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There He Goes Again: Obama Renominates Activist Judges

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President Obama's five most controversial judicial nominees failed to even make it to a floor vote during the last Congress, but the unwillingness of his own Democrat-controlled Senate to move these nominees did not dissuade him from nominating four of them again. He has added a new liberal nominee to the mix to fill the D.C. Circuit seat that Democrats kept empty for years by blocking qualified nominees like Miguel Estrada and Peter Keisler. Here's a look at some of the judges Obama is still hoping to get through the Senate:

1. *Goodwin Liu, Ninth Circuit Court of Appeals.* Liu is at the top of the list of likely judicial activists. Ed Whelan has done a thorough [review](#) of his record as a Berkeley professor, detailing his extreme views, which include embracing constitutional requirements for such policy preferences as [welfare and health care](#), [forced busing](#), [racial quotas](#), and [same-sex marriage](#).

2. *Edward Chen, Northern District of California.* Chen embraced Obama's lawless [empathy standard](#), [suggesting](#) that a judge's "ethnic and racial background" would affect his decisions in part through his "understand[ing of] the human impact of legal rules upon which the judge must decide." His background also apparently makes the playing of the hymn "America the Beautiful" trigger "feelings of ambivalence and cynicism" rather than patriotism because "there are too much [sic] injustice and too many inequalities that prevent far too many Americans from enjoying the beauty extolled in that anthem."

3. *John McConnell, District of Rhode Island.* McConnell's legal claim to fame is his role in advancing a theory of [lead-paint liability](#) that would hold businesses liable for a plaintiffs' injuries without requiring proof that the victim ever came into contact with paint produced by the business. And if his role as darling of the trial lawyers' lobby wasn't enough to secure his nomination, perhaps his [\\$700,000](#) in Democratic campaign contributions helped.

4. *Louis Butler, Western District of Wisconsin.* Butler was part of a majority of the Wisconsin

Supreme Court that embraced the same theory of liability McConnell advanced that sought to open up any paint manufacturer that had ever produced lead paint to virtually unlimited damages. Wisconsin voters rejected him twice at the polls, in part because of his reputation for being soft on crime — which earned him the nickname “Loophole Louie.” But Obama wants to give him a lifetime seat on the federal bench.

5. *Caitlin Halligan, D.C. Circuit Court of Appeals.* Obama’s newest nominee toes the liberal line on every major issue, from claiming that interest in child welfare doesn’t support the case for traditional marriage, to believing the constitutional definition of “cruel and unusual punishment” could vary with national consensus, to adopting an expansive view of the commerce clause and federal power. Putting her on the D.C. Circuit is clearly a calculated move. Unable to force his legislative agenda on carbon emissions through Congress, President Obama could clearly use the help of a loyal D.C. Circuit judge who will comply with the EPA’s regulatory power grabs. And if she does well enough she will also be in prime position for a Supreme Court nomination. It certainly isn’t because that court needs more judges; the D.C. Circuit is relatively underworked, with a docket that is lighter than any other federal appeals court and that actually shrank 17 percent last year.

This top-five list certainly doesn’t hit all the Obama nominees worthy of opposition — it ignores, for example, Second Circuit–nominee Susan Carney, who won kudos from the *New York Times* (where her husband is on the editorial board) despite a mediocre ABA rating. Let’s hope the Democratic Senate shows as little desire to focus on judges in this Congress as it did in the last one, sparing Americans from any of these nominees making it to a lifetime seat on the federal bench.

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