

November 9, 2017

Hon. Chuck Grassley, Chairman  
Senate Judiciary Committee  
224 Dirksen Senate Office Building  
United States Senate  
Washington, D.C. 20510

Hon. Diane Feinstein, Ranking  
Member  
Senate Judiciary Committee  
224 Dirksen Senate Office Building  
United States Senate  
Washington, D.C. 20510

Hon. Amy Klobuchar  
United States Senator  
302 Hart Senate Office Building  
United States Senate  
Washington, D.C. 20510

Hon. Al Franken  
United States Senator  
309 Hart Senate Office Building  
United States Senate  
Washington, D.C. 20510

**Re:   Nomination of Justice David Stras for the United States Court of  
      Appeals for the Eighth Circuit  
      From Minnesota Law Professors Who Clerkred for Circuit Judges**

Dear Senators Grassley, Feinstein, Klobuchar, and Franken:

We are law professors at the three Minnesota law schools — the University of Minnesota, Mitchell | Hamline, and the University of St. Thomas — who had the wonderful opportunity to clerk for federal appellate judges as we were beginning our legal careers.\* We have also had the satisfaction of seeing our graduating law students go on to clerk for judges on the United States Court of Appeals. We know from firsthand experience as former law clerks, as members of the Minnesota legal community, and as law professors what an essential role is played by the small number of federal appellate judges in our State. A federal circuit judge serves as a valuable point of access for legal reform in the federal judiciary, for public education about our federal justice system, and in opportunities for mentorship and education for law students and young lawyers.

For these reasons, we have been looking forward to the increased opportunities presented by confirmation of Justice David Stras as a judge on the United States Court of Appeals for the Eighth Circuit. Now we are deeply troubled by

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\* The academic affiliations and positions of the signatories are listed for identification purposes and to demonstrate their backgrounds and experiences, but do not suggest any endorsement by the law schools and universities.

the reported prospect that one of Minnesota's treasured federal appellate judgeships could be effectively forfeited to another state because of the Senate's failure to move forward to a vote on this pending nomination.

The loss of an Eighth Circuit judgeship from Minnesota would be painful and would have detrimental effects for our legal community and for law students and law graduates in Minnesota. Historically, Minnesota has been woefully underrepresented in federal judgeships compared to many other states. If that number would now move downward because of the Senate's failure to act on this nomination, it would be most unfortunate. Confirming Justice Stras to the open Eighth Circuit position would benefit the Minnesota legal community and law schools by granting a fuller complement of federal judges in our State.

As law professors in the three law schools in Minnesota, we know what an important human resource for legal education and the legal community in our State is provided by our federal judges, including the leading role of a federal appellate judge. Federal judges regularly visit our three law schools, giving our students an opportunity to speak directly with leading jurists. Federal judges in Minnesota offer an inspiration to and aspiration for our students who may someday be privileged to join the judiciary. And young men and women attending law school in Minnesota have additional mentorship opportunities, internships during law school, and the prospect of clerkships after law school.

In this regard, Justice Stras has been a thoughtful voice on the importance of law clerks, writing about his experiences as a former circuit judge clerk (in more than one circuit) and with recent law school graduates in his work as a Justice of the Minnesota Supreme Court. See David R. Stras, *Keynote Address: Secret Agents: Using Law Clerks Effectively*, 98 Marq. L. Rev. 151 (Fall 2014). Justice Stras has taken a forthright and affirmative position on hiring law clerks who are diverse in their political, religious, and other backgrounds, refusing to impose any litmus test for law clerks.

For the larger Minnesota legal community, a federal appellate judge with chambers in our State offers a vital connection to the circuit governance process and the federal justice system. Questions about and proposed initiatives to address necessary reforms in criminal justice, changes in court procedural rules, education for lawyers on effective practice in the federal courts, and public access to the federal judicial process are more effectively raised and promoted through the presence in our State of judges of the Eighth Circuit. As but one example, Justice Stras has already taken a special interest in enhancing access to justice for pro se appellants in the Eighth Circuit (that is, individuals raising an appeal without representation by a lawyer), a subject on which some of us already have had meaningful discussions with Justice Stras. If this Eighth Circuit judgeship were lost to a neighboring state, the Minnesota voice on these and other matters would be significantly muted.

We as law professors at the Minnesota law schools join with the dozens of other diverse members of our Minnesota legal community who have urged Senate action on the nomination of Justice David Stras to the Eighth Circuit. Like those who have previously written in support of Justice Stras, the signatories to this letter come from wide-ranging practice backgrounds and have diverse views on legal and political issues. Justice Stras is widely admired and has been a great friend to legal education, not only at the University of Minnesota where he taught for several years, but by his generosity of time and attention to the University of St. Thomas and the Mitchell-Hamline law schools.

Because Justice Stras is a deserving and highly qualified nominee, and because of the benefit to our State of having a fuller complement of federal appellate judges in Minnesota, we ask you to allow this nomination to move to the floor of the Senate for a final vote.

Best regards,

Thomas C. Berg  
James L. Oberstar Professor of Law  
and Public Policy  
University of St. Thomas School of  
Law

Joel A. Nichols  
Professor of Law  
University of St. Thomas School of  
Law

Brian Bix  
Frederick W. Thomas Professor of  
Law and Philosophy  
University of Minnesota Law School

Julie Oseid  
Professor of Law  
University of St. Thomas School of  
Law

Carol Chomsky  
Professor of Law  
University of Minnesota Law School

Ted Sampsell-Jones  
Professor of Law  
Mitchell | Hamline School of Law

Tom Cotter  
Briggs and Morgan Professor of Law  
University of Minnesota Law School

Daniel Schwarcz  
Professor of Law  
University of Minnesota Law School

Kristin Hickman  
Distinguished McKnight University  
Professor  
Harlan Albert Rogers Professor in  
Law  
University of Minnesota Law School

Gregory C. Sisk  
Laghi Distinguished Chair in Law  
University of St. Thomas School of  
Law

Brett McDonnell  
Dorsey & Whitney Chair in Law  
University of Minnesota Law School

Robert K. Vischer  
Mengler Chair in Law  
University of St. Thomas School of  
Law