



PRESIDENT

RAKIM BROOKS

CHAIR

PAULETTE MEYER

December 12, 2023

The Honorable Richard Durbin
Chairman
Senate Judiciary Committee

Dear Chairman Durbin:

On behalf of the Alliance for Justice (AFJ), a national association representing more than 150 public interest and civil rights organizations, I write to express our strong support for the confirmation of Nicole Berner to the United States Court of Appeals for the Fourth Circuit. Ms. Berner is exceptionally well qualified for the position and will make for a historic addition to the Fourth Circuit. When confirmed, she will become the first openly LGBTQ+ judge to serve on that court, as well as one of the few federal judges with a background in labor law. We are thrilled to see a lawyer of Ms. Berner's caliber nominated to the federal bench and urge the Senate to move quickly to confirm her.

Ms. Berner's legal career is characterized by a profound commitment to equal justice under law. She was selected to the Order of the Coif at the University of California Berkeley School of Law, where she earned her J.D. in 1996—the same year she earned an M.A. in Public Policy from Berkeley's Goldman School of Public Policy. After graduating, Ms. Berner clerked for Judge Thelton E. Henderson of the United States District Court for the Northern District of California and Judge Betty B. Fletcher of the U.S. Court of Appeals for the Ninth Circuit. Following her clerkships, Ms. Berner moved to Israel, serving as a visiting attorney at Yigal Arnon & Co. and representing Israeli tech companies in international business transactions. Ms. Berner moved back to the U.S. in 2000, joining the Washington, D.C., office of Jenner & Block LLP. There, she participated in both trial and appellate litigation.

After two years at Jenner, Ms. Berner joined the Planned Parenthood Federation of America (PPFA) as a staff attorney, the position that marked the beginning of her long and impressive career in public interest. At PPFA, Ms. Berner fought to protect the reproductive rights of millions of Americans, seeking to uphold constitutional guarantees outlined in *Roe v. Wade* and

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its progeny. In 2006, she joined the Service Employee International Union (SEIU), transitioning from safeguarding reproductive rights to safeguarding workers' rights. For the past 17 years, Ms. Berner has worked tirelessly to protect and expand the rights of American workers, advocating for better working conditions and stronger workplace protections. Workers across the country are better off thanks to her advocacy.

As Ms. Berner's career attests, she is an enormously qualified and well-rounded nominee. She has clerkship experience, firm experience, public interest experience, and international experience – it is hard to overstate the value her perspective will bring to the Fourth Circuit. Ms. Berner's confirmation will help to balance the judiciary by ensuring that a diversity of legal backgrounds and perspectives are represented. Importantly, Ms. Berner brings not only professional but also demographic diversity to the bench. To date, there are [only 21 LGBTQ+ federal judges](#) – 21 out of 870. Ms. Berner's confirmation will help to assure LGBTQ+ Americans that they are represented in our judiciary.

For all of the reasons given above and many more, we urge the Senate to move expeditiously to confirm Ms. Berner to the Fourth Circuit. She is a tremendous nominee whom we, and so many others, are thrilled to see nominated to such a prestigious position. We know that she will make her fellow Marylanders proud.

Sincerely,

Rakim H.D. Brooks

Rakim Brooks

President, Alliance for Justice