

United States Senate

WASHINGTON, DC 20510

May 18, 2022

Chairman Richard J. Durbin
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Durbin,

We write to ask you to delay consideration of Nancy Abudu's nomination to the United States Court of Appeals for the Eleventh Circuit until the federal courts resolve their pending ethics investigation of Ms. Abudu's litigation team. Last week, a federal court took the unusual and extraordinary step of convening a three-judge panel to hear concerns by other federal judges that Ms. Abudu's litigation team brazenly abused the judicial process by engaging in judge shopping—a sordid practice that Ms. Abudu herself condemned during her hearing. Whether Ms. Abudu was in fact overseeing a litigation team engaged in this sordid practice is highly relevant to whether she is fit for confirmation. It is imperative that you not rush this nomination process until the federal courts finish their investigation into the conduct of Ms. Abudu's organization.

On May 10, the United States District Courts for the Middle District of Alabama, the Northern District of Alabama and the Southern District of Alabama issued an order directing counsel for plaintiffs in three cases—*Walker v. Marshall*, *Ladinsky v. Ivey*, and *Eknes-Tucker v. Ivey*—to appear before a three judge panel comprised of judges from each of Alabama's three United States District Courts to address whether counsel in these three cases engaged in an abuse of judicial process known as judge shopping.

Judge W. Keith Watkins from the Middle District of Alabama, Judge R. David Proctor from the Northern District of Alabama, and Judge Jeffrey U. Beaverstock from the Southern District of Alabama were appointed by the Chief Judge of each District Court to inquire into the issues raised by the plaintiffs' counsels' actions. According to the order, this inquiry arose following the order issued by Northern District of Alabama Judge Liles Burke on April 22, 2022 in which Judge Burke opined that actions taken by counsel in the two consolidated cases, *Walker* and *Ladinsky*, “could give the appearance of judge shopping – ‘a particularly pernicious form of forum shopping’ – a practice that has the propensity to create the appearance of impropriety in the judicial system.”

This inquiry is the result of a litigation strategy coordinated, to some degree, by the Southern Poverty Law Center (“SPLC”). Failing to secure a seemingly sympathetic Judge to hear *Walker* and *Ladinsky*, the litigation teams moved for voluntary dismissal of the cases. The day after the voluntary dismissal, counsel for *Ladinsky*—which

included the team from SPLC—commented to media, “we do plan to refile imminently.” Indeed, just days later, counsel including the team from SPLC, filed a third case—all but identical to the filing in *Ladinsky*—in the Middle District of Alabama. The Court, recognizing the likelihood of judge shopping, issued the order for counsel to appear “to address lawyer conduct that abuses the judicial process.” This hearing will take place on May 20, 2022.

This is pertinent to the Senate Judiciary Committee because Nancy Abudu, nominated to the United States Court of Appeals for the Eleventh Circuit, is the Director of Strategic Litigation for the Southern Poverty Law Center. In her hearing before the Committee, she did not deny overseeing the litigation strategy in the *Ladinsky* case. If the Alabama District Courts find that there were lawyer abuses of the judicial process by the Southern Poverty Law Center, and by connection, SPLC’s Director of Litigation, Nancy Abudu, it will shed important light on Ms. Abudu’s respect for the role of judges and the judicial process.

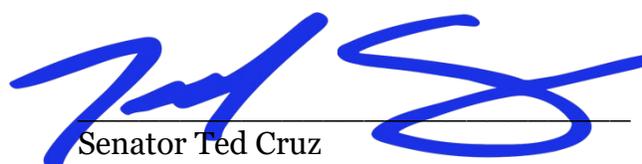
We ask that this Committee abstain from holding a vote on Ms. Abudu’s nomination until we can understand whether abuses occurred in the Alabama filings and whether the Southern Poverty Law Center was complicit in those abuses. As the Alabama District Courts are moving swiftly on this matter (again the hearing is set for May 20th), we do not expect this process to much delay, if at all, Ms. Abudu’s consideration. However, we do believe it is in the best interest of this body to understand Ms. Abudu’s participation in this matter Senate Judiciary Committee member vote on advancing her for a seat on the United States Court of Appeals for the Eleventh Circuit.

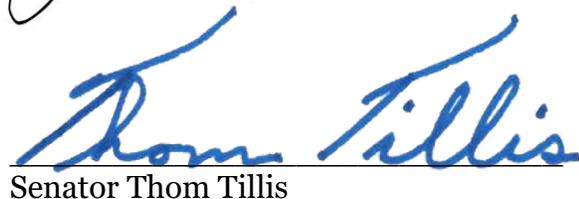
Respectfully,


Senator Mike Lee

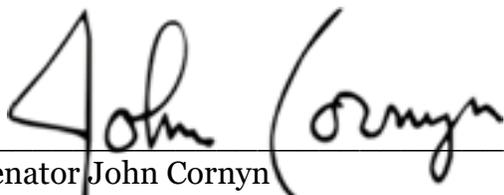

Senator Chuck Grassley


Senator Josh Hawley


Senator Ted Cruz


Senator Thom Tillis


Senator Marsha Blackburn



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Senator John Cornyn



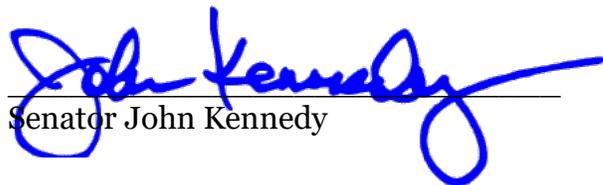
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Senator Tom Cotton



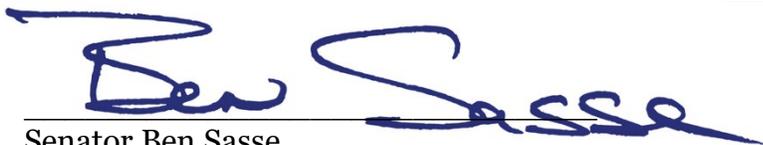
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Senator Lindsey Graham



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Senator John Kennedy



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Senator Ben Sasse