

**Statement Of Senator Patrick Leahy (D-Vt.)
Chairman, Senate Judiciary Committee
On Judicial Nominations
January 23, 2013**

Today the Judiciary Committee holds its first confirmation hearing of the new Congress. We welcome five of President Obama's nominees for lifetime appointments to the Federal judiciary. All of these nominees were first nominated by President Obama late last year, when we worked to complete their files, which have now been reviewed. The President included them among the 33 judicial nominees sent to the Senate on January 4.

I thank Senator Whitehouse, Senator Coons, and Senator Blumenthal for chairing this important hearing. At a time when judicial vacancies remain damagingly high, we should be acting swiftly to consider and confirm qualified nominees. Delays in considering nominees are harmful to the American people, and they prevent us from making real progress in filling vacancies. In the month since our last confirmation hearing, judicial vacancies have risen to 83 in the Federal judiciary.

When President Obama began his first term judicial vacancies numbered 55. They rose to a high of 110. As I have documented throughout the last four years, vacancies have continued to number 74 and above for the last four years. This is in sharp contrast to the way in which Senate Democrats cooperated in reducing judicial vacancies during President Bush's first term from over 110 down to 28.

When we could have reduced vacancies below 60 at the end of last year, Senate Republicans balked and, instead, sent 15 nominees who had completed their hearings back to the White House without final action. President Obama is the first President in decades who ended his first term with more vacancies than when it began, and the first since Woodrow Wilson to complete a full first term without having a nominee to the D.C. Circuit confirmed. Throughout his first term judicial vacancies have been historically high for long periods. We need to do better. The Federal judiciary and the American people cannot afford another four years without real progress.

While I am pleased that Nelson Román, Analisa Torres, Derrick Watson, Raymond Moore, and Claire Kelly are here today, I note that Sri Srinivasan is not. After the American people reelected President Obama last November, I asked the Republican members of the Committee if they would be willing to proceed during the lame duck session with a hearing on Sri Srinivasan, the President's nominee to what will be the ninth seat on the D.C. Circuit. Mr. Srinivasan had been nominated last June. While the Republican members would not agree to holding the hearing on Mr. Srinivasan's nomination last month, they did agree that they would proceed on his nomination at the first hearing this year.

They have since asked for additional delay while they have sought and obtained additional information from the Department of Justice about Mr. Srinivasan's role in an agreement reached by the Department with the City of St. Paul. While I am unaware of any evidence to suggest that

Mr. Srinivasan acted improperly, I have accommodated the Republicans' request for more time and more information.

I intend to include Mr. Srinivasan at our next confirmation hearing. If some members have questions or concerns, they can raise them with the nominee directly. I trust all members will cooperate so that we can move forward. The D.C. Circuit will soon have four vacancies among its reduced, 11-member panel.

Earlier this month Chief Justice Roberts again commented in his annual report on the state of the judiciary that the "vital resource needs [of our Federal Judiciary] include the appointment of an adequate number of judges to keep current on pending cases." That has not been the case. As the Chief Justice noted, there were 27 judicial emergency vacancies at the end of last year. I echoed the Chief Justice's call and noted that we concluded last year with 15 judicial nominees who had Committee hearings and could have been confirmed. Instead, they are among the backlog of nominees from last year that we confront, again, this year.

As Chairman, I intend to continue in this Congress to treat nominees fairly. Whether the President has been Democratic or a Republican, I have held nominations hearings at the same pace, and I will continue to schedule such hearings every two weeks.

The 83 vacancies on our Federal bench at the start of President Obama's second term is 40 percent higher than the highest number of vacancies that existed during President Bush's second term. We should be working together to fill these vacancies so that the American people have timely access to justice. I hope to see an end to the destructive practice of delay for delay's sake on nominations. Hardworking Americans ought to be able to have their rights protected in our Federal courts without delay.

All three branches of the Federal Government come together when the Senate considers a President's nomination to a lifetime appointment on the Federal bench. I hope that in this Congress we are allowed to do a better job of filling longstanding judicial vacancies.

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