



May 9, 2022

United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Durbin, Ranking Member Grassley, and Committee Members:

On behalf of our 1.5 million supporters nationwide, People For the American Way enthusiastically supports the nomination of Eastern District of Washington Judge Salvador Mendoza to the Ninth Circuit Court of Appeals. When confirmed, he will become the first Hispanic judge from Washington ever to serve on that court. He is an excellent choice to help protect the rights of all people within the Ninth Circuit.

Mendoza was raised by a family of migrant farm workers, first in California and then in Washington's Yakima Valley. As a child, in addition to attending school, he had to pick crops with the rest of his family so they could get by. As he recalled in later years, "It was something we needed to do in order to survive."ⁱ He became interested in the law, and his family encouraged him to become a lawyer.ⁱⁱ After graduating from the UCLA School of Law in 1997, Mendoza returned to eastern Washington and began his legal career as an assistant attorney general. He represented state agencies in all types of civil proceedings, with a primary focus arguing on behalf of the state Department of Social and Health Services in dependency proceedings. He then spent a year as a deputy prosecutor in Franklin County.

Then from 1999-2013, he worked in private practice representing defendants in criminal cases, about half of which involved indigent individuals. Criminal defense lawyers play a vital role in protecting freedom, not only of people accused of crime but also of all people in the United States. We have given our government the power to take people away from their homes, imprison them, and even execute them. That power is a weighty one and potentially subject to abuse. So, if our government is going to use that power against someone, it must do so in a way that complies with the safeguards set forth in the Bill of Rights. Those safeguards include the right to counsel in criminal cases even when the accused cannot afford a lawyer. That basic tenet of the United States Constitution is vital to protecting all of us. Mendoza's work representing people accused of crimes - especially indigent people - has also given him insight into how the system works in real life and can fail to serve justice.

While in private practice, Mendoza engaged in a number of volunteer activities to help vulnerable people in eastern Washington's Tri-Cities area. He served on the Board of Directors for the Benton-Franklin Legal Aid Society, which works to ensure access to justice for people without the means to pay for legal counsel. He also helped establish Benton and Franklin Counties' first drug court program for juvenile offenders, which was designed to offer young people an alternative to full criminal prosecution. It was during this time that he became involved in planning and implementing the Washington State Minority & Justice Commission's Tri-Cities Youth and Justice Forum. These are day-long events where attorneys, judges, law enforcement officers, and court staff encourage students from underrepresented communities to pursue careers within the legal system.

In 2013, Washington Gov. Jay Inslee appointed Mendoza to be a judge on the Superior Court for Benton and Franklin Counties in Washington State – the first Latino judge on that court. The selection of Mendoza received praise from local defense attorneys and prosecutors alike.ⁱⁱⁱ In this capacity, he heard all types of criminal, civil, juvenile, and family law matters. And in 2014, upon nomination by President Obama, he was confirmed in an overwhelming bipartisan 92-4 vote to his current position as a federal district court judge for the Eastern District of Washington – once again, the first Latino ever in that position. He has issued more than 9,000 orders and opinions dealing with the entire range of criminal and civil legal issues that he would be called upon to consider as a judge on the Ninth Circuit.

For instance, he heard the employment discrimination case of Justin Baker, an Army Reservist denied compensation by his employer UPS for his short annual periods of military service, even though it compensated for other types of leave (jury duty, bereavement leave, and sick leave). Baker argued that this violated the Uniformed Services Employment and Reemployment Rights Act of 1994, which Congress adopted to protect military personnel returning to the civilian workforce. Judge Mendoza rejected UPS's argument that the law didn't cover pay during leave and allowed the case to go to trial.^{iv}

One high-profile criminal case involved a mass murder on the Yakima Indian Reservation. Minutes before a key prosecution witness was about to testify, Judge Mendoza learned that she had earlier told federal investigators that she would give favorable testimony if they could arrange for state officials to drop charges against her partner in an unrelated case. Federal prosecutors did not disclose this information to the defendant or the court. Judge Mendoza concluded this was a violation of *Brady v. Maryland*, the 1963 Supreme Court case requiring prosecutors to disclose any evidence that might exonerate the defendant. Calling the misconduct "offensive to the sound administration of justice and principles of fairness on which the American criminal justice system is founded," Judge Mendoza refused to allow the witness to testify and fined the government several thousand dollars.^v

Judge Mendoza brings a personal background that is not common in our country's federal appellate judiciary. He has been a trailblazer dedicated to a fair legal system that protects the rights of all people, and he will make an excellent judge on the Ninth Circuit.

Sincerely,

A handwritten signature in cursive script that reads "Marge Baker".

Marge Baker
Executive Vice President

ⁱ "Martin Luther King Jr. Spirit Award winner," Tri-City Herald, Jan. 18, 2016, p. 2A, reproduced in Mendoza Senate Judiciary Questionnaire Attachments at 397; "Kennewick lawyer named to CBC board," Tri-City Herald, Nov. 20, 2011, p. B4, reproduced in Questionnaire Attachments at 351.

ⁱⁱ "El Juez Mendoza: el latino que está haciendo historia," Raíces, Tri-Cities, WA, (Sept. 2016), p. 7, reproduced in Questionnaire Attachments at 350.

ⁱⁱⁱ "Benton-Franklin sees first Latino judge," Tri-City Herald (Apr. 25, 2013), reproduced in Questionnaire Attachments at 358.

^{iv} *Baker v. UPS*, 2022 U.S. Dist. LEXIS 60685 (E.D. Washington, March 31, 2022).

^v *United States v. Cloud*, 2022 U.S. Dist. LEXIS 49244 (E.D. of Washington, March 9, 2022).