



June 4, 2019

United States Senate
Washington, DC 20510

Dear Senator:

On behalf of our 1.5 million supporters nationwide, People For the American Way opposes the nomination of Ryan Holte to a vacancy on the United States Court of Federal Claims. This vacancy has existed since 2013, nearly five years. It stands as evidence of the Republican project to fill our nation's courts with narrow-minded elitists who can be relied upon to regularly rule in favor of corporate interests.

Judge Nancy Firestone's 15-year term ended in 2013, and President Obama renominated her for reappointment.ⁱ In June of 2014, the Senate Judiciary Committee voted to advance her nomination by unanimous voice vote.ⁱⁱ She was one of five Court of Federal Claims nominees approved by the Judiciary Committee during the 113th Congress, each one by unanimous voice vote.

Senate Republicans, then in the minority, prevented the Senate from holding a full confirmation vote on any of the nominees. President Obama renominated them in 2015,ⁱⁱⁱ and they once again cleared the Judiciary Committee (by then controlled by Republicans) by unanimous voice vote.^{iv} That was in February of 2015, near the beginning of the new Congress. But once again, Republicans refused to allow confirmation votes for any of them. Five highly qualified, fully vetted jurists with enormous bipartisan support needlessly had their nominations languish for the entirety of the 114th Congress.

Like Merrick Garland, their qualifications were not in doubt, and they would almost certainly have been confirmed if a floor vote had been held. And as with Garland, the vacancies became available for a Republican president to fill.

President Trump chose not to renominate Firestone, but to instead nominate Ryan Holte. His absence of qualifications stands out when contrasted to the immense experience Firestone had when she was first nominated to the court by President Clinton in 1998.

At that time, she'd already had extensive executive experience and subject-matter expertise directly relevant to the work of the Court of Federal Claims, all with the United States government. She began her career in environmental appellate advocacy, then moved to trial litigation on Superfund issues with the Justice Department. Her experience included serving as associate deputy administrator at the EPA, administrative judge on the EPA's Environmental Appeals Board, and deputy assistant attorney general at DOJ's Environmental and Natural Resources Division. And when President Obama renominated her, she had an additional 15 years' experience, all as a judge on the court to which she was renominated.

While Firestone had been practicing law for over two decades when she was first nominated in 1998, Holte only graduated law school 11 years ago. If the American Bar Association evaluated nominees for the Court of Federal Claims as it does for Article III courts, it would easily deem him unqualified: The ABA considers 12 years' experience as an attorney as a minimum qualification for the federal bench. In addition, Holte acknowledged in his Senate Judiciary Committee questionnaire that he has never tried a case, a disturbing admission from someone nominated to sit as a trial judge.^v

It appears his main qualification from the perspective of the Trump administration is his longtime membership in the Federalist Society, the far right group that has an outsized role in selecting the president's judicial nominees for him. Holte joined the Federalist Society during his first year in law school in 2005. Since 2014, he has been on the executive committee of its Intellectual Property Practice Group. This suggests he is exactly the type of individual Leonard Leo has in mind for his project to transform the judiciary.

We oppose Holte's confirmation to the Court of Federal Claims.

Sincerely,

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

Marge Baker
Executive Vice President for Policy and Program

ⁱ Nomination of Nancy B. Firestone, of Virginia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years. (Reappointment), PN1564 (113th Congress).

ⁱⁱ https://www.judiciary.senate.gov/download/results-of-executive-business-meeting_-06-19-14.

ⁱⁱⁱ Nomination of Nancy B. Firestone, of Virginia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years. (Reappointment), PN7 (114th Congress).

^{iv} <https://www.judiciary.senate.gov/download/results-of-executive-business-meeting-2-26-15-update>.

^v Ryan Holte, Questionnaire for Judicial Nominees, p. 21. <https://www.judiciary.senate.gov/download/holte-sjq>.