

**Statement of Senator Patrick Leahy (D-Vt.),
Ranking Member, Senate Judiciary Committee
Executive Business Meeting
September 15, 2016**

Tomorrow marks the fifth anniversary since President Obama signed into law the Leahy-Smith America Invents Act. That law was the most important reform to our patent system in 60 years. I worked hard with many of you and your staffs on this historic bipartisan, bicameral legislation. The Committee's work on this legislation was demonstrative of what we can do when we work together. I am hopeful that we can continue to reach across the aisle to find meaningful solutions on other issues facing the country.

Today we will consider two bills to protect and promote the arts. One, the Holocaust Expropriated Art Recovery Act, will help ensure that Holocaust victims and their families get their day in court to retrieve precious artwork stolen from them by the Nazi regime. These claims should not be barred by arbitrary legal standards. I want to thank Senators Cornyn and Schumer for working to address my concerns with the language on preexisting claims. These are complicated issues and I would expect to see a detailed and public Committee Report to accompany the bill when it is reported to the Senate before it is brought up for passage.

The other, the Foreign Cultural Exchange Jurisdictional Immunity Clarification Act, will help keep important works of art coming to the United States for temporary display by removing the threat of protracted litigation over the artwork. I have heard from museums in Vermont, including Shelburne Museum, about the importance of this bill to ensure Vermonters and all Americans are able to access important works of art from around the world.

The final bill on the agenda is legislation to combat fraud committed against older Americans. I worked with the managers of this bill to include language that requires collection of data on elder fraud from not just law enforcement agencies but also civil enforcement agencies like the Consumer Financial Protection Bureau and the Federal Communications Commission. It is crucial that we understand the full scope of financial scams that target older Americans.

I have heard heartbreaking stories of seniors in Vermont being exploited by scams. One Vermonter lost \$32,000 after receiving a call from someone posing as her grandson. This scammer claimed that he was in jail and asked for money to help with bail and attorney's fees.

This type of exploitation must be stopped. But we must also ensure that older Americans are not discriminated against in the workplace. That is why I will be sending a letter along with Chairman Grassley to urge the HELP Committee to mark up the Protecting Older Workers Against Discrimination Act. This measure will overturn a controversial Supreme Court decision that made it very difficult for victims of age discrimination to hold employers accountable.

Eleven years ago this week, following the death of Chief Justice Rehnquist, the Senate Judiciary Committee held hearings on the nomination of John Roberts to the Supreme Court. After his September hearing, Chief Justice Roberts was swiftly given full and fair consideration by the Senate. He was confirmed by the end of September, and he was able to join the Court before it began its new term that October.

Today we have another Supreme Court vacancy, and another eminently qualified nominee. Yet unlike Chief Justice Roberts, who Republicans confirmed swiftly, Chief Judge Garland has been left waiting for six months. He is the longest pending Supreme Court nominee in this Nation's history.

I wish Republicans showed the same urgency now that they showed for Chief Justice Roberts, when there was a Republican president. Instead, they continue to leave the Supreme Court short-handed and diminished -- unable to fulfill its highest function as the final arbiter of our Nation's laws.

There is still time for Republicans to change course and allow the Senate to do its job on Chief Judge Garland's nomination in time for the new term. It is a constitutional crisis of their making, but it is a constitutional crisis that they can fix.

On the agenda today, we have two judicial nominees who should be reported favorably. Judge Lucy Koh to the Ninth Circuit and Judge Florence Pan to the District Court in the District of Columbia. Both are eminently well qualified.

Judge Koh currently serves on the Federal district court in California, where she has served since 2010. She previously served as a state court judge in California. She has a well-established record on the bench and has earned broad bipartisan support. She has the endorsement of several Republicans and conservative leaders, including former 10th Circuit judge Michael McConnell from Utah; former California Governor Arnold Schwarzenegger; former high-level Bush administration Justice Department appointee Viet Dinh; and others. If confirmed, Judge Koh would be the first woman Korean American Circuit Court judge. She is a nominee whom all senators -- Republican or Democrat -- should be proud to support.

Judge Florence Pan has been serving as a Superior Court judge in the District of Columbia since 2009. She has presided over 500 trials, and is extraordinarily well qualified for the position to which she has been nominated. If confirmed, Judge Pan would be the first Asian Pacific American woman to serve as a Federal district court judge in the District of Columbia.

The Republican leadership should not schedule recess until we confirm these two nominees and the 28 other judicial nominees pending on the Executive Calendar. In September 2008, when George W. Bush was president, I was chairman of this Committee. Despite the impending presidential election, I held two hearings that month for 10 judicial nominees. Each of those 10 nominees were confirmed in one September day. After those confirmations, not a single nominee was left on the Executive Calendar before the election. There is no good reason we cannot do for these nominees this September what I did for President Bush's judicial nominees eight years ago.

Our work as Senators is not complete simply because we report these nominees out of this Committee. We should not leave the nominations of these well qualified public servants languishing because of obstruction by Republican leadership. This includes -- foremost -- moving forward on Chief Judge Garland's nomination. And it also includes confirming the

judicial nominees pending on the Executive Calendar. Tomorrow is Constitution Day. Let us do all we can to ensure that the branches of government created by our Constitution are working for the American people.

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