

WOMEN IN THE FEDERAL JUDICIARY: STILL A LONG WAY TO GO

Over the past three decades, an increasing number of women have joined the legal profession. In recent years, law schools have seen the number of female students increase, so that they now make up nearly half of all law students.¹ In 2008, one-third of lawyers were women.² Now more than ever, women should be fairly represented among the judiciary. As Justice Ruth Bader Ginsburg recently said about the Supreme Court, “[w]omen belong in all places where decisions are being made. . . It shouldn’t be that women are the exception.”³ But the federal judiciary, especially the Supreme Court, has a long way to go before it reflects the current face of the profession and the population, giving women the representation they deserve on the courts.

- The Supreme Court currently counts only two women among its nine Justices, and only three have *ever* served on the highest court in the land.
- Forty-five of the 159 active judges currently sitting on the thirteen federal courts of appeal are female (28%).⁴ When broken down by circuit, women’s representation on several of these individual courts is even lower than on the courts of appeals overall:
 - The Eighth Circuit has only one female judge among its eleven members, who is the only woman *ever* to have been appointed to that court.
 - Women are also vastly underrepresented on the Fourth and Tenth Circuits (where they make up about 18 percent of judges in each) and the First Circuit (20 percent).
- Approximately 25 percent of United States district (or trial) court judges were women in 2008.⁵
- For women of color, the numbers are even smaller.
 - There are 50 women of color serving as active federal judges across the country, including 27 African-American women, 18 Hispanic women, and five Asian-American women. There are no Native American women.⁶

¹ American Bar Association Section of Legal Education and Admissions to the Bar, “Legal Education Statistics Enrollment by Gender 2007-2008,” available at <http://www.abanet.org/legaled/statistics/charts/stats%20-%206.pdf>.

² Department of Labor, Bureau of Labor Statistics, “Employed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity” 2008, available at <http://www.bls.gov/cps/cpsaat11.pdf>.

³ Joan Biskupic, *Ginsburg: Court Needs Another Woman*, USA TODAY, May 5, 2009, available at http://www.usatoday.com/news/washington/judicial/2009-05-05-ruthginsburg_N.htm.

⁴ NWLC calculations based on review of individual websites of U.S. courts of appeals and vacancy data available at http://www.uscourts.gov/cfapps/webnovada/CF_FB_301/index.cfm?fuseaction=Reports.ViewVacancies.

⁵ American Bar Association, Commission on Women in the Profession, “A Current Glance at Women in the Law 2008” at 3, available at <http://www.abanet.org/women/CurrentGlanceStatistics2008.pdf>.

- There are only seven women of color on the U.S. courts of appeals. Three of those women sit on the Ninth Circuit Court of Appeals, two sit on the DC Circuit, and one woman of color sits on each of the Seventh and Fourth Circuits. Therefore, there are nine federal courts of appeals without a single minority woman judge.⁷
- There are signs that the number of women in the federal judiciary may soon increase.
 - Of President Obama's 37 judicial nominees to date (including his nominee to the Supreme Court), 18 are women.⁸
 - Ten of these nominees are women of color (six African American women, three Asian-American women, and one Hispanic woman).
 - If the eleven remaining female nominees are confirmed, women's representation on a number of circuits will improve -- including the First Circuit (an increase to 33% female judges), the Fourth Circuit (an increase to 25%), and the Sixth Circuit (an increase to 38%).

By the nominations he has made to date, President Obama has taken the first step in increasing the representation of women, including women of color, on the federal bench. Now it is up to the Senate to do its part.

⁶ Statistics were compiled through the Just the Beginning Foundation's Chart on Female Article III Federal Judges, available at <http://www.jtbf.org/clientuploads/docs/articleIIIFemaleAlphabetical.pdf>, and the Confirmed Nominees list found on the Department of Justice's website, available at <http://www.usdoj.gov/olp/confirmed.htm>.

⁷ See *id.*

⁸ NWLC calculations were based on the nomination information found on the U.S. Senate Judiciary's Website, available at <http://judiciary.senate.gov/nominations/111thCongressJudicialNominations/Materials111thCongress.cfm>.