

INTERCESSORS FOR AMERICA



# SPECIAL REPORT

PRAYER GUIDE FOR THE JUDICIAL APPOINTMENTS  
OF THE TRUMP ADMINISTRATION



## APPEALING TO GOD FOR OUR U.S. COURTS

President Donald Trump has the opportunity to change the face of the federal judiciary. Currently, there are more than 120 vacancies to fill—it is likely that during his term he will have more federal court openings than any other president in the last 50 years. Our prayer is that the judges he selects will be originalists, not judicial activists, and that they will adjudicate and not legislate. Thankfully, President Trump’s first successful judicial appointment, Justice Neil Gorsuch, is against judicial activism, believing judicial rulings should not be based upon personal political considerations, but rather on existing law. Judicial activism has been the primary means of various ungodly, unbiblical changes in our society, most notably the legalization of abortion and same-sex marriage.

Unfortunately, there is a prevalent misunderstanding of judicial activism, with the term used by social liberals to describe judges like Justice Scalia and Justice Gorsuch. Debaters, commentators, and the general public question the very definition of judicial activism.

Is it right to fear that judges are legislating from the bench? A number of organizations offer insights on the term “judicial activism.”

“The view that the Supreme Court justices (and even other lower-ranking judges as well) can and should creatively (re)interpret the texts of the Constitution and the laws in order to serve the judges’ own consid-

*“When the  
foundations  
are being  
destroyed, what  
can the  
righteous do?”*

*—Psalm 11:3*

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**“DO NOT PERVERT JUSTICE; DO NOT SHOW PARTIALITY ...”**  
**(LEVITICUS 19:15)**

*ered estimates of the vital needs of contemporary society when the elected ‘political’ branches of the Federal government and/or the various state governments seem to them to be failing to meet these needs. On such a view, judges should not hesitate to go beyond their traditional role as interpreters of the Constitution and laws given to them by others in order to assume a role as independent policy makers or independent ‘trustees’ on behalf of society.”*

—Auburn University

The Heritage Foundation has a much less condoning and more curt review of the term:

*“Judicial activism occurs when judges write subjective policy preferences into the law rather than apply the law impartially according to its original meaning. As such, activism does not mean the mere act of striking down a law.”*

Specifically, judicial activism can play out in a variety of concrete ways. The Heritage Foundation helps delineate them and provides a framework for our “judicial activist radar” (see right-hand column) as concerned citizens and intercessors.

Source: <http://www.heritage.org/initiatives/rule-of-law/judicial-activism>

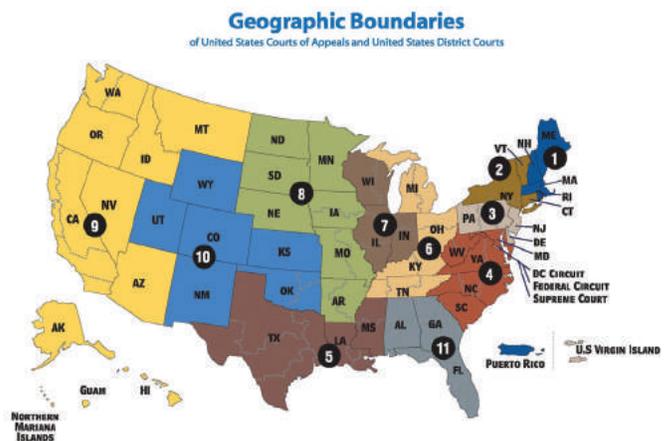
## OVERVIEW OF COURTS

In our current system, there are 94 district-level trial courts and 13 courts of appeals below the Supreme Court. The U.S. Supreme Court is the highest court in the land. Of the 13 appellate courts, 12 form an intermediate level of justice, where each court has jurisdiction over a portion of the country (see chart). Each of the 12 appellate courts hears challenges to district court decisions from lower courts within its circuit. The remaining appellate court, called the Federal Circuit, has nationwide jurisdiction over special (usually patent-related) cases.

Source: [www.uscourts.gov](http://www.uscourts.gov)

## 9 FORMS OF JUDICIAL ACTIVISM

- 1) **Abusing Precedent.** Judges expand on or invent erroneous precedents to give legal status to their preferred outcomes.
- 2) **Contorting Text.** Judges strain the plain text to achieve their apparent desired ends, bending terms to the point of breaking.
- 3) **Importing Foreign Law.** Unable to justify their conclusions with U.S. law, judges turn to international law to justify their preferred outcomes.
- 4) **Judicial Dishonesty.** Judges mischaracterize the facts or emphasize selective facts to support a desired result.
- 5) **Judicial Imperialism.** Judges expand the power of the judiciary beyond its constitutional limits.
- 6) **Living Constitutionalism.** Judges rely on the so-called Living Constitution to make the Constitution comport with their self-described enlightened sensibilities.
- 7) **Nullifying Rights.** Judges abolish the protection of established rights to which they are personally opposed.
- 8) **Playing Favorites.** Judges elevate personal sympathy for a litigant above the requirements of law.
- 9) **Playing Legislator.** Judges weigh policy considerations above the requirements of law.





## HOW ARE JUDGES APPOINTED?

Supreme Court justices, court of appeals judges, and district court judges are nominated by the president and confirmed by the U.S. Senate. Once in office, they can remain in their positions for life. Supreme Court justices are appointed for life. Lifetime tenure is a safety mechanism because the role of a justice is to be ready to make decisions that are unpopular or counter to the will of the majority. Because they are not elected, they are free to uphold the law in spite of backlash. The manner of selection for lower courts depends on the court and can be a combination of appointment, merit selection, non-partisan election, and partisan election. (To read more about the nuances, visit the Web sites below.)

Sources: [www.legalzoom.com](http://www.legalzoom.com), [www.uscourts.gov](http://www.uscourts.gov), [www.litigation.findlaw.com](http://www.litigation.findlaw.com)

## OBJECTIVE OF APPEAL COURTS

The appellate court may choose to 1) **REVERSE** the decision of a lower court ruling by annulling the judgment made in a previous trial because there was a violation of law or constitution; 2) **AFFIRM** the higher court by simply confirming the decision of the lower court and no further action is taken; or 3) **REMAND** back to lower court for further action based on the judge's review and advice.

# PRAYING SCRIPTURE

**MEDITATE** on the Scripture verses below. Intercede for the judges who will fill openings listed on the following pages, as well as for our 9 Supreme Court justices: Clarence Thomas, John G. Roberts Jr., Samuel A. Alito Jr., Anthony Kennedy, Ruth Bader Ginsburg, Stephen G. Breyer, Sonia Sotomayor, Elena Kagan, and Neil Gorsuch.

**1 Timothy 2:1-2:** Therefore I exhort first of all that supplications, prayers, intercessions, and giving of thanks be made for all men, for kings and all who are in authority, that we may lead a quiet and peaceable life in all godliness and reverence.

**James 4:1-2:** Where do wars and fights come from among you? Do they not come from your desires for pleasure that war in your members? You lust and do not have. You murder and covet and cannot obtain. You fight and war. Yet you do not have because you do not ask.

**Psalm 138:8:** The Lord will perfect that which concerns [the American Church]; Your mercy, O Lord, endures forever; Do not forsake the work of Your hands.

**Reflect on 2 Chronicles 20:12** (the whole chapter). Notice this prayer: "... nor do we know what to do, but our eyes are upon You." Take heart at reminders found in 2 Chronicles 20: A) Do not be afraid nor dismayed because of this great multitude, for the battle is not yours, but God's; B) Praise the Lord, for His mercy endures forever; C) Believe in the Lord your God and believe His prophets; D) Do not fear or be dismayed.

**The graphs on the following page reflect the current status of vacancies in the federal judiciary.**



<b>Circuit</b>	<b>Authorized Judges</b>	<b>Population</b>	<b>Percentage of U.S. Population</b>	<b>Openings</b>
D.C. Circuit	11	601,723	0.19%	4
9th Circuit	29	61,742,908	19.74%	18
8th Circuit	11	20,568,237	6.58%	4
7th Circuit	11	25,001,420	7.99%	7
6th Circuit	16	32,105,616	10.26%	12
5th Circuit	17	32,646,230	10.44%	19
4th Circuit	15	29,788,417	9.52%	4
3rd Circuit	14	22,498,612	7.19%	13
2nd Circuit	13	23,577,940	7.54%	11
1st Circuit	6	13,970,816	4.47%	3
11th Circuit	12	33,268,699	10.64%	17
12th Circuit	12	17,020,355	5.44%	7
<b>Total</b>	<b>179</b>	<b>312,790,973</b>	<b>100%</b>	<b>119</b>

<b>Court</b>	<b>Authorized Judgeships</b>	<b>Vacancies</b>	<b>Nominees Pending</b>	<b>Nominees Pending Future Vacancies</b>
U.S. Court of Appeals	179	20	1	0
U.S. District Courts (includes territories)	677	99	0	0
U.S. Court of International Trade	9	2	0	0
U.S. Court of Federal Claims	16	6	0	0
U.S. Supreme Court	9	0	0	0
<b>Total</b>	<b>890</b>	<b>127</b>	<b>1</b>	<b>0</b>

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