



HUMAN
RIGHTS
CAMPAIGN®

December 11, 2023

The Honorable Richard Durbin
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

RE: Human Rights Campaign Support for Confirmation of Nicole Berner to the Fourth Circuit Court of Appeals

Dear Chair Durbin,

On behalf of the Human Rights Campaign and our more than 3 million members and supporters nationwide, I write to express our strong support for the confirmation of Nicole G. Berner to the Fourth Circuit Court of Appeals in Maryland. The Human Rights Campaign is America's largest civil rights organization working to achieve lesbian, gay, bisexual, transgender and queer (LGBTQ+) equality. Ms. Berner currently serves as General Counsel of the Service Employees International Union and is a partner with James and Hoffman, PC, where she focuses on representing workers and the union in a broad range of legal matters.

After graduating near the top of her class from Berkeley Law School, Ms. Berner clerked for Judge Betty B. Fletcher on the U.S. Court of Appeals for the Ninth Circuit and Judge Thelton E. Henderson on the Northern District of California. Her exceptional legal experience would be a tremendous asset to the Fourth Circuit.

It is crucial that we have judges on our federal courts with experience and expertise representing the interests of LGBTQ+ people, particularly at this time when transgender youth and adults are under vicious attack in our nation's legislatures and in our courts. Early in her career, as a litigation associate at Jenner and Block, Ms. Berner served as part of the litigation team before the Supreme Court in the historic LGBTQ-rights case *Lawrence v. Texas*. She also drafted an amicus brief before the Kansas Supreme Court supporting equal treatment of LGBTQ+ youth in *Kansas v. Limon*. Her advocacy on behalf of LGBTQ+ people has continued throughout her time at SEIU. Ms. Berner was the lead counsel on behalf of the labor movement in a number of LGBTQ-rights cases before the Supreme Court and the lower federal courts. She spearheaded the labor movement's amicus briefs documenting the economic harm of marriage discrimination to LGBTQ+ workers in *U.S. v. Windsor* and *Obergefell v. Hodges*.

Beyond her professional experience and expertise, Ms. Berner would also bring important lived experience to our judiciary. If confirmed, she would be the first openly LGBTQ+ judge on the Fourth Circuit. As a lesbian mother of three grown sons, Ms. Berner has been at the

forefront of LGBTQ+ rights in her in children's public schools, her synagogue, and her home town of Takoma Park, her home state of Maryland, and also in the State of Israel where she lived for a number of years. Ms. Berner and her former spouse were successful in a petition before the Israeli Supreme Court to obtain recognition of their joint parental rights. Their historic case (*Berner-Kadish v. Ministry of Interior*) set historic precedent for LGBTQ+ rights.

Ms. Berner's stellar professional career and life experiences would bring crucial expertise and perspective to the Fourth Circuit Court of Appeals. The Human Rights Campaign strongly urges the United States Senate to confirm her nomination without further delay.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink that reads "David Stacy". The signature is written in a cursive, flowing style with a horizontal line underneath the name.

David Stacy
Vice President, Government Affairs