



June 17, 2022

United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Durbin, Ranking Member Grassley, and Committee Members:

On behalf of our 1.5 million supporters nationwide, People For the American Way enthusiastically supports the nomination of Ohio public interest appellate attorney Rachel Bloomekatz to the Sixth Circuit Court of Appeals. Her extensive experience as a skilled litigator and her demonstrated commitment to ensuring that no one is deprived of the protections guaranteed by the law will make her an excellent judge.

Bloomekatz attended Harvard College and UCLA School of Law, graduating from both schools with honors. She had several prestigious clerkships after law school, first with Second Circuit Judge Guido Calabresi (2008-09), then with Massachusetts Supreme Court Justice Margaret Marshall (2009-10), and finally at the U.S. Supreme Court with Justice Stephen Breyer (2011-2012). Between the second and third clerkships, she worked as an Assistant Attorney General in Massachusetts, in the Administrative Law Division. In that position, she litigated appeals of decisions and regulations issued by the state's administrative agencies.

She moved to Ohio and in 2013 joined the firm of Jones Day, representing national and international business clients. Her practice shifted to public interest law in 2016, when she became a principal at the boutique firm of Gupta Wessler. Three years later, she established her own practice, Bloomekatz Law. As a public interest lawyer, she devotes most of her time to serving disadvantaged populations directly or to aiding organizations founded to serve disadvantaged populations. She has represented individual civil plaintiffs including consumers, workers, voters, personal injury victims, and the guardians of young children. Her legal practice areas include constitutional and civil rights; consumer rights; elections, voting, and political candidates; environmental law; gun safety; personal injury; public health; and workers' rights.

For instance, in early 2016, she stood up for nine young individuals who wanted to vote in Ohio's presidential primary elections. State law allows 17-year-olds to vote in primaries to select general election nominees as long as they will be 18 by the time of the general election. But in late 2015, the secretary of state reinterpreted the law not to apply to presidential primaries, because convention delegates are elected, not nominated. Bloomekatz argued on behalf of the young people seeking to vote, and a state court agreed with her that the secretary of state's

interpretation of the law was unreasonable and violated the rights of not only the nine plaintiffs, but thousands of other young Americans seeking to participate in our electoral democracy for the first time.ⁱ

Others who have turned to Bloomekatz include a group of call center employees who a jury found had been defamed by their former employer. An administrative assistant to two high-ranking executives had told them they could take surplus office printers home for their own use. They did so, but the administrative assistant turned out to be wrong. Nevertheless, the company fired the employees and suggested they were thieves during internal company presentations. Bloomekatz represented them during the company's appeal, which eventually led to a settlement.ⁱⁱ

Bloomekatz also stepped in when a coalition of nonprofit organizations appealed an electrical rate increase approved by the Public Utilities Commission of Ohio (PUCO). Every utility customer would have been required to pay an additional fee purportedly to help modernize the electrical grid, but PUCO did not require the company to actually modernize the grid. The additional charge would have cost Ohioans more than \$600 million without any promise of meaningful upgrades. Bloomekatz successfully argued to the Ohio Supreme Court that this made the charge unlawful under state law.ⁱⁱⁱ

Bloomekatz is currently representing Pomeroy, Ohio resident Travis Abbott in litigation against the DuPont chemical company. Abbott was exposed to contaminated water at home and school for over twenty years. A jury found DuPont liable for Abbott's cancer and infertility. When DuPont appealed the jury's verdict, Abbott turned to Bloomekatz. The appeal addresses procedurally complex matters such as nonmutual offensive collateral estoppel and how a settlement in a related case affects what evidentiary showings are necessary.^{iv}

Bloomekatz's skill and integrity have earned the respect of judges on the Sixth Circuit, the court on which she has been nominated to serve. In 2016, a three-judge panel appointed her as amicus counsel to defend a district court order issued months earlier. The case involved whether a judge had had the authority to order polling hours extended in certain areas when she heard about a major car accident and enormous traffic backup as polls were about to close for the 2016 primary elections. Since there was no formal request, there was no plaintiff to defend the district court's decision on appeal. Therefore, the Sixth Circuit sought a skilled and trustworthy litigator to step in, and they selected Bloomekatz. At the conclusion of the proceeding, the panel commended her for "admirably" handling the assignment.^v

Bloomekatz has received numerous professional awards and recognitions throughout her legal career. In 2022 alone, the International Municipal Lawyers Association gave her an Amicus Service Award, *Columbus CEO Magazine* featured her as one of the "Future 50," and Ohio Super Lawyers recognized her as a "Rising Star."

Rachel Bloomekatz is an inspired choice to serve on the Sixth Circuit, and the Senate should confirm her quickly.

Sincerely,

A handwritten signature in cursive script that reads "Marge Baker".

Marge Baker
Executive Vice President

ⁱ *State ex rel. Schwerdtfeger v. Husted*, No. 16-CV-2346, 2016 Ohio Misc. LEXIS 18 (Franklin Cty. Ct. C.P. 2016) (Frye, J.).

ⁱⁱ *Desai v. Charter Communications*, 835 F. App'x 25 (6th Cir. 2020).

ⁱⁱⁱ *In re App. of Ohio Edison Co.*, 2019-Ohio-2401 (Ohio).

^{iv} *In re E.L Du Pont de Nemours & Co. C-8 Personal Injury Litig.*, No. 21-3418 (6th Cir.).

^v *In re 2016 Primary Election*, 836 F.3d 584, 586 (6th Cir. 2016).