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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, Chief Counsel and Staff Director
JENNIFER DUCK, Democratic Staff Director

December 7, 2017

The Honorable Jeff Sessions
Attorney General of the United States
The United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Robert W. Patterson
Acting Administrator
United States Drug Enforcement Administration
8701 Morrisette Drive
Springfield, VA 22152

Dear Attorney General Sessions and Mr. Patterson:

The Senate Committee on the Judiciary is holding a hearing entitled, "Oversight of the Ensuring Patient Access and Effective Drug Enforcement Act" on Tuesday, December 12, 2017. Judge John Mulrooney II was invited to testify at the hearing. Our understanding is that both the Department of Justice (the Department) and the Drug Enforcement Administration (DEA) are refusing to provide Judge Mulrooney as a witness.


As you know, Judge Mulrooney has written two law review articles, one in 2015 and a recent article scheduled to be formally published in the *Marquette Law Review* in 2018. In the latter of those two articles, Judge Mulrooney vigorously attacked the benefits of the Ensuring Patient Access and Effective Drug Enforcement Act ("EPAEDEA"). Judge Mulrooney even provided his views on how Congress should have written the law differently. The law review article was referenced in an article in *The Washington Post*, which was written in conjunction with a *60 Minutes* segment airing the same day.

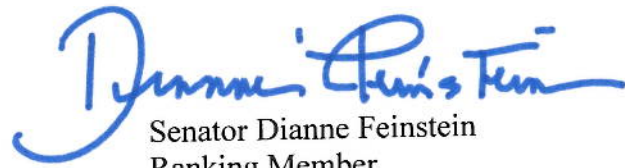
Last week, a formal invitation was sent requesting Judge Mulrooney's appearance. Given his outspoken views and his willingness to express those views publicly, we believe his testimony is integral to a hearing on this law. We request answers to the following questions in writing:


- 1) Why are the Department and DEA refusing to allow Judge Mulrooney to appear as a witness at this hearing?

- 2) Did Judge Mulrooney seek permission from either or both the Department or DEA to write the law review articles?
- a) If so, was he granted permission to do so?
 - b) If not, are there any processes in place that require DEA Administrative Law Judges to obtain formal authorization prior to publishing law review articles in their personal capacity?

Sincerely,


Senator Charles E. Grassley
Chairman
Committee on the Judiciary


Senator Dianne Feinstein
Ranking Member
Committee on the Judiciary


Senator Orrin Hatch
Member
Committee on the Judiciary