



WASHINGTON COUNCIL OF LAWYERS
Promoting Public-Interest Law and Pro Bono Service

September 27, 2023

HONORARY BOARD

Nicole Austin-Hillery
Hon. Anna Blackburne-Rigsby
Roderic V.O. Boggs
Brooksley Born
Katherine S. Broderick
Peter Edelman
Marc Efron
Patty Mullahy Fugere
Katia Garrett
Steven P. Hollman
Ted Howard
Renee McDonald Hutchins
Carolyn Lerner
Elliot Mincberg
Linda E. Perle
Jessica Rosenbaum
James Sandman
Joseph M. Sellers
Virginia E. Sloan
Jonathan Smith
Paul M. Smith
William Treanor

BOARD OF DIRECTORS

President: Deborah Cuevas Hill
Vice President: Henry Floyd, Jr.
Secretary: Mia Sussman
Treasurer: Michael Lukens

Lise Adams
Alexis Applegate
Wendy Atrokhov
Raziya Brumfield
Andrew Budzinski
Diane Dauplaise
Jess Davis-Ricci
Aoife Delargy Lowe
A.J. Dhaliwal
Nancy E. Drane
Sasha Drobnick
Ashley Erickson
Dana Fisher-Livne
Yaida Ford
Karen T. Grisez
Susan M. Hoffman
Philip W. Horton
Jack C. Keeney Jr.
Mark Kovner
Paul Lee
Gregory Lipper
Jennifer Masi
Jennifer Miller
Sébastien Monzón Rueda
Robin C. Murphy
Tiana Russell
Lawrence A. Schneider
Krista Selnau
Prianka Sharma
David Steib
Elizabeth Symonds
Alessandro Terenzoni
Jennifer Tschirch
Marsha Tucker
LieAnn Van-Tull
Kelly Voss
Gwendolyn Washington
Melissa Weberman
Stephon Woods

EXECUTIVE DIRECTOR
Christina H. Jackson

VIA EMAIL

jon.bouker@arentfox.com

DCFLENC@arentfox.com

Mr. Jon S. Bouker

Co-Chair, Norton Federal Law Enforcement Nominating Commission

Re: Letter of Support for Mitchell Reich, Nominee for Appointment to the United States District Court for the District of Columbia

Dear Mr. Bouker:

Washington Council of Lawyers is very pleased to submit this letter in support of Mitchell Reich's appointment to the United States District Court for the District of Columbia. Washington Council of Lawyers submitted a letter in support of Mr. Reich in January of this year, and our organization continues to strongly endorse his candidacy.

Washington Council of Lawyers is the public interest bar association of the District of Columbia. Our large and diverse membership includes a broad range of lawyers, legal professionals, law students, and others committed to advancing issues important to the public interest legal community. We base our endorsements on a candidate's demonstrated commitment to pro bono and public interest law issues, and the candidate's personal experience in promoting equal access to justice.

Mr. Reich's stellar legal career has, from the very start, been grounded in pro bono representation, public interest law, and pursuing judicial fairness and impartiality. In fact, roughly one half of Mr. Reich's career has been spent as a litigator challenging unjust policies and representing the disadvantaged, in both private practice and his work for the federal government. His resume reflects a deep and abiding commitment to increasing access to justice for all.

After graduating *magna cum laude* from Harvard Law School in 2012, and after clerking for then-Chief Judge Merrick Garland and Justice Elena Kagan, Mr. Reich spent two years as an attorney-adviser in the Justice Department's Office of Legal Counsel. In that role, he drafted seven published opinions for the Office—including the opinion affirming the legality of President Obama's expansion of the DACA program. He joined Hogan Lovells US LLP in 2016, and while at that firm – notably and

atypically – he spent the majority of his time working on public service and pro bono cases. For example, he and his colleagues found a way to challenge President Trump’s executive order banning entry by nationals of several Muslim-majority countries. They brought a lawsuit on behalf of the State of Hawaii— launching nearly 18 months of continuous litigation against the ban. In their challenge to the third iteration of the travel ban, Mr. Reich argued the winning appeal before the Ninth Circuit and led briefing before the Supreme Court. While the Court voted 5-4 to uphold the ban’s final version, his work temporarily blocked this policy, compelled the Administration to soften it, and defended principles of religious neutrality and the rule of law.

In late November 2018, and while still at Hogan, he led litigation against another significant immigration policy: the Trump Administration’s bar on asylum for noncitizens who crossed the southern border outside a port of entry. Shortly after this policy was announced, he became counsel to the Capital Area Immigrants’ Right Coalition (CAIR)—the only organization in the District dedicated to providing legal services to detained noncitizens—and several of its clients to challenge the policy. Leading a team of attorneys, he briefed the case, argued the preliminary injunction and summary-judgment motions, and helped win a ruling vacating the policy in full. He then led briefing and argued the appeal before the D.C. Circuit. Before the litigation concluded, the Trump Administration announced a second near-total ban on asylum. Mr. Reich offered to represent the CAIR Coalition in challenging that policy as well, and within days filed a motion for a temporary restraining order which he argued in a 4-hour hearing before District Court Judge Kelly. After the Judge denied that motion, Mr. Reich and his team redoubled their efforts and after summary judgment briefing and another lengthy argument, the Judge changed his mind and issued an order vacating the policy nationwide.

Mr. Reich has often represented criminal defendants in habeas and appellate proceedings. For example, he undertook court appointments of two habeas petitioners in the Sixth Circuit and he worked with the MacArthur Justice Center to brief and win *Garza v. Idaho*, where the Supreme Court held 7-2 that a defense attorney per se engages in ineffective assistance by disregarding a client’s instruction to appeal. He has worked as co-counsel to criminal defendants in various appellate cases, devoting hundreds of hours to working with the public defenders to devise appellate strategies, assemble amicus support, and draft the en banc and certiorari petitions.

Mr. Reich has also dedicated a meaningful portion of his practice to pro bono civil rights litigation. For example, he represented several plaintiffs challenging egregious acts of prosecutorial misconduct: a Black man who had been wrongfully imprisoned for 42 years based on a racially motivated prosecution (*Taylor v. Pima County*); a criminal suspect whose property was stolen by police during a search (*Jessop v. City of Fresno*); and a government employee fired for giving in-court testimony that his employer did not like (*Butler v. Board of County Commissioners*). He also filed a number of amicus briefs on behalf of LGBT individuals and families, including a brief supporting a transgender boy seeking equal restroom access (*R.M.A. v. Blue Springs R-IV School District*), a brief challenging the State Department policy of withholding citizenship from non-biological children of U.S. citizens (*Dvash-Banks v. Pompeo*), and a brief on behalf of the nation’s leading anti-discrimination scholars in *Bostock v. Clayton County*. He also led the constitutional defense of several important state and local policies. For example, he wrote the Supreme Court brief in *Fulton v. City of Philadelphia*, which defended Philadelphia’s policy of withholding foster-care contracts from entities that discriminate against LGBT families, and he successfully defended Hawaii’s open-carry laws before the en banc Ninth Circuit.

In addition to his professional activities around public service and pro bono legal services, he has also volunteered for the D.C. Bar Pro Bono Center's Advice and Referral Clinic and is a regular contributor to other D.C. Bar Pro Bono Center efforts. Mr. Reich is also a volunteer attorney for Tzedek DC, an organization dedicated to helping DC residents address legal challenges arising from debt and has volunteered for Bread for the City in both its Northwest and Anacostia locations. On a more personal level, Mr. Reich and his husband contribute to several D.C. charities, including So Others Might Eat, Capital Caring, the D.C. Youth Orchestra Program, Thrive D.C., and the D.C. Bar Pro Bono Center, and he has also volunteered as a tutor at J.W. Wilson Elementary School and as a legal volunteer at the D.C. Bar Advice and Referral Clinic.

In sum, Mitch Reich has devoted thousands of hours to cases that advanced the cause of justice, served the disadvantaged, and/or preserved the rule of law. Washington Council of Lawyers believes Mitch Reich would be a very strong addition to the federal court bench, and we enthusiastically endorse his application for appointment to the United States District Court for the District of Columbia.

Respectfully submitted,

A handwritten signature in black ink that reads "Deborah C. Hill". The signature is written in a cursive style with a large, stylized initial 'D'.

Deborah Cuevas Hill
President
Washington Council of Lawyers