



September 19, 2017

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

Dear Chairman Grassley, Ranking Member Feinstein, and Committee Members:

On behalf of the hundreds of thousands of members of People For the American Way, I write to express our opposition to the nomination of Thomas Farr to a seat on the U.S. District Court for the Eastern District of North Carolina.

This nomination cannot be divorced from the history of this vacancy—a vacancy that should not even exist. But the fact that it does, and the reasons for its continued existence, when combined with the nominee’s record, warrant opposition to the current nominee. Confirming Farr would reward efforts to transform our federal courts into partisan weapons.

In 2013, President Obama nominated federal prosecutor Jennifer May-Parker, who was then serving as the chief of the Appellate Division at the district’s U.S. Attorney’s Office. She would have been the first African American federal judge in the Eastern District. However, despite having recommended her for a judgeship during Obama’s first term, Senator Burr never returned his blue slip. Therefore, following long Senate tradition, the committee did not consider her nomination, and it was returned to the president at the end of 2014.

Then, after more than a year of continued outreach, President Obama nominated Patricia Timmons-Goodson, a former Justice of the North Carolina Supreme Court. Like May-Parker, she would have been the first African American judge in the district’s history. However, the state’s senior senator openly stated that he would never return a blue slip for anyone that President Obama might nominate. The committee did not consider her nomination, and the vacancy remained open when President Trump took office.

Both of President Obama’s nominees were indisputably qualified, had spent their careers in public service, and—as noted above—would have finally ended one of the ugly artifacts of Jim Crow: More than half a century after passage of the Civil Rights Act, not one judge in the district has been an African American.

And now President Trump has nominated Thomas Farr, someone who would bring neither long-overdue diversity nor a career dedicated to public service to the court. Early in his legal career, Farr was an attorney for the National Right to Work Legal Defense Foundation, a right-wing organization that strongly opposes workers’ efforts to negotiate fair terms of employment and exercise their legal rights through unions. But the bulk of his career has been in private practice, defending corporations sued for violating their employees’ legal rights, including those related to

prohibited discrimination and workplace safety. [His law firm's website](#) boastfully lists examples of Farr's experience:

- Lead counsel in numerous employment discrimination cases
- Lead counsel in numerous administrative OSHA trials before the North Carolina Occupational Safety and Health Review Commission including death cases, alleged violations of the general duty clause, and trench citations
- Lead counsel in OSHA case brought by NC OSHA attempting to appeal the general industry standards to agricultural operations
- Lead defense counsel in class-action suit brought by Washington-based legal defense fund against a local rental car company for alleged racial discrimination against customers
- First chair in sexual harassment / intentional infliction and emotional distress claim in which plaintiff sought damages in excess of \$20 million against a major corporation. Jury verdict returned in all claims for the defendant
- Lead defense counsel in class action by EEOC against major multinational corporation for alleged racial harassment
- First chair in employment discrimination lawsuit by railroad employee against major railroad. Jury returned a defense verdict
- First chair for a local school board in defense of a case involving an alleged breach of an employment contract and alleged violation of statutory and constitutional rights. Jury returned verdict for school board
- Successful argument of appeal to the U.S. Court of Appeals for the Fourth Circuit, overturning a bargaining unit determination by the National Labor Relations Board

Farr's opposition to holding corporations accountable for discrimination is not just a position held on behalf of his clients. Last year, when the state legislature passed its anti-transgender bill, they included a one-sentence provision stripping North Carolinians of the right to go to court when they are victims of unlawful discrimination. State law still says that employers cannot discriminate on the basis of race, sex, religion, national origin, age, or disability, but the means of enforcing that prohibition were severely weakened. Speaking on his own behalf, Farr expressed his support, saying "it's better policy for the state."

Farr has also defended partisan efforts to undermine the right to vote. That includes North Carolina's notorious voter suppression legislation, which contained a discriminatory voter ID requirement and provisions reducing or eliminating out-of-precinct voting, preregistration of 16-17 year-olds, early voting, and same-day registration. In striking down the law, the Fourth

Circuit found that the legislation was actually *intended* to make voting harder for African Americans, and that its provisions “target African Americans with almost surgical precision.” This was an ugly law with obvious motivations that are inconsistent with a belief in the fundamental right to vote, yet Farr willingly accepted the case so he could defend it in court.

He also represented North Carolina in defending two congressional districts that were held to be unconstitutional racial gerrymanders by the Supreme Court last term. The scheme Farr defended reduced the influence of African American voters in violation of the Equal Protection Clause.

Farr is a well-known Republican attorney in North Carolina who the party, its leading officials, and its candidates frequently turn to for legal representation in court. It appears that his nomination is based on his supporters’ expectation that he would also be a steadfast ally on the bench, letting his partisan loyalty and conservative political ideology shape his judicial opinions. Why else block two qualified nominees with uncontroversial records? Why else keep a vacancy open throughout the entirety of a two-term presidency, increasing the workload on the remaining judges in a district where the caseload was already too high for the effective delivery of justice?

Thomas Farr began his career at a far-right ideological organization. His decades in private practice have been dedicated to suppressing the vote, weakening unions, and undermining anti-discrimination laws. He has used the law to help the powerful and weaken our democracy. In order to earn confirmation to a lifetime position on the federal bench, he has the burden of demonstrating that he could put his ideology aside. Unfortunately, nothing in his record indicates that he will do anything of the sort, nor does anything in the actions his supporters have taken to keep this vacancy open.

We cannot allow our courts to become extensions of our political parties. We urge you to oppose confirmation.

Sincerely,

A handwritten signature in cursive script that reads "Marge Baker".

Marge Baker
Executive Vice President for Policy and Program