

Dear Senator,

On behalf of Alliance for Justice (AFJ), a national association representing 130 groups committed to equal justice and access to justice, I write to oppose the confirmation of Allison Rushing to the United States Fourth Circuit Court of Appeals.

Rushing appears to be the youngest person Trump has nominated for a seat on the circuit courts of appeals to date. She was born in 1982. Unfortunately, even though she graduated from law school only eleven years ago, Rushing's short record already suggests she will not be a fair-minded and unbiased jurist.

In a 2013 appearance, Rushing defended the premise of discriminatory LGBTQ laws when she said that the Defense of Marriage Act (DOMA) "explicitly stated that its purpose was 'protecting the traditional moral teachings reflected in heterosexual-only marriage laws.'" She continued in justifying DOMA's discriminatory intent by saying that "[t]he congressional record indicated that DOMA reflected 'moral disapproval of homosexuality, and a moral conviction that heterosexuality better comports with traditional (especially Judeo-Christian) morality.'"

Rushing also represented Ernst and Young in a case that later became consolidated with the now infamous *Epic Systems Corp. v. Lewis*, 138 S. Ct. 1612 (2018), where the Supreme Court ruled 5-4 to make it harder for workers to enforce their rights. In the earlier case, Rushing argued that employees who were denied overtime pay could then be deprived by their employers of the right to unite and join as a class action in arbitration under the National Labor Relations Act.

The Senate Judiciary Committee considered Rushing's nomination during a sham hearing, held during an extended recess while most Senators were back home in their states. Holding a hearing in the middle of recess meant no real vetting for this nominee, even though she is up for a lifetime seat on one of our nation's highest courts. This is not the way the advise-and-consent role of the Senate was ever intended to work, and is just one more part of the Trump Administration scheme to pack the courts by any means possible.

Rushing has also been affiliated with extremely conservative organizations since her time in law school. Rushing authored an article and worked as a legal intern at the Alliance Defending Freedom (ADF), which the Southern Poverty Law Center has classified as a "hate group" for its prolific and odious work fighting against LGBTQ rights. She is also a long time member of the Federalist Society.

The questions she faced at her sham hearing only reinforced concerns about her selection being more about her youth (and therefore her potential for a very long tenure on the bench) and extreme partisanship than about her demonstrated experience.

Given all these concerns, and as detailed in our report on her nomination issued prior to her hearing, which can be found at the following link, <https://www.afj.org/wp-content/uploads/2018/10/Rushing-Full-Report.pdf>, the Senate should reject Allison Rushing for the United States Fourth Circuit Court of Appeals.

Sincerely,

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

Nan Aron