



Judge Lucy Haeran Koh
Nominee to the United States Court of Appeals for the Ninth Circuit

President Obama nominated Judge Lucy Haeran Koh to the United States Court of Appeals for the Ninth Circuit on February 25, 2016. If confirmed, Judge Koh will become the first Korean-American woman to serve on a federal appeals court. Judge Koh has served as a United States District Judge for the Northern District of California since her unanimous Senate confirmation in 2010, and she previously served as a California Superior Court Judge for Santa Clara County from 2008 to 2010. Announcing her nomination, President Obama described Judge Koh as a “first-rate jurist with unflinching integrity and evenhandedness.”¹

Biography

Judge Koh was born in Washington, D.C. and raised in Maryland, Mississippi and Oklahoma. She received her B.A., *magna cum laude*, from Harvard University in 1990, and her J.D. from Harvard Law School in 1993.

Judge Koh began her legal career as a Women’s Law and Public Policy Fellow for the United States Senate Judiciary Committee. Following her fellowship, she worked for the United States Department of Justice, serving first as Special Counsel in the Office of Legislative Affairs, and then as Special Assistant to the Deputy Attorney General. Judge Koh later served as an Assistant United States Attorney in the Criminal Division of the United States Attorney’s Office for the Central District of California. For her prosecution of a \$54 million securities fraud case, she was awarded the Federal Bureau of Investigation Director Louis J. Freeh Award for Demonstrated Excellence in Prosecuting a Major Criminal Case. After the U.S. Attorney’s office, she worked as a senior associate in the Palo Alto, California office of Wilson Sonsini Goodrich & Rosati and as a partner in the Palo Alto, California office of McDermott Will & Emery LLP, specializing in patent, trade secret, and commercial civil litigation. In 2008, Governor Arnold Schwarzenegger appointed her to the California Superior Court where she served until her appointment to the federal bench in 2010.

Legal Experience and Expertise

As a litigator and judge in Silicon Valley, Judge Koh has particular expertise and experience in the intersection of technology and the law.

¹ White House Press Release, *President Obama Nominates Judge Lucy Haeran Koh to serve on the United States Court of Appeals* (February 25, 2016), available at <https://www.whitehouse.gov/the-press-office/2016/02/25/president-obama-nominates-judge-lucy-haeran-koh-serve-united-states>.

Presiding over the ongoing patent battles between Apple and Samsung over the iPhone,² Judge Koh “earned praise for her deft handling of that case and, more generally, for her fluency with technology—a rare quality among judges.”³

Judge Koh has also been at the center of the increasingly important area of privacy in the digital age. Reconciling wiretap and privacy laws—enacted before the technological breakthroughs that brought us smartphones, cloud-computing, and the seemingly limitless collection of data by Internet companies—with the modern-day privacy concerns and expectations of users and society is no small feat. But Judge Koh has taken critical steps towards reigning in expansive data collection practices conducted under the cover of “vague at best, and misleading, at worst” privacy policies.⁴ Because of Judge Koh’s rulings in *In re Google Inc. Gmail Litigation*, in which Google’s practice of electronically scanning users’ messages for advertising purposes was at issue,⁵ Google eliminated email scanning for certain types of accounts (Apps for Education accounts, used by more than 30 million students, as well as business and government accounts), and amended its terms of service to make its remaining message scanning policies more transparent.

Judge Koh’s rulings have also protected the rights of workers from anti-competitive and wage-suppressing policies. For example, in *In re High-Tech Employee Antitrust Litigation*,⁶ tens of thousands of employees accused seven companies (Apple, Google, Intel, Lucasfilm, Adobe Systems, Intuit and Pixar) of conspiring to hold down salaries by agreeing not to hire one another’s workers. Judge Koh denied the companies’ motion to dismiss and then rejected an initial settlement offer of \$345 million from Apple, Google, Intel, and Adobe Systems as too low and giving too great a share to the attorneys rather than to the employees. She later approved a larger settlement that was more beneficial to the employees.⁷

Professional and Community Activities

Throughout her career, Judge Koh has been active in pro bono activities and mentoring in the community. As a law student, Judge Koh represented Central American asylum seekers and low-income tenants before local housing authorities. Later, while working in Washington, D.C., Judge Koh tutored Vietnamese elementary school students and helped to organize citizenship drives and provide assistance to lawful permanent residents completing naturalization applications. Since joining the bench, she has served as a volunteer judge for special court sessions organized for the homeless and homeless veterans, and also volunteered at many charities benefitting the hungry and homeless. Additionally, Judge Koh mentors local high

² *Apple, Inc. v. Samsung Elecs. Co.*, 920 F. Supp. 2d 1079 (N.D. Cal. 2013).

³ Jeff John Roberts, *White House to Promote Silicon Valley's Most Famous Judge*, FORTUNE (February 25, 2016), <http://fortune.com/2016/02/25/white-house-to-promote-silicon-valleys-most-famous-judge/>.

⁴ *In re Google Inc. Gmail Litig.*, No. 13-MD-02430-LHK, 2014 WL 1102660, at *15 (N.D. Cal. Mar. 18, 2014).

⁵ No. 13-MD-02430-LHK, 2014 WL 10537440 (N.D. Cal. Aug. 6, 2014).

⁶ 856 F. Supp. 2d 1103 (N.D. Cal. 2012).

⁷ *See In re High-Tech Emp. Antitrust Litigation*, No. 11-CV-02509-LHK, 2015 WL 5159441 (N.D. Cal. Sept. 2, 2015).

school and college students, and frequently volunteers to judge mock trial, moot court, and speech competitions.