



**Leadership Conference
on Civil Rights**



Alliance for Justice

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Dear Senator:

We, the undersigned civil rights, women's rights, and human rights organizations, write to express our serious concern about the nomination of Victor J. Wolski to the United States Court of Federal Claims (CFC). Mr. Wolski's record as a lawyer and an advocate reveals his very disturbing views on issues that are important to our communities and that frequently arise in CFC cases, such as discrimination based on race, disability, and sexual orientation.

As an initial matter, we are deeply troubled by the fact that Mr. Wolski appears to have been nominated to the CFC at least in part because of his extremist views on government power and property rights. Mr. Wolski has devoted the largest portion of his relatively brief legal career to work at the Pacific Legal Foundation (PLF), a group that routinely brings sweeping challenges to fundamental protections for the environment, workers, and victims of discrimination, frequently under the "takings" clause of the U.S. Constitution. Mr. Wolski told *National Journal* in 1999 that every job he has taken since college has been "ideologically-oriented," designed to further his libertarian principles. We are therefore troubled that this self-described ideologue has been nominated to a court with unique powers to limit the federal government and require taxpayers to pay corporations simply for obeying federal laws.

A PLF brief signed by Mr. Wolski raises serious questions about his ability to fairly consider the race and sex discrimination claims that are frequently litigated in the CFC. In a brief in support of white contractors seeking to challenge a Jacksonville, Florida minority contracting program, Wolski implied that affirmative action programs that are used to create real equal employment opportunities for minorities and women would, if left unchallenged, return us to the pre-*Brown* days of Jim Crow. See Brief of Amicus Curiae Pacific Legal Foundation at 15, *General Contractors of America v. City of Jacksonville*, 508 U.S. 656 (1993) (No. 91-1721). This assertion is self-evidently hostile to the principles of equal opportunity that are at the core of these very important programs.

Similarly disturbing is Mr. Wolski's testimony before Congress against the enforcement of the Fair Housing Act by the Department of Housing and Urban Development (HUD) to protect the rights of individuals with disabilities. While at PLF, Mr. Wolski represented a group of California residents who sought to enforce a restrictive covenant in order to prevent six developmentally-impaired adults from living in their neighborhood. After the case was settled, Mr. Wolski testified before Congress stating that, in his view, the rights of local homeowners to

exclude certain groups of residents from their community should trump the civil rights of those seeking to be free from discrimination in choosing where to live. Mr. Wolski called HUD's actions "terribly wrong" and more generally bemoaned "the rise of special privileges in the law so that certain groups are exempt from contractual obligations based on their status." (See Prepared Testimony of Victor J. Wolski, Hearing Before the Senate Banking Committee, Subcommittee on HUD Oversight and Structure, Sept. 18, 1996.) This sweeping statement should be troubling no matter what one thinks about HUD's enforcement policies.

In laws such as the Fair Housing Act and the Americans with Disabilities Act, Congress has indeed provided the disabled with critical legal rights that prohibit discrimination. Discrimination claims are litigated before the CFC in a number of contexts, including the issuance of government contracts and military pay disputes. Mr. Wolski's assertion that there is something "terribly wrong" with the rights (or privileges, to use Mr. Wolski's term) created under these laws makes us question his ability to be a fair and neutral arbiter of such claims.

Finally, we find it disturbing that, in spite of Mr. Wolski's professed commitment to libertarian principles of limited government, he wrote a brief expressing a sweeping view of the military's right to dismiss a soldier for stating that he or she is gay. In *Meinhold v. United States Department of Defense*, Mr. Wolski's wrote on behalf of PLF and other amici arguing that a "sub-rational basis" test applied in evaluating whether the military's policy for excluding gays was constitutional. See Brief of Amici Curiae Pacific Legal Foundation, et. al. at 14-15, *Meinhold v. United States Department of Defense*, 1994 U.S. App. LEXIS 23705 (9th Cir. 1994) (No. 93-55242).

In sum, Mr. Wolski is a self-professed ideologue with respect to the very issues that are at the core of the CFC's caseload and has demonstrated hostility to important civil rights and equal opportunity principles. Therefore, we urge you to seriously consider these important concerns before passing judgment on Mr. Wolski's nomination.

Sincerely,

ADA Watch/National Coalition for Disability Rights
Alliance for Justice
American Association of University Women
Americans for Democratic Action
Leadership Conference on Civil Rights
National Employment Lawyers Association
National Fair Housing Alliance
National Organization for Women
National Women's Law Center
People For the American Way
Religious Coalition for Reproductive Choice