

March 17, 2022

Dear Chairman Johnson, Ranking Member Issa, and Members of the Subcommittee on Courts, Intellectual Property, and the Internet,

It has been more than two years since I testified before this Subcommittee about the extreme and pervasive harassment I endured as a law clerk to the late Judge Reinhardt. I am grateful for this Subcommittee's ongoing commitment to protecting federal judicial employees from workplace harassment, discrimination, and retaliation. I write to convey my enthusiastic support for the Judiciary Accountability Act of 2021, and to urge Congress to pass this critical legislation.

As I testified in 2020, I chose not to report the harassment through the judiciary's Employment Dispute Resolution Plan because no one could assure me of the confidentiality I felt was necessary to prevent retaliation against me and others aware of my experience.<sup>1</sup> Ultimately, I concluded that testifying publicly was a safer option than reporting internally without a confidentiality guarantee.<sup>2</sup> The JAA's explicit protections for whistleblowers would have made an enormous difference for me as I analyzed how to proceed. And I wonder if, with such protections, others who experienced and witnessed misconduct by Judge Reinhardt in the decades before me might have spoken up sooner.<sup>3</sup>

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<sup>1</sup> Testimony of Olivia Warren Before the Subcomm. On Cts., Intell. Prop. & the Internet of the H. Comm. on the Judiciary, 116th Cong., at 11–17, 19 (Feb. 13, 2020) (available at <https://docs.house.gov/meetings/JU/JU03/20200213/110505/HHRG-116-JU03-Wstate-WarrenO-20200213-U2.pdf>).

<sup>2</sup> Olivia Warren, *Enough Is Not Enough: Reflection on Sexual Harassment in the Federal Judiciary*, 134 HARV. L. REV. F. 446, 452 (2021).

<sup>3</sup> Two hours after my testimony concluded, one of the former Reinhardt clerks responsible for sending me into chambers emailed me an apology for her own role in the harassment I endured. She explained:

Every single Reinhardt clerk knows that everything you said (and much, much more) is true and nevertheless, we have all given him a pass because we believe in the rest of what he did (and, let's face it, that clerkship is really good for our careers).

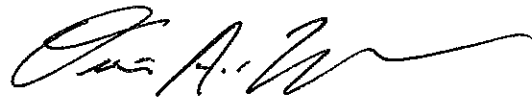
I'm sorry for the role I played in convincing you to take the job and glossing over/justifying/compartmentalizing the mistreatment that I knew you would face because every woman in that Chambers (and many men) face it. I regret that I was not better able to see if [sic] for what it was and stand up for myself and for you and for the rest of the clerks to stop it.

When I made the difficult choice to testify, I naively hoped that no one else would have to do so. I am in awe of the bravery of the witnesses today, and heartbroken that more individual courage is required to continue to expose the depth and breadth of harassment throughout the judiciary. Over two hearings you have heard from several witnesses, including myself, who tried to report and seek remedies for wrongdoing under many iterations of the judiciary's internal resolution procedures. That none have succeeded further underscores the importance and urgency of the JAA.

I hoped that the judiciary would take decades of calls to action seriously, especially in light of the repeated revelations over the past four and a half years. But instead of meaningfully investigating a problem that every other workplace also faces and is under legal obligation to address, members of the judiciary prefer to minimize the problem, applaud themselves for establishing working groups, and write law review articles extolling purported progress. The inaction on this eminently actionable problem remains baffling and deeply painful. It is a stain on our judiciary, and today marks yet another sad and shameful day in a long line of sad and shameful days.

I hope that Congress will enact this bipartisan legislation and step in to guarantee basic workplace protections for the more than 30,000 employees of the federal judiciary. I hope that members of the legal profession, most of whom continue to remain silent and disengaged, will support this call to action. And I hope that one day our courts will be deserving of public confidence in the promise of equal justice for all.

With gratitude,

A handwritten signature in black ink, appearing to read "Olivia Warren", with a long, sweeping horizontal flourish extending to the right.

Olivia Warren