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PRESIDENT

**Rachel Rossi**

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August 27, 2025

Senator Charles Grassley  
Chair, Senate Judiciary Committee

Senator Richard Durbin  
Ranking Member, Senate Judiciary Committee

Dear Chairman Grassley and Ranking Member Durbin,

On behalf of the Alliance for Justice (AFJ), a national association representing nearly 140 public interest and civil rights organizations, we strongly urge you and your colleagues on the Senate Judiciary Committee to reject the nomination of Jennifer Mascott to the U.S. Court of Appeals for the Third Circuit.

Mascott's nomination to the U.S. Court of Appeals for the Third Circuit raises profound concerns about her contempt for the Constitution's separation of powers. Over the course of her career, she has promoted an expansive view of executive authority — shielding presidents from accountability, while at the same time working to weaken Congress's ability to delegate power to federal agencies and enact protections for the public. This selective approach to separation of powers is not grounded in principle but in ideology, consistently producing outcomes that favor unchecked presidential power, corporate interests, and the rollback of fundamental rights. Her record makes clear that, if confirmed, she would tilt the judiciary further away from its constitutional role as a check on abuse of power and a guarantor of equal justice.

One of the most alarming aspects of Mascott's record is her embrace of an expansive vision of presidential authority, including immunity from accountability. In testimony regarding *Trump v. United States*, she argued that subjecting a president to criminal prosecution for official acts (as loosely defined) would be an unacceptable threat to the office. She has seemingly aligned herself with the unitary executive theory, a fringe belief that further centralizes power in the presidency and undermines the system of checks and balances the Framers designed. Confirming a nominee who embraces a view that places presidents above the law and erodes vital oversight mechanisms would be a grave threat to the American people and our nation's democracy.

At the same time, Mascott has vocally opposed deference to agency expertise, even when Congress clearly delegated that authority. She attacked the Consumer Financial Protection Bureau (CFPB), criticized longstanding precedent preserving independent agencies, and played an active role in overturning *Chevron*, precedent that for four decades ensured agencies could implement laws passed by Congress.

In *Biden v. Nebraska*, she filed a brief on behalf of Republican lawmakers arguing that separation-of-powers concerns prevented the President from forgiving student loans. Yet, it remains unclear whether Mascott would apply those same principles of congressional control when evaluating assertions of executive power under a Republican president. Her record raises a serious concern: she is willing to wield separation-of-powers arguments strategically to obstruct congressional priorities, while simultaneously defending the expansion of unilateral presidential authority, only when politically expedient. This selective vision of constitutional structure threatens both Congress’s Article I powers and the integrity of checks and balances.

Her hostility toward regulatory protections extends across issue areas. On behalf of the Alliance for Hippocratic Medicine, she filed a brief challenging FDA authority, attacking access to safe and effective medication. She also praised the Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization* as a “master stroke” and has implied that there needs to be a re-evaluation of substantive due process protections, threatening not only abortion rights but also contraception, marriage equality, and LGBTQ+ protections. Further, she endorsed the Supreme Court’s decision in *West Virginia v. EPA*, which curtailed federal authority to address climate change, and has consistently sided with corporate interests over environmental justice and workers’ health and safety.

Mascott has clearly revealed her judicial philosophy — one that embraces an anti-rights version of originalism as the only legitimate method of constitutional interpretation, accompanied by unchecked presidential power, and a strong opposition to robust congressional and agency authority to implement critical protections for everyday people in the United States. Such views not only erode civil rights and consumer safeguards but would further destabilize the important balance of power among the branches of government that we are witnessing the erosion of under this administration.

The Canons and Code of Judicial Conduct for United States Judges require a federal judge to act in a manner that promotes public confidence in the judiciary’s impartiality and independence. Mascott’s record gives no assurance that she would meet this standard. Instead, it demonstrates an unwavering commitment to a political project that weakens democratic accountability and leaves the public more vulnerable to abuse by powerful interests.

For these reasons, we strongly urge you to oppose Jennifer Mascott’s nomination to the U.S. Court of Appeals for the Third Circuit.

Sincerely,

A handwritten signature in cursive script that reads "Rachel Rossi".

Rachel Rossi  
President, Alliance for Justice

Sincerely,

*Rachel Rossi*

Rachel Rossi  
President, Alliance for Justice