

January 24, 2023

The Honorable Richard J. Durbin  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20515

The Honorable Charles E. Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20515

The Honorable Lindsey O. Graham  
Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20515

Dear Chairman Durbin, Ranking Member Grassley, and Ranking Member Graham:

Re: Nomination of Orelia E. Merchant to the United States District Court for the Eastern District of New York

I enthusiastically write to give my full support of the confirmation of Orelia E. Merchant as a judge on the United States District Court for the Eastern District of New York (EDNY). I believe that Ms. Merchant's superior intellect, her exceptional skills as a lawyer and servant leader, her solid moral character and reputation for integrity make her well qualified to serve as a judge on that court.

I have known Ms. Merchant for more than twenty years. She is a multi-talented and experienced attorney who served with distinction in the U.S. Attorney's Office for the EDNY (the Office) from February 2002 to 2019. During her tenure in the Office, as an AUSA in the Civil Division, Ms. Merchant successfully managed a diverse, demanding, and complex caseload. She investigated and developed numerous affirmative cases and litigated numerous high exposure defensive cases. Her practice areas included employment discrimination, environmental, health care fraud, mortgage fraud, or, including medical malpractice, prisoner litigation and constitutional challenges, and program litigation. She also deftly handled asset forfeiture, bankruptcy, immigration, and social security cases. Prior to joining the Office, Ms. Merchant served as a Special Assistant United States Attorney assigned to both the Criminal and Civil Divisions of the U.S. Attorney's Office for the Eastern District of Louisiana, where she prosecuted and defended the interests of the government in a variety of practice areas.

In January 2016, during my tenure as U.S. Attorney, I appointed Ms. Merchant as an Executive Assistant United States Attorney with oversight over the Civil and Administrative Divisions of

the Office. Ms. Merchant was a vital member of the Office's Executive Division. Indeed, over the course of my tenure, Ms. Merchant became an invaluable advisor who provided me with wise counsel with regard to a variety of significant cases and matters handled by the Office, and on non-litigation matters impacting the Office's operation.

Ms. Merchant significantly impacted the operation of the Civil Division by providing management direction and oversight of the Division's representation of federal government's interest in nearly 1,000 active cases and matters. Notably, I also chose Ms. Merchant to represent the Office in high level meetings in some of our most significant civil matters, including settlement discussions and negotiations related to complex residential mortgage backed securities fraud investigations of several large banks.

In addition, Ms. Merchant was largely responsible for managing the day-to-day administrative operations of the Office. Quickly coming up to speed on relevant Department of Justice guidelines, procedures and policies, Ms. Merchant effectively managed everything from the balancing and management of the Office's budget, to overseeing personnel matters, to overhauling the Office's technology resources for approximately 200 attorneys and 150 support staff members.

Ms. Merchant clearly possesses a strong work ethic and exceptional organizational skills. She has mastered the ability to manage the demands of a varied workload. Those skills will serve her particularly well on the bench in the EDNY, where the court's civil docket alone is particularly heavy, varied and demanding. Indeed, currently each active member of the EDNY district court carries a civil docket of upwards to 600 or more cases at present. I believe she will conduct herself on the bench as she has during the last two decades I have observed her practice law. She will diligently, thoughtfully, and thoroughly arm herself with all of the relevant facts and appropriately apply the law and all applicable precedent before rendering a decision. She will exhibit fairness and impartiality with respect to all parties before her. She will quickly become a highly regarded and well respected jurist and judicial colleague.

In sum, Ms. Merchant will be an outstanding member of the EDNY bench, and I offer my full, complete, and highest recommendation.

Should you have any questions or wish to discuss Ms. Merchant further, I can be reached at (646) 709-4688.

Respectfully,



Robert L. Capers  
Former United States Attorney for the Eastern District of New York (2015-2017)