

# Bench Memos

NRO's home for judicial news and analysis.

[ABOUT](#) | [ARCHIVE](#) | [E-MAIL](#) |

## Why the Push on Halligan?

By Ed Whelan

Posted on February 02, 2011 1:44 PM

Some follow-up to my [item](#) the other day noting how odd it is that, amidst all the talk of courts that face “judicial emergencies,” Senate Judiciary Committee chairman Patrick Leahy has put Caitlin Halligan, nominee to the underworked D.C. Circuit, on today’s first hearing of the new congressional session:

1. I am reliably informed that the D.C. Circuit, for the second straight year, has canceled scheduled argument days for the spring because it doesn’t have cases for the argument days.
2. According to this [table](#) prepared by the Administrative Office of the U.S. Courts, filings in the D.C. Circuit *fell* 17% for the most recent 12-month period measured (ending March 31, 2010), as compared to the previous 12-month period.
3. Using that same table, one can calculate for each federal court of appeals the number of case filings per [authorized judgeship](#). I readily concede that this is a crude measure of caseload, in part because the average D.C. Circuit case might be more complicated than the average case from other circuits, in part because it doesn’t take into account the resources provided by senior judges. Nonetheless, the results are striking and would seem to confirm what those most familiar with the D.C. Circuit freely say—that the court is underworked. Specifically, by this measure the D.C. Circuit’s caseload per judge is 96, whereas the aggregate figure for the other regional courts of appeals is 357—nearly four times higher. (The per-circuit numbers for the other circuits range from 196 for the Tenth Circuit to 558 for the Eleventh.)

[PERMALINK](#)