

**Officers of the
National Commission**

National Chair
Marvin D. Nathan
CEO and National Director
Jonathan A. Greenblatt
Past National Chairs
Barbara B. Balsler
Howard P. Berkowitz
Kenneth J. Bialkin
Barry Curtiss-Lusher
Burton S. Levinson
Glen S. Levy
David H. Strassler
Robert G. Sugarman
Glen A. Tobias
Vice Chairs
Martin Budd
Meyer Eisenberg
Esta Gordon Epstein
James Grosfeld
Charles Kriser
Steven Lyons
Ruth Moss
George Stark
Mark Wolf
Christopher Wolf
Honorary Vice Chairs
Rudy Boschwitz
Yossie Hollander
Geri M. Joseph
Bernard Marcus
Cynthia Marks
Samuel H. Miller
Haim Saban
Michael Steinhart
Gerald Stempier
Treasurer
Milton S. Schneider
Honorary Treasurer
Robert H. Nafaly
Secretary
Thomas C. Homburger
Assistant Secretary
Stanford Baratz
Standing Committee Chairs
Administration
Lawrence Rosenbloom/
Pamela Schwartz
Audit
Shelley Parker
Budget
Mitchell Weseley
Civil Rights
Elizabeth A. Price
Development
Ben Sax
Education
Miriam Weisman
Information Technology
Arthur Reidel
International Affairs
Eric Horodas
Leadership
Tracey Grossman/Tracy Treger
Funding for The Future
Lawrence Miller
Marketing & Communications
Joseph Goldblum
Outreach & Interfaith Affairs
Martin L. Budd
Planning
Milton S. Schneider
Regional Operations
Esta Gordon Epstein
Washington Affairs
Michael Sheetz
Senior Management Team
Deputy National Director
Kenneth Jacobson
Growth
Frederic L. Bloch, SVP
Chief of Staff
Emily Bromberg
Finance & Administration
Michael A. Kellman, SVP
International Affairs
Sharon Nazarian, SVP
Technology
Rafail Portnoy, SVP
Programs
George Selim, SVP
Talent & Knowledge
Tom Ruderman, SVP
General Counsel, Privacy & Security
Steven C. Sheinberg, SVP
Communications & Digital
Batsaida Alcantara, VP
Brand & Marketing
Amy Aronoff Blumkin, VP
Law Enforcement, Extremism
& Community Security
David Friedman, VP
Regional Operations
& Advancement
David S. Waren, VP
**Anti-Defamation League
Foundation**
President
Glen S. Levy
National Director Emeritus
Abraham H. Foxman



June 6, 2018

Dear Senator,

On behalf of the Anti-Defamation League (ADL), we write to urge you to oppose the confirmation of Howard Nielson to be a judge for the United States District Court for the District of Utah.

Founded over a century ago to stop the defamation of the Jewish people and secure fair and just treatment to all, ADL advocates for the civil rights of all people and combats discrimination and hate across the country. We don't often oppose judicial nominees, but we are deeply disturbed by the nomination of Mr. Nielson and believe he lacks the required temperament and demonstrated commitment to fair treatment for all to merit a lifetime appointment to the federal bench.

During his career, Mr. Nielson has pursued positions that undermine civil rights and equality. Even more, his advocacy has, disturbingly, sought to undermine the credibility of the judiciary. Further, he was involved with an effort to politicize the Justice Department. His willingness to undermine the people's trust in our working government, including the judiciary, should automatically disqualify him as a candidate to sit as a jurist in our nation's courts.

Mr. Nielson famously represented the proponents of Proposition 8, a ballot measure passed in California in 2008 that denied same-sex couples the freedom to marry. Disturbingly, when Mr. Nielson filed a motion asking to vacate the ruling, he argued that the judgment should be vacated because Judge Vaughn Walker was in a long-term same-sex relationship and therefore, the public could not have confidence in his rendering a fair and impartial decision unless he "unequivocally disavowed any interest in marrying his partner."¹ By attacking the judge's integrity based on his sexual orientation, it was Mr. Nielson himself who attempted to cast doubt on the impartiality of all LGBT judges, undermining public confidence in the judiciary and the value of diversity on the court. When asked about this argument in his confirmation hearing, Mr. Nielson maintained that he felt that the motion was "in the fair bounds of advocacy."²

In 2015, Mr. Nielson wrote an *amicus* brief in the U.S. Supreme Court case *Obergefell v. Hodges*, in which he proffered the insulting argument that same-sex marriage should be prohibited in order to "increase the likelihood that children will be born and raised in stable and enduring family units by both the mothers and the fathers who brought them into this world."³

¹ <https://www.afj.org/wp-content/uploads/2017/12/Perry-v.-Hollingsworth-motion-to-vacate.pdf>

² <https://www.judiciary.senate.gov/imo/media/doc/Nielson%20Responses%20to%20QFRs.pdf>

³ https://www.americanbar.org/content/dam/aba/publications/supreme_court_preview/BriefsV5/14-556_amicus_resp_scholars.authcheckdam.pdf

ADL Community Support Center

Anti-Defamation League, 605 Third Avenue, New York, NY 10158-3560 T 212.885.7700 www.adl.org

Also disturbing are reports about Nielson's service as a political appointee for the Justice Department under John Ashcroft. According to a 2008 report written by the Justice Department's Inspector General and Office of Professional Responsibility, Nielson worked as a part of a 2002 four-person team that politicized the hiring process. Among other things, they reportedly discriminated against job applicants who had either worked for civil rights or liberal public interest groups, or for Democratic officials.⁴

Finally, Mr. Nielson has advocated for positions that ADL believes tear at the fabric of our democracy. Mr. Nielson authored *amicus* briefs on behalf of Republican members of Congress who challenged the legality of the Affordable Care Act (ACA) in *King v. Burwell*⁵, *Halbig v. Sebelius*⁶, and in *Whole Woman's Health v. Hellerstedt*⁷. He has represented the NRA and its allies in at least three cases in which they fought against common-sense public safety laws that sought to reduce gun violence.

ADL is very concerned about this candidate's nomination. Mr. Nielson's willingness to undermine the credibility of the judiciary is indefensible and wholly inappropriate for an individual seeking a seat on the bench. The fact that a nominee has been a zealous advocate for causes in which he believes is in no way disqualifying. However, where, as is the case here, the nominee's overall record is marked by consistent, ideologically-driven legal advocacy targeted at limiting equality and restricting rights and freedoms for women and LGBT communities, it gives rise to significant doubts about his ability to administer justice fairly and equally to all litigants.

In ADL's view, the Senate's role in the nomination process is equally as important as the president's responsibility to nominate. For these reasons, ADL urges you to reject the nomination of Howard Nielson to be a United States District Court Judge.

Sincerely,



Jonathan A. Greenblatt
CEO

⁴ <https://oig.justice.gov/special/s0806/report.htm>

⁵ https://www.americanbar.org/content/dam/aba/publications/supreme_court_preview/BriefsV4/14-114_amicus_pet_Cornyn.authcheckdam.pdf

⁶ <http://www.judicialnetwork.com/wp-content/uploads/2014/02/Halbig-Members-of-Congress-Amicus.pdf>

⁷ <http://www.scotusblog.com/wp-content/uploads/2016/02/15-274-bsac-Bipartisan-Group-of-174-United-States-Senators-and-Members-o....pdf>