August 15, 2022

Dear Judge Hurd,

Latinos for a Fair Judiciary and its undersigned partner organizations – which represent the nation’s most prominent Latino legal and civil rights communities and leaders – are writing to express our deep concern and bewilderment over your decision to rescind your intention to take senior status only after learning of President Biden’s nomination of Jorge Alberto Rodriguez to fill your seat in the Northern District of New York.

We urge you to reconsider your decision to effectively block the appointment of Mr. Rodriguez—a highly qualified judicial candidate who would also make history as the first Latino judge to sit on an N.D.N.Y. court.

Specifically, we ask that you take into mind the following considerations:

**First, Mr. Rodriguez is an exceptionally qualified judicial candidate who possesses ample credentials and legal experience to serve on N.D.N.Y.**

Mr. Rodriguez has served the State of New York since 2014 as an Assistant Attorney General, where he has represented the state in important civil litigation in matters related to education, public health, law enforcement, civil rights, and criminal justice.¹ His dedication to the people of New York has been demonstrated in his nearly two decades in both private practice and public

service, and in his involvement in the Capital District Black and Hispanic Bar Association where he joins his colleagues to promote racial and ethnic diversity within the legal profession throughout Saratoga, Albany, Schenectady, and Rensselaer counties — all of which fall within the jurisdiction of the N.D.N.Y.

**Second, if confirmed, Mr. Rodriguez’s appointment would add a much-needed diverse perspective to N.D.N.Y.**

The demographic makeup of New York state has shifted since you first began serving as a federal magistrate judge back in 1991. Although the majority of New York’s Latino population lives downstate and in New York City, Latino communities are a significant part of the demographic makeup of northern New York as well. In your hometown of Utica alone, over 12 percent of the population now identifies as Hispanic. Meanwhile, in New York State as a whole, the Latino population grew over the past ten years by over 15 percent, from 3.4 million to 3.9 million — with the Latino share of the state population expanding to 19.5 percent. This Census data makes the absence of a Hispanic N.D.N.Y. judge all the more glaring.

Mr. Rodriguez’s perspective as someone who emigrated to the United States from Colombia when he was ten years old will be particularly relevant to many of your fellow Utica residents. Refugees and their families make up about a quarter of Utica’s population of about 60,000. Utica’s immigrant population exceeds over 20 percent of the city’s overall population.

The diversity that Mr. Rodriguez would bring to the N.D.N.Y. bench matters. Public confidence in the judiciary as a whole is strengthened when, as Justice Elena Kagan explained, the public “look[s] at an institution and they see people who are like them, who share their experiences, who they imagine share their set of values, and that’s a sort of natural thing and they feel more comfortable if that occurs.” Mr. Rodriguez’s professional and lived experiences would benefit

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2 The Capital District Black Bar Association (“CDBBA”), (n.d.). Our history. CDBHBA. Retrieved August 11, 2022, from https://www.cdbhba.org/about
N.D.N.Y.’s jurisprudence and add a new perspective that is not currently reflected on the region’s federal courts.

**Lastly, the decision of who succeeds you is not your determination to make and it is improper for you to use your lifetime tenure to impose your personal preferences on a future appointment.**

It is apparent that your initial stated reason for rescinding your intention to take senior status — that your replacement be based in Utica — was simply a pretext. Mr. Rodriguez has said he is committed to serving in Utica despite being under no obligation to do so.³ Meanwhile, the vacancy you yourself filled in 1999 was based in Albany, until you requested a personal accommodation to stay in Utica.⁴

Nonetheless, you are still refusing to step aside.

You made the wise decision earlier this year to take senior status and make way for a new generation of jurists. It is unclear what changed between now and then other than President Biden’s decision to nominate the first-ever Latino who would serve on the N.D.N.Y. bench. Your inexplicable about-face raises troubling questions and threatens the legacy you have spent decades of honorable service building.

We hope that you will reconsider your decision to maintain your full caseload and thwart Mr. Rodriguez’s appointment — if not for the sake of N.D.N.Y. and the people you serve, then at least for the benefit of your own reputation and integrity.

Sincerely,

Maria Teresa Kumar, President Voto Latino

MALDEF

Art Motta, National Director of Policy and Legislation, League of United Latin American Citizens (LULAC)

Andrea Nill Sanchez, Director, Latinos for a Fair Judiciary

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Lourdes Rosado, President & General Counsel, LatinoJustice PRLDEF
Héctor Sánchez Barba, CEO and Executive Director, Mi Familia Vota