

December 11, 2023

United States Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chair Durbin, Ranking Member Graham, and Committee Members:

On behalf of the following 27 national religious, religiously-affiliated, secular, values-based, and faith-centered organizations and communities that are committed to civil and human rights, we write in strong support of Nicole Berner's nomination to the United States Court of Appeals for the Fourth Circuit. Our organizations represent a broad spectrum of people united by the belief that every person is worthy of dignity and respect. Ms. Berner's career has mirrored this belief. She is an exceptionally well qualified nominee who has worked to defend and preserve the rights of individuals, including some of our society's most at risk and marginalized people. Her background, experience, and stellar qualifications combine to make her an ideal candidate for a lifetime seat on the Fourth Circuit.

Ms. Berner is currently a partner with James and Hoffman, PC, and General Counsel at the Service Employees International Union (SEIU), where she represents two million people — a majority of whom are women and people of color who work in some of the most difficult and fastest growing occupations in our country, including public services, health care, homecare, childcare, janitorial, and building security. After graduating near the top of her class from Berkeley Law School, Ms. Berner clerked for Judge Betty B. Fletcher on the US Court of Appeals for the Ninth Circuit and Judge Thelton E. Henderson on the Northern District of California. Throughout her two decades as a labor lawyer, she has represented working people and their communities to obtain economic and racial justice, access to health care, and gender and LGBTQ equality — values key to our many beliefs and traditions.

Indeed, Ms. Berner's efforts to protect and advance the rights of workers has been groundbreaking. As The American Prospect recently noted, "It would be difficult to find a more experienced labor lawyer elevated to a federal appeals court in the past several decades." Through her decades of work at SEIU, Ms. Berner has ensured working people had a voice in the legal system. She represented SEIU and the Change to Win labor federation in a broad range of civil rights cases in state and federal courts, including successfully challenging Pennsylvania's onerous voter ID requirement. Ms. Berner has assisted in bargaining national and regional organizing agreements with major employers and supported the union's work in connection with the NY Fast Food Wage Board. She spearheaded a legal strategy to bring to the courts the stories of workers and how their lives would be affected by the outcome of the case. For example, in the multiple legal challenges to the Affordable Care Act and the Deferred Action for Childhood Arrivals (DACA), SEIU filed briefs highlighting the impact an adverse ruling would have on individual workers and their families. These important voices would otherwise have been absent from these cases. Additionally, Ms. Berner has provided strategic legal advice to the Fight for Fifteen campaign and the campaigns to organize home care and childcare

workers who were left out of traditional labor law. Thanks to her relentless efforts, millions of people have dignity on the job and safer, more equitable workplaces.

Early in her career, as a litigation associate at Jenner and Block, Ms. Berner served as part of the litigation team before the US Supreme Court in the landmark 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*. 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 led the labor movement's amicus briefs documenting the economic harm of marriage discrimination to LGBTQ+ workers in *US v. Windsor* and *Obergefell v. Hodges*. In her personal capacity, Ms. Berner and her former spouse were successful in a petition before the Israeli Supreme Court, where they lived at the time, to obtain recognition of their joint parental rights. Their landmark case, *Berner-Kadish v. Ministry of Interior*, set historic precedent for LGBTQ+ rights in the country.

Ms. Berner's entire career has demonstrated a deep commitment to the highest ideals we collectively hold: justice, equity, and the ethical treatment of every human being. Given the array of issues considered by the Fourth Circuit, including civil rights and religious liberty issues of concern to our organizations, Ms. Berner's professionalism, integrity, and deep experience have prepared her well to serve with distinction.

Her background gives us confidence that she will uphold her oath as a judge with equal dedication by applying the Constitution and laws of our country in a fair, open-minded, and impartial manner. We urge you to support Nicole Berner's nomination to the United States Court of Appeals for the Fourth Circuit.

Sincerely,

**National**

National Council of Jewish Women  
ALEPH: Alliance for Jewish Renewal  
Ameinu  
American Jewish Congress  
Americans United for Separation of Church & State  
Avodah  
Bend the Arc: Jewish Action  
Christian Community Development Association  
Freedom From Religion Foundation  
Habonim Dror North America  
Interfaith Alliance  
Interfaith Voices for Reproductive Justice  
Jewish Democratic Council of America  
Jewish Women International  
Keshet

Missionary Obligates JPIC  
Muslims for Progressive Values  
Presbyterian Church  
Religious Coalition for Reproductive Choice  
Secular Coalition for America  
T'ruah: The Rabbinic Call for Human Rights  
The Shalom Center  
The Workers Circle  
Unitarian Universalist Women's Federation  
Women's Alliance for Theology, Ethics, and Ritual (WATER)  
Women's Rabbinic Network  
Zioness