

**Statement of Senator Charles Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate**

**Before the Committee on the Judiciary regarding the Nominations of:**

*Michelle T. Friedland, to be United States Circuit Judge for the Ninth Circuit  
Christopher Reid Cooper, to be United States District Judge for the District of Columbia  
Gerald Austin McHugh, Jr., to be United States District Judge for the Eastern District of Pennsylvania  
M. Douglas Harpool, of Missouri, to be United States District Judge for the Western District of Missouri  
Edward G. Smith, to be United States District Judge for the Eastern District of Pennsylvania*

**November 6, 2013**

Madame Chairwoman,

I join you in welcoming the nominees who are here today with their families and friends. Being nominated to the federal judiciary is a significant accomplishment and reflects well on the career of each of our nominees. This is a proud moment for them and their families.

Today's hearing is the 15th judicial nominations hearing this year during which we will have considered a total of 53 judicial nominees. This hearing record is especially remarkable when you compare this pace to the first year of President Bush's second term.

I recognize that many members serving in the Senate today were not here during the Bush presidency, so some may not be fully aware of the history of judicial nominations. But just to compare, at this stage in President Bush's second term, the Committee had held only 5 hearings for 12 nominees. In fact, during 2005, the Judiciary Committee would go on to hold only one more hearing before adjourning. They would close the year having held only 6 hearings for 15 district and circuit nominees. Again, we have greatly exceeded that number – we are now in our 15th hearing, having considered 53 nominees.

How are we doing this year compared to last year? 2012 was a very productive year for judicial nominations. In fact, in the 112<sup>th</sup> Congress, President Obama had more District Judges confirmed than were confirmed in any of the previous 8 Congresses. Our work last year contributed to that accomplishment when we held 10 hearings for 41 judicial nominees.

So whether you compare this year's record to the way President Bush was treated in his 5<sup>th</sup> year in office, or compare to last year, our hearing schedule this year clearly is at a much faster pace – 15 hearings and 53 nominees.

I mention this record, because I know it is still fashionable to criticize Republicans for “unprecedented obstruction” of President Obama’s judicial nominees. But let me remind everyone that we have now confirmed 38 lower court Article 3 judicial nominees this year. That is more than two and a half times the number confirmed at a similar stage in President Bush’s second term, when only 14 judicial nominees had been confirmed.

In total, the Senate has confirmed 209 lower court Article 3 judges. We have voted against three nominees. 209 - 3 is a success rate of 99 percent. I think that is a pretty outstanding record, for any President.

We have before us five judicial nominees. Let me say a word about each of them.

Michelle T. Friedland is nominated to be United States Circuit Judge for the Ninth Circuit. She received her B.S. from Stanford University in 1995, studied at Oxford University as a Fulbright Scholar, and then received her J.D. from Stanford Law School in 2000. After graduation, she served as a law clerk first to the Honorable David Tatel on the United States Court of Appeals for the D.C. Circuit, and then to Justice O’Connor on the Supreme Court of the United States. Ms. Friedland then worked as a Lecturer in Law at Stanford Law School teaching courses entitled “Environmental Law” and “Federal Jurisdiction.”

In 2004, Ms. Friedland joined the firm of Munger, Tolles & Olson as an associate. She became a partner in the firm in 2010. Her practice as an associate was focused on litigation, specifically in the areas of business and constitutional disputes. Her role during her time as an associate focused on dispositive brief-writing in trial courts or on appeal. As a senior associate, and now as a partner, her practice is focused primarily on representing pharmaceutical companies in antitrust litigation; representing the University of California in constitutional litigation and class action defense; and representing primarily non-profits in appeals involving constitutional issues.

Most of Ms. Friedland’s practice has been in litigation. She has tried two civil cases to verdict, and in both she served as associate counsel. The American Bar Association Standing Committee on the Federal Judiciary unanimously rated her Well Qualified.

Christopher Reid Cooper is nominated to be United States District Judge for the District of Columbia. He received his B.A. from Yale University in 1988, and his J.D. from Stanford Law School in 1993. After graduation, Mr. Cooper clerked for Chief Judge Abner J. Mikva of the United States Court of Appeals for the District of Columbia Circuit. Upon completion of his clerkship, he served for two years as a Special Assistant to the Deputy Attorney General at the United States Department of Justice. His responsibilities included supporting the Deputy Attorney General and other members of the Department’s leadership in the areas of legislative affairs, judicial candidate vetting, and professional responsibility.

In 1996 he joined the firm of Miller, Cassidy, Larroca & Lewin as an associate and made partner in 2000. In 2000 Miller Cassidy merged with Baker Botts and he became a partner of the Washington office of Baker Botts. His practice during this time involved a mix of civil and

white-collar criminal litigation; grand jury and other government investigations; and internal corporate investigations.

In 2010, Mr. Cooper transferred to the Baker Bott's London office, and in February 2012 he joined the London office of Covington & Burling. While in London, his practice focused primarily on representing clients in matters related to the Foreign Corrupt Practices Act and other international anti-corruption statutes. In September of 2013, Mr. Cooper joined Covington's D.C. office.

According to his questionnaire, Mr. Cooper has spent approximately 90% of his practice in litigation, including cases involving government and internal investigations. He has tried two cases to verdict as associate counsel. The American Bar Association Standing Committee on the Federal Judiciary gave Mr. Cooper a rating of Majority "Well Qualified"; Minority "Qualified".

Gerald Austin McHugh, Jr. is nominated to be United States District Judge for the Eastern District of Pennsylvania. Mr. McHugh received his A.B. from St. Joseph's University in 1976 and his J.D. from the University of Pennsylvania Law School in 1979. Upon graduation, Mr. McHugh clerked for the Honorable Edmund B. Spaeth Jr. on the Superior Court of Pennsylvania and then for the Honorable Alfred L. Luongo on the United States District Court for the Eastern District of Pennsylvania. In 1981 Mr. McHugh joined Litvin, Blumberg, Matusow & Young where the majority of his practice was focused on complex civil litigation with an emphasis on tort, insurance, and civil rights matters and a small percentage focused on commercial matters. In 2004, Mr. McHugh became a Partner at Raynes McCarty where his practice has largely remained the same. According to his questionnaire, Mr. McHugh has represented a variety of clients including professionals, white and blue collar workers, homemakers, the elderly, the disabled, and children. The majority of the cases Mr. McHugh litigated involved tort claims, including aviation disasters, vehicle accidents, medical malpractice, or liability for defective products.

Although his career has been primarily plaintiff advocacy, he has been active in other areas outside his practice with Raynes McCarty. According to his questionnaire, Mr. McHugh contributed to the passage of six statutes in Pennsylvania as well as the Restatement, 3d, of Torts. In addition to has served as a mediator or arbitrator on a number of occasions. Mr. McHugh chairs a number of committees and organizations including Pennsylvania's Interest on Lawyers Trust Account Board and the Pennsylvania Legal Aid Network.

Mr. McHugh estimates that he has tried 33 cases to verdict, judgment, or final decision. The American Bar Association Standing Committee on the Federal Judiciary unanimously gave Mr. Cooper a rating of "Well Qualified."

M. Douglas Harpool, of Missouri is nominated to be United States District Judge for the Western District of Missouri. Mr. Harpool received his B.S. from Missouri State University in 1977, and his J.D. from the University of Missouri – Columbia School of Law in 1980. After graduating, Mr. Harpool joined the firm of Daniel, Clampett, Lilly, Dalton, Powell & Cunningham as an associate. He worked primarily in civil litigation in the field of personal injury law. In 1985, he became a partner and his practice expanded to include civil litigation defending governmental

liability claims and medical negligence claims as well as employment law cases. In 2002, he joined the firm of Cunningham, Harpool & Cordonnier, LLC as a partner where his practice focused on employment law and government liability cases. In 2004, Mr. Harpool joined the firm of Lathrop & Gage, LLP as a partner where his practice expanded to include civil rights litigation. Since 2006, he has been a partner at Baird, Lightner, Millsap & Harpool, P.C.

Mr. Harpool has spent the overwhelming majority of his career in civil litigation. He estimated that he has averaged at least three trials per year during his practice, totaling around 100 cases, to verdict, judgment or final decision. The American Bar Association Standing Committee on the Federal Judiciary unanimously rated him Well Qualified.

Edward G. Smith is nominated to be United States District Judge for the Eastern District of Pennsylvania. He received his B.A. from Franklin Marshall College in 1983 and earned his J.D. at Dickinson School of Law of the Pennsylvania State University in 1986. After law school he completed the Basic Lawyer Course at the Naval Justice School and became an assistant force judge advocate for the Commander Naval Air Force. There he handled disciplinary matters, conducted investigations, and provided legal advice to the Admiral. Judge Smith then transferred to the Naval Legal Service Office where he represented Navy and Marine Corps in multiple legal settings including courts-martial. After Judge Smith left active duty in 1990, he affiliated with the Navy Reserve and has continued participating with the Reserve to the present.

Returning to private practice, he joined with another attorney to create DeRaymond & Smith, a two-attorney general practice firm. As a general practitioner, he handled civil matters including, among other subjects, divorce and custody cases, wills and estates, real estate transactions, and general civil litigation. While he was in private practice, Judge Smith also served as solicitor for multiple local government bodies and represented them in various legal matters.

According to his questionnaire, while on active military duty, Judge Smith both litigated and advised others on litigation. He handled approximately 17 general courts-martial, 204 special courts-martial, and 37 article 32 investigations.

Judge Smith also has judicial experience. In 2002, after being elected in November 2001, Judge Smith began service as a judge on the Court of Common Pleas of Northampton County. After serving his ten year term, Judge Smith was retained to serve an additional ten year term in 2011. He has served as the Presiding Judge of the Asbestos Division since 2004 and as the supervising judge of Northampton County Grand Jury since 2012. The Courts of Common Pleas are trial courts and have jurisdiction over a variety of civil and criminal matters.

While in the Navy Reserve, Judge Smith has served as a military trial judge, an appellate military judge, and as the Commanding Officer for the Navy-Marine Corps Court of Criminal Appeals. He was appointed to each of these positions.

The American Bar Association Standing Committee on the Federal Judiciary unanimously rated him Well Qualified.