up to raise it herself.

The Eighth Circuit affirmed 2–1, but Judge Melloy’s dissent went to the heart of the problem: he would have remanded “for either the reinstatement of the default judgment or the opportunity for the plaintiff to have a counseled hearing,” stressing that the record was “fairly sparse,” a *pro se*, handwritten complaint tested at a hearing where the plaintiff had no lawyer and the defendant never participated at all.<sup>23</sup> That is precisely the kind of case where a court’s discretion should bend toward hearing a survivor out, not toward technical dismissal. Judge Rudofsky’s handling of *Richardson* highlights a broader pattern: rigor for the vulnerable, deference for institutions and the state.

**Judge Rudofsky’s career reflects not a break between advocate and judge, but a consistent effort to weaken civil rights enforcement.**

Voting rights, curriculum censorship, and a prisoner’s abuse claim all share the same playbook: In each case, Judge Rudofsky lands on the side of the state, the institution, or the powerful party, while taking pains to avoid weighing the substance of the harm alleged. A single instance of that pattern might be coincidence. Three, across three different areas of law, is a judicial framework.

And this framework did not originate on the bench. While much of Judge Rudofsky’s current federal docket has been occupied by criminal matters, his career as Arkansas’s Solicitor General shows the same instincts at work. When a University of Arkansas student sued after the school

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<sup>21</sup> *Id.* at 2–3.

<sup>22</sup> *Id.*

<sup>23</sup> *Richardson v. Duncan*, No. 23-1414, 8 (8th Cir. Sept. 20, 2024) (Melloy, J., dissenting).

mishandled her report of a campus sexual assault, Rudofsky’s office filed an amicus brief urging the Eighth Circuit to hold that sovereign immunity shields state universities from being sued for damages under Title IX at all.<sup>24</sup> The Eighth Circuit rejected this argument,<sup>25</sup> but if it had been accepted it would leave survivors with no federal remedy regardless of how badly their school failed them. It is the same move he later made as a judge, sidestepping analysis of the harm while seeking to deny access to the court itself.

His other advocacy work applied the same approach to different substantive rights. He personally led the state’s effort to become the first in the nation to terminate Medicaid funding to Planned Parenthood<sup>26</sup> and signed the state’s brief asking the Supreme Court to revisit and overturn *Roe v. Wade* and *Planned Parenthood v. Casey* outright, years before *Dobbs v. Jackson Women’s Health Organization*.<sup>27</sup> After *Obergefell v. Hodges* required states to extend the “rights, benefits, and responsibilities” of marriage to same-sex couples, Arkansas kept non-birth parents’ names off the birth certificates of children born to same-sex spouses; Rudofsky defended that policy up to the Supreme Court, which summarily reversed the state in *Pavan v. Smith*.<sup>28</sup>

This history of advocacy has translated directly into his judicial methodology. Where his personal ideology has intersected with his civil docket, he has delivered outlier rulings that mirror his past executive-branch advocacy rather than impartial adjudication. The throughline is not merely that he holds conservative views—many judges do—but that as an advocate he built his career by finding doors to close on plaintiffs he disagreed with while disregarding the substance of the alleged harms, and as a judge he has kept finding them.

On the Eighth Circuit, Judge Rudofsky would weigh in on a wide range of complex civil rights, constitutional, and statutory questions where judicial neutrality is paramount. Given his history of outspoken ideological advocacy, President Trump’s own description of him as a loyalist to a particular political and constitutional vision, and his record of narrowing civil remedies on the bench, there is no reason to believe he would act as a fair or impartial arbiter when reviewing claims involving women, LGBTQ+ people, people of color, and survivors of sexual assault.

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<sup>24</sup> *Fryberger v. Univ. of Ark.*, 862 F.3d 648 (8th Cir. 2017); Brief of Amici Curiae States of Arizona, Arkansas, Kansas, Louisiana, Nebraska, South Carolina & Texas (Lee P. Rudofsky, Solicitor General of Arkansas, counsel).

<sup>25</sup> *Fryberger v. Univ. of Ark.*, 862 F.3d 648, at 9-10 (concluding that the university had waived immunity by accepting federal funds).

<sup>26</sup> *Does v. Gillespie*, 867 F.3d 1034 (8th Cir. 2017); see also Planned Parenthood Fed’n of Am., Statement Opposing the Nomination of Lee Rudofsky (2019); Leadership Conference on Civil and Human Rights, Oppose the Confirmation of Lee Rudofsky (2019).

<sup>27</sup> *Petition for Writ of Certiorari*, Beck v. Edwards, No. 15 \_\_\_\_ (U.S. filed Oct. 2015).

<sup>28</sup> *Pavan v. Smith*, 582 U.S. 563 (2017) (*per curiam*); see also People For the American Way, Judicial Nominee Lee Rudofsky’s Record Indicates a Bias Against LGBTQ+ Equality and Reproductive Freedom (2019).

## Conclusion

Elevating a judge who systematically narrows civil rights remedies, shields powerful institutions, and uses judicial opinions to signal a partisan legal philosophy, severely undermines public confidence in the Eighth Circuit as a neutral arbiter of federal law. A district judge's outlier rulings bind the parties in front of him. A circuit judge's outlier rulings become precedent for seven states and every district court beneath him—which is exactly why President Trump made this nomination, and exactly why it should not be confirmed.

Women, girls, people of color, LGBTQ+ people, and survivors of violence across the Eighth Circuit deserve an appellate judge who will evaluate cases with uncompromising impartiality. Judge Rudofsky's record, first as an advocate, and now on the bench, demonstrates he will not be that judge.

For these reasons, the National Women's Law Center strongly opposes the confirmation of Judge Lee P. Rudofsky to the U.S. Court of Appeals for the Eighth Circuit and urges the Senate Judiciary Committee to reject his nomination. If you have questions about the Law Center's opposition to Judge Rudofsky's nomination, please contact me, or Alison Gill, Senior Director of Nominations & Democracy, at [agill@nwlc.org](mailto:agill@nwlc.org).

Sincerely



Fatima Goss Graves  
President and CEO