



October 18, 2021

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 Holly Thomas to the Ninth Circuit Court of Appeals. She is a brilliant and highly accomplished civil rights appellate attorney and state court judge, and her record makes clear that she will be an excellent federal appellate judge.

Holly Thomas graduated from Stanford University with honors in 2000. Before continuing her education in law school, she spent a year as a client advocate with the San Francisco Bar Association's Volunteer Legal Services Program (VLSP). Founded to provide free legal services to low-income San Francisco families and individuals, the VLSP assisted clients in overcoming crises such as family violence, financial problems caused by catastrophic illness, loss of housing, or unemployment.<sup>i</sup> Thomas then went to Yale Law School, graduating in 2004 and earning a prestigious clerkship on the Ninth Circuit with Judge Kim McLane Wardlaw.

At that point, Thomas made the choice to dedicate her career to public service, using her abilities to advance justice and fairness for all people. She had a year-long Arthur Liman Fellowship at the NAACP Legal Defense & Education Fund (LDF), focusing on issues facing youth sentenced to life without the possibility of parole. When her fellowship ended, she remained at LDF as an assistant counsel, engaging in policy development and federal civil rights litigation on education and criminal justice issues.

In 2010, Thomas shifted to government practice. As a senior attorney in the Appellate Section of the Justice Department's Civil Rights Division, she developed expertise in a wide variety of areas implicating civil rights. This included education, voting rights, religious freedom, discrimination on the basis of sexual orientation and gender identity, disability rights, the rights of former servicemembers, immigration, and criminal matters. The Civil Rights Division gave her a special commendation for outstanding service for her work on appellate proceedings in the federal prosecution of New Orleans Police Department officers who were involved in the murder of a city resident and the burning of his body to cover up the crime after hurricane Katrina.<sup>ii</sup> In another high-profile case, Thomas served as lead counsel for the U.S. in a brief before the Fourth Circuit that successfully urged that court to enjoin several voter suppression measures adopted by North Carolina in 2013.<sup>iii</sup>

From 2015-2016, Thomas served as special counsel to New York's solicitor general, engaging in civil rights and general civil litigation in state and federal appellate courts on behalf of the state's

attorney general. In this position, she advocated New York's position in cases involving issues including fair housing, the civil confinement of sex offenders, and the state constitution's equal protection and due process guarantees. In her federal and New York positions, she argued cases before the U.S. Courts of Appeals for the First, Second, Fourth, Fifth, and Ninth Circuits, as well as before the New York State Supreme Court, Appellate Division.

Thomas returned to the West Coast in 2016 to serve as deputy director of the California Department of Fair Employment and Housing (DFEH), the largest state civil rights agency in the nation. As the state agency charged with enforcing California's civil rights laws, the DFEH protects people from unlawful discrimination in employment, housing, businesses, and state-funded programs, and from bias-motivated violence and human trafficking.<sup>iv</sup> As its deputy director, Thomas handled the full range of civil rights and regulatory questions that came before the agency.

In 2018, then-Gov. Jerry Brown appointed her to serve as a judge on the Superior Court of California, County of Los Angeles, and she was elected to a full six-year term in 2020. She was assigned to the Family Law Division, and attorneys who practice before her noted how rapidly she took to the job, noting that "she's quickly grasped how to control a courtroom."<sup>v</sup> In her previous years as a civil rights appellate attorney, Thomas had already learned the critical importance that a fair court plays in people's lives. As a judge, she puts that experience into practice, always showing respect for the people whose cases come before her. As she has stated:

I'm rigorously applying the law, but I want to make sure that people understand what it is that I'm doing and that I deliver my orders and talk about the law in a way that's accessible to the people, so that I know that they know why I'm reaching the decision I'm making.<sup>vi</sup>

Judge Thomas has a keen awareness of how systemic inequality can affect the judicial branch. At a panel discussion on systemic inequality and the courts, she told participants:

Often just being aware that the very fact that someone has walked into one of our courtrooms is itself often a manifestation of a systemic inequality, because folks with resources can often manage to resolve a lot of the kinds of disputes, especially that we see in family court, *outside* of court. And so just the fact that someone is there may tell us something about systemic inequality that I think is worth our being aware of and listening to.<sup>vii</sup>

At the same panel discussion, she discussed her recognition that her income is much higher than that of many of the parties in her courtroom, so she takes it upon herself to use language that does not suggest she looks down on them because of their low income or even poverty. For instance, rather than asking a parent in a custody case how many bedrooms they have in their home, she asks what their living situation is. Similarly, rather than asking where they work, she asks them more open-ended questions such as what their schedule is during the week.<sup>viii</sup> When a

judge recognizes that a litigant’s lifetime experiences profoundly shape how they interpret events around them, she can more effectively prevent her own cultural and class biases from distorting her rulings.

Our federal judicial system needs more judges with the kind of wisdom and commitment to equality under the law that Holly Thomas will bring with her to the Ninth Circuit. We urge her confirmation.

Sincerely,

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

Marge Baker  
Executive Vice President

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<sup>i</sup> <https://web.archive.org/web/20000816163614/http://www.sfbar.org/vls/general.html> (archived Volunteer Legal Services Program website from 2000).

<sup>ii</sup> *United States v. McRae*, 702 F.3d 806 (5th Cir. 2012); *United States v. McRae*, 795 F.3d 471 (5th Cir. 2015).

<sup>iii</sup> *League of Women Voters of North Carolina v. North Carolina*, 769 F.3d 224 (4th Cir. 2014).

<sup>iv</sup> DFEH homepage, <https://www.dfeh.ca.gov> (accessed Oct. 15, 2021).

<sup>v</sup> “Calm and collected: LA Judge Holly Thomas keeps her court under control and encourages good behavior,” Arin Mikailian, *L.A. Daily J.* (May 29, 2020).

<sup>vi</sup> *Id.*

<sup>vii</sup> “Systemic Inequality and the Courts – Part Two,” Panel Discussion, Berkeley Judicial Institute, November 16, 2020, <https://www.law.berkeley.edu/research/berkeley-judicial-institute/events/event-recordings>, at 24:50.

<sup>viii</sup> *Id.* at 28:00.