

Responses to Questions from Senator Brownback

Question: Do you continue to support restructuring of the Ninth Circuit? Why or Why not?

Answer: For the reasons stated in my August 17, 1998, letter to the Commission on Structural Alternatives for the Federal Courts of Appeals, I continue to support a change in the structure of the Ninth Circuit. In my view, a well-conceived restructuring of the Ninth Circuit would better serve the administration of justice.

Question: If you do support restructuring, is there a particular configuration which you believe would yield optimal benefits in terms of the administration of justice?

Answer: As I stated in my February 14, 2007, testimony before the Senate Judiciary Committee hearing on "Judicial Security and Independence," the structure of the circuits, including the Ninth Circuit, is ultimately for the legislature to decide. The Judicial Conference can continue to provide information on the current status of court administration and case management in the Ninth Circuit to assist Congress in determining how best to reshape the circuit.

Question: If Congress were to adopt the appellate judgeship recommendations of the Administrative Office of the U.S. Courts and to award seven new judgeships to the Ninth Circuit Court of Appeals (five of which would be permanent), would you find the case for restructuring of the Circuit more compelling?

Answer: The need for additional judges can be documented with objective data. If additional judges are needed, it would be unfair to burden litigants and the courts by withholding the judges necessary for efficient administration of justice. It is also true that one of the principal reasons for restructuring the Ninth Circuit is the number of judges assigned to that court. If additional judges are added, the need for restructuring becomes all the more urgent.