

September 1, 2025

The Honorable Chuck Grassley
Chair, Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Dick Durbin
Ranking Member, Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Nomination of Professor Jennifer Mascott

Dear Chairman Grassley and Ranking Member Durbin:

I write to express my strong support for the nomination of Professor Jennifer Mascott to serve as a judge on the United States Court of Appeals for the Third Circuit. Professor Mascott is an Associate Professor, with tenure, at The Catholic University of America's Columbus School of Law (Catholic Law), where I serve as Dean. Having overseen her appointment and tenure process when she joined Catholic Law in the spring of 2024, I can say without hesitation that Professor Mascott has the character, ability, and qualifications to serve as a judge on the Third Circuit.

Professor Mascott began her academic career at another area law school, but Catholic Law recruited her to join our faculty because of her extraordinary record as a scholar, lawyer, and institution-builder. Professor Mascott's scholarship has made her one of the leading scholars of administrative law and federal courts in the country. Her best-known article, "Who are 'Officers of the United States,'" was published in the *Stanford Law Review* (widely regarded as one of the top law journals in the country) and has become the go-to source on the original meaning of the phrase "officers of the United States" in Article II of the Constitution. Not only has the piece been cited extensively by other scholars, it has also been cited repeatedly in Supreme Court concurring opinions. She has also been published in other well-regarded journals such as the *George Washington Law Review*, the *Florida Law Review*, and the *Supreme Court Review*. In addition, she serves as an editor for one of the leading administrative law casebooks, *Administrative Law: Cases & Materials*. Combined with attaining the highest GPA ever recorded for a student at George Washington Law School and her clerkships for then-Judge Brett Kavanaugh on the U.S. Court of Appeals for the D.C. Circuit and for Justice Clarence Thomas on the U.S. Supreme Court, there can simply be no doubt about Professor Mascott's brilliance and scholarly ability.

But beyond being an outstanding scholar, Professor Mascott has served as a lawyer at the highest levels of the Executive Branch. She currently serves in the White House's Office of Legal Counsel and served as Associate Deputy Attorney General in the Office of Legal Counsel during President Trump's first term. She also served as Of Counsel to the prestigious firm of Consovoy McCarthy Park from 2017-2019. Professor Mascott's real-world legal experience dovetails with her scholarship, which has primarily focused on the practical implications of complex separation-of-powers issues. Unlike the work of many scholars, Professor Mascott's scholarship is directly relevant to legal practice and the work of the federal courts.

Professor Mascott is also an institution-builder. Her previous work leading the C. Boyden Gray Center for the Study of the Administrative State made it one of the primary centers for administrative law in the nation. That center generated important scholarship, submitted insightful amicus briefs, and forged relationships among scholars, practitioners, and government officials. She carried that work over to Catholic Law by founding the Separation of Powers Institute (SPI), which has already emerged as a significant institution in administrative law. SPI, like Professor Mascott's scholarship and practice experience, speaks to her core commitment to the rule of law and the separation of powers.

But none of these extraordinary accomplishments would have sufficed for Catholic Law to recruit Professor Mascott. Our law school is committed to its Catholic mission, and that means, among other things, that we hire only scholars who have the character to represent our institution well. Professor Mascott is a person of exceptional character. Few people could have achieved all that she has after taking a break from her career for several years to have children and after having had to endure the horrible, tragic loss of her husband to cancer. Professor Mascott has endured tremendous personal hardships, but through her faith, she has remained focused on raising her children as a widow, serving her colleagues and students as a friend and mentor, and serving the President of the United States as his counsel. It is an inspiring life story, and my privilege to know her.

For all these reasons, it is no surprise that our faculty voted to award Professor Mascott tenure in an extraordinarily fast process in a compressed period of time. We knew we had to act quickly if we were going to have the opportunity to recruit such a stellar scholar and colleague, and we did so. Now, I am proud and honored to be supporting her nomination for the Third Circuit.

Professor Mascott will be a judge of superior intellect, exceptional legal acumen, and firm principle. I enthusiastically support her nomination.

A handwritten signature in black ink, appearing to read "Stephen C. Payne". The signature is fluid and cursive, with the first name "Stephen" and last name "Payne" clearly distinguishable.

Stephen C. Payne
Dean and Knights of Columbus Professor of Law