



January 14, 2026

Senator Chuck Grassley  
Chair, Senate Judiciary Committee

Senator Dick Durbin  
Ranking Member, Senate Judiciary Committee

Dear Senators:

On behalf of our hundreds of thousands of supporters and activists nationwide, People For the American Way opposes the judicial nominations of Justin Olson (Southern District of Indiana), Megan Benton (Western District of Missouri), and Brian Lea (Western District of Tennessee). Their testimony before the Judiciary Committee shows that they are not qualified to be federal judges.

### **Introduction**

The federal courts are essential to providing the checks and balances needed to prevent tyranny. At present, they are the only branch of the federal government carrying out this essential function. As we explained in detail in a May 30, 2025, letter to the Judiciary Committee<sup>i</sup>, a president who defies court orders and threatens judges should not be allowed to name anyone to the one branch of the federal government that is checking his power.

Events since then have only strengthened our case. For instance, an extensively-documented whistleblower complaint revealed that senior Justice Department official Emil Bove suggested in March that the administration violate court orders.<sup>ii</sup> President Trump subsequently nominated Bove to a seat on the Third Circuit, to which he was confirmed. The administration now routinely defies the courts. In fact, a July study revealed that the Trump administration had defied one in three judges who had ruled against him.<sup>iii</sup>

Nationwide concern over the Trump administration's deceptive filings and court defiance continues to grow. The administration even risks losing the "presumption of regularity," in which judges presume that the federal government and its lawyers are telling the truth and acting in good faith.<sup>iv</sup> Indeed, an October 2025 report revealed dozens of instances of judges expressing distrust in the government's representations, as well as growing concerns within the federal bench about noncompliance with judicial orders.<sup>v</sup>

And in November 2025, a sitting federal judge nominated by President Reagan resigned from his lifetime position in order to speak frankly and in depth about Trump's threat to the rule of law. Mark L. Wolf wrote:

I no longer can bear to be restrained by what judges can say publicly or do outside the courtroom. President Donald Trump is using the law for partisan purposes, targeting his adversaries while sparing his friends and donors from investigation, prosecution, and possible punishment. This is contrary to everything that I have stood for in my more than 50 years in the Department of Justice and on the bench. The White House's assault on the rule of law is so deeply disturbing to me that I feel compelled to speak out. Silence, for me, is now intolerable.<sup>vi</sup>

Later that same month, President Trump even called for the execution of members of Congress for stating the undisputed legal fact that members of the military may not follow unlawful orders.<sup>vii</sup>

This president is dangerously unqualified to be making lifetime appointments to the one branch of government that is providing checks and balances to his lawless actions.

Moreover, the records of these three specific nominees also raise deep concerns.

### **Olson, Benton, and Lea**

At their December 17 committee hearing, all three nominees gave responses that disqualified them for lifetime positions on the federal bench.

In response to questions from Sen. Blumenthal, they provided unacceptable responses to simple questions of fact. They did not acknowledge that Donald Trump lost the 2020 election. They did not acknowledge that he lost either the electoral vote or the popular vote. Their response that Joe Biden was certified the winner and served as president is an unacceptable evasion of a truth that Donald Trump has spent five years refusing to accept – and trying to erase from history.

The nominees even refused to acknowledge that the events of January 6, 2021, could be described as an attack on the U.S. Capitol. Importantly, they were not asked about specific people involved in the events of the day or legal questions arising from them. They were simply asked if the Capitol was attacked.

Benton and Lea told senators they could not answer because that was a political controversy. Olson stated only that “individuals entered the Capitol, and some of them were charged, and there were cases that arose as a result.”<sup>viii</sup>

But senators know the truth. Most members of the Judiciary Committee were serving in Congress that day. They are well aware that their safety was at risk. As with the brutal shooting of Renee Nicole Good by an ICE agent in Minnesota that occurred in early 2026, the American people cannot and will not pretend we did not see what we so plainly saw.

All three nominees similarly signaled ominous fealty to Trump in the responses to written questions for the record (QFRs). For instance, each one was asked if federal judges who rule against Donald Trump are “USA-hating” and “monsters” who “suffer from an ideology that is sick, and very dangerous for our country.” Not one of the three nominees had the independence to give the only acceptable response, which is “no.” But to say that would be to signal a chink in the armor of total loyalty to Donald Trump, who made the statement. Instead, all three claimed it would be inappropriate to answer the question.<sup>ix</sup>

In a functioning system of checks and balances, judges must be independent. They must be willing and able to rule against the president when the president violates the law. Whether the nominees’ responses reflect loyalty to or fear of the president, they have failed a basic test of demonstrating that we can trust them with a lifetime position protecting our rights.

Our concern about the nominees also goes beyond their disqualifying testimony.

For instance, Southern District of Indiana nominee Justin Olson has used his legal training to target, marginalize, and harm transgender people. He has challenged NCA policies that protected the right of transgender women to participate in women’s sports, as long as they met certain testosterone limits.<sup>x</sup> His description before the Judiciary Committee of the cases essentially denies the existence of trans women, calling them “trans-identifying male” athletes.<sup>xi</sup> Such denigration goes well beyond the zealous representation of a client. It calls into question Olson’s ability or willingness to rule in an unbiased manner in cases involving trans litigants. Consistent with a general animosity toward trans people, Olson’s committee questionnaire lists the notoriously anti-LGBTQ Alliance Defending Freedom as one of the organizations he is a member of.

Olson also wrote an article in 2013 charting how anti-abortion legislators could argue that imposing their religious beliefs about fetal personhood into the law does not violate the Establishment Clause.<sup>xii</sup> His article accepted as legitimate the false secular justifications for measures such as “informed-consent” provisions that were really designed to burden the then-existing constitutional right to abortion. Since the *Dobbs* decision overturned *Roe*, his argument presents even more risk to abortion access. Furthermore, it would also apply to any number of legislative moves to impose far-right religious beliefs on the state or even the nation through the force of law.

Western District of Tennessee nominee Brian Lea also has a disturbing record. In his case, he has been a willing collaborator in President Trump’s efforts to eliminate constitutional checks on his power. At the beginning of Trump’s second term, Lea left his position as a partner at Jones Day to become a deputy associate attorney general in the new administration.

This career move augurs poorly for his respect for the law. It came four years after Trump had fomented an insurrection to overturn the 2020 presidential election and end our

democracy. It also came after the 2024 campaign, in which Trump made frequent statements signaling the assault on democracy that he had in mind should he win. Lea's decision to join Trump's second-term administration shows that he prioritizes Trump's personal interests and power over democracy and the rule of law. And indeed, among Lea's work in 2025 has been an effort to defend damaging cuts in federal science and medical research grants that multiple courts have deemed clearly illegal.<sup>xiii</sup>

While at Jones Day, Lea used a tobacco liability case to make an extremely damaging and offensive argument limiting the rights of married same-sex couples. He represented RJ Reynolds in a lawsuit by Bryan Rintoul, the longtime partner, eventual spouse, and widower of a man who died of smoking-related illness in 2018. Under Florida common law, a surviving spouse was eligible for damages only if they were married when the diagnosis of lung cancer was made, in this case in the 1990s. However, since this was a same-sex couple, Florida had prohibited them from getting married until many years later, after *Obergefell*.

Nevertheless, Lea claimed that denying Rintoul spousal benefits wasn't discrimination, because Rintoul and his future husband had not actually applied for a marriage license before 1996 and been denied.<sup>xiv</sup> Therefore, under Lea's reasoning, they were no different than an opposite-sex couple that chose not to get married. As a legal matter, the argument is clearly inconsistent with *Obergefell* and perpetuates the very discrimination that the Supreme Court struck down. Moreover, Lea's willingness to make such an offensive argument strongly suggests that, if confirmed, he would not treat LGBTQ+ litigants respectfully.

## **Conclusion**

With Donald Trump seeking to put loyalists on the bench as he threatens our system of checks and balances, the Senate's constitutional role in the judicial confirmation process has never been more important. We urge senators to oppose the confirmations of Justin Olson, Bryan Lea, and Megan Benton.

Sincerely,



Marge Baker  
Executive Vice President

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<sup>i</sup> [https://www.peoplefor.org/sites/default/files/downloads/2025-06/Hermandorfer\\_and\\_4\\_MO\\_noms-opposition\\_letter.pdf](https://www.peoplefor.org/sites/default/files/downloads/2025-06/Hermandorfer_and_4_MO_noms-opposition_letter.pdf).

<sup>ii</sup> “Justice Dept. Leader Suggested Violating Court Orders, Whistle-Blower Says,” New York Times, June 24, 2025, <https://www.nytimes.com/2025/06/24/us/politics/justice-department-emil-bove-trump-deportations-reuveni.html>.

<sup>iii</sup> “Trump officials accused of defying 1 in 3 judges who ruled against him,” Washington Post, July 21, 2025, <https://www.washingtonpost.com/politics/2025/07/21/trump-court-orders-defy-noncompliance-marshals-judges>.

<sup>iv</sup> See, e.g., David French, “How a Trump Judge Exposed the Trump Con,” New York Times, Oct. 12, 2025, <https://www.nytimes.com/2025/10/12/opinion/trump-judge-immergut-portland-national-guard.html>; “Judges Openly Doubt Government as Justice Dept. Misleads and Dodges Orders,” New York Times, Aug. 4, 2025, <https://www.nytimes.com/2025/08/04/us/politics/trump-justice-department-judges-courts.html>.

<sup>v</sup> “‘The ‘Presumption of Regularity’ in Trump Administration Litigation,” Just Security, updated Oct. 15, 2025, <https://www.justsecurity.org/120547/presumption-regularity-trump-administration-litigation>.

<sup>vi</sup> “Why I Am Resigning,” Judge Mark L. Wolf, The Atlantic, Nov. 9, 2025, <https://www.theatlantic.com/ideas/2025/11/federal-judge-resignation-trump/684845>.

<sup>vii</sup> “Trump says Democrats’ message to military is ‘seditious behavior’ punishable by death,” Associated Press, Nov. 20, 2025, <https://apnews.com/article/trump-military-traitors-sedition-illegal-orders-c5fc3c5bd2fbc6b1204550e4203c24b2>.

<sup>viii</sup> Hearing video, <https://www.judiciary.senate.gov/committee-activity/hearings/nominations-12-17-2025>, 1:20:10.

<sup>ix</sup> Lea QFRs at 6; Benton QFRs at 4; Olson QFRs at 7.

<sup>x</sup> *Riley Gaines, et al. v. National Collegiate Athletic Association, et al.*, No. 1:24-cv-01109-TRJ (N.D. Ga.).

<sup>xi</sup> Senate Judiciary Committee questionnaire responses, pp. 30-31.

<sup>xii</sup> “Defining Fetal Life,” 88 Ind. L. J. 1113, 1117 (2013).

<sup>xiii</sup> *Association of American Universities v. National Science Foundation*, 788 F. Supp. 3d 106 (2025); *Association of American Universities v. Department of Energy*, 789 F. Supp. 3d 118 (2025).

<sup>xiv</sup> Defendant-appellant brief, *Philip Morris and RJ Reynolds v. Rintoul*, case no. 4D20-1963, 2022 WL 1286250 (Fla. App. 4 Dist.), 2022 FL App. Ct. Briefs LEXIS 476 (Feb. 3, 2022).