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ABA committee begins evaluation of nominee

President nominates Judge Brett Kavanaugh to replace Justice Kennedy on Supreme Court

President Trump announced July 9 that he is nominating federal appeals Judge Brett M. Kavanaugh to succeed Justice Anthony Kennedy, who announced that he is retiring at the end of this month after more than 30 years on the Supreme Court.

Kennedy’s retirement at age 81 gave the president the opportunity to nominate a second justice to the Supreme Court since he assumed office in January 2017. His first appointee, Justice Neil Gorsuch, joined the court in April 2017.



Circuit Judge Brett Kavanaugh

The [ABA Standing Committee on the Federal Judiciary](#) is preparing to evaluate Kavanaugh’s professional qualifications to be a Supreme Court justice. Every member of the 15-member ABA committee will participate in the evaluation, which involves extensive peer review of the nominee’s integrity, professional competence, and judicial temperament.

Kavanaugh, who has served as a circuit court judge on the U.S. Court of Appeals for the District of Columbia for 12 years, was appointed to the bench by President George W. Bush. Prior to his appointment, Kavanaugh served as an associate White House counsel and as staff secretary to President Bush. He also served as an associate counsel to Independent Counsel Kenneth Starr during the investigation of President Bill Clinton, and was a partner with the law of Kirkland & Ellis LLP. For the past 11 years, he also has taught at Harvard Law School.

A 1990 graduate of Yale Law School, the 53-year-old Kavanaugh was a law clerk for Justice Kennedy, Ninth Circuit Judge Alex Kozinski and Third Circuit Judge Walter Stapleton.

Appearing with the president at the White House for the announcement of his nomination, Kavanaugh said that a judge “must be independent and must interpret the law, not make the law,” and “must interpret the Constitution as written, informed by history and tradition and precedent.”

see “Supreme Court,” page 8

LEGISLATIVE BOXSCORE

LEGISLATIVE ISSUE	HOUSE	SENATE	FINAL	ABA POSITION
<p>Criminal Justice. H.R. 1809 and S. 860 would reauthorize the Juvenile Justice and Delinquency Prevention Act (JJDP). H.R. 2480, H.R. 2473, S. 1311 and S. 1312 are aimed at combating human trafficking. H.R. 510 and S. 139 would establish a system for the use of Rapid DNA. S.1917 would reform sentencing and corrections practices. S. 1994, S. 2795 and H.R. 5682 would implement corrections reforms. H.R. 2899 would reauthorize the Second Chance Act. HR. 1795 would reform asset forfeiture laws. H.R. 38 and S. 446 would mandate concealed-carry reciprocity.</p>	<p>House passed H.R. 1809 on 5/23/17. House passed H.R. 2473 on 5/23/17. Judiciary Cmte. approved H.R. 2480 on 6/28/17. House passed H.R. 510 on 5/16/17. House passed H.R. 38 on 12/6/17. House passed H.R. 5682 on 5/22/18.</p>	<p>Senate passed S. 860 and H.R. 510 on 8/1/17. Senate passed S. 1311 and S. 1312 on 9/11/17. S. 1917 was referred to Judiciary Cmte. on 10/4/17; S. 1994, on 10/19/17. Judiciary Cmte. approved S. 1917 on 2/15/18. Judiciary Cmte. held a hearing on gun violence on 3/14/18.</p>	<p>President signed P.L. 115-50 (H.R. 510) on 8/18/17.</p>	<p>Supports sentencing and correction reform. Supports JJDP and Second Chance Act reauthorization. Supports funding for federal and state indigent defense programs. Supports certain civil asset forfeiture reforms. Supports bills to combat human trafficking. Supports prompt collection and testing of DNA evidence.</p>
<p>Immigration. The U.S. Supreme Court ruled on 6/26/18, that the president's third travel ban restricting entry into the country from six Muslim-majority countries, North Korea and Venezuela is constitutional. The president announced he is phasing out the Deferred Action on Childhood Arrivals (DACA) program by 3/5/18, but federal courts have blocked the president's order. The administration implemented a "zero tolerance" policy resulting in family separations at the border, but reunifications are now underway. S. 3036 would limit the separation of families at the border.</p>		<p>Senate failed to pass several proposals to address the DACA program. Judiciary subc. held a hearing on the immigration court system on 4/18/18. S. 3036 was referred to the Judiciary Cmte. on 6/8/18.</p>		<p>Supports improvements in the immigration court and adjudication system. Opposes mandatory detention and supports alternatives to detention. Supports access to counsel and due process safeguards. Supports legislation that includes a path to citizenship for certain undocumented persons who enter the country as minors and have significant ties to the United States. See pages 4 and 7.</p>
<p>Legal Services Corporation (LSC). The president's FY 2018 and 2019 budgets included phaseout funding for LSC. P.L. 115-141 (H.R. 1625) includes a \$25 million increase to \$410 million for FY 2018.</p>	<p>House passed H.R. 1625 on 3/22/18. Approps. Cmte. approved \$410 million for LSC for FY 2019 on 5/17/18.</p>	<p>Senate passed H.R. 1625 on 3/23/18. Approps. Cmte. approved \$410 million for LSC for FY 2019 on 6/14/18.</p>	<p>President signed P.L. 115-141 (H.R. 1625) on 3/23/18.</p>	<p>Supports an independent, well-funded LSC.</p>
<p>Tort Reform. H.R. 1215 would preempt state medical liability laws to impose caps on non-economic damages H.R. 985 would class action lawsuits. H.R. 720 would require mandatory monetary sanctions against lawyers who file non-meritorious lawsuits.</p>	<p>House passed H.R. 1215 on 6/28/17. House passed H.R. 985 on 3/9/17. House passed H.R. 720 on 3/10/17.</p>			<p>Opposes the bills. Opposes preemption of state medical liability laws and the bypassing of the Rules Enabling Act to amend the Federal Rules of Civil Procedure.</p>

Administrative law judges will be appointed through new process

President Trump signed an [executive order](#) July 10 that replaces the current competitive selection process for administrative law judges (ALJs) at the Office of Personnel Management (OPM) with a system providing for the appointment of ALJs by the president and federal agency heads.

ALJs, who preside over administrative proceedings before federal agencies, are employed throughout the federal government and currently apply for their jobs through

OPM. The process requires applicants to pass an examination to evaluate competencies, knowledge, skills, and abilities essential to performing ALJ work. Agencies then select the ALJs they hire individually from a list of individuals that OPM has determined are qualified for the position.

In their jobs, ALJs rule on preliminary motions, conduct pre-hearing conferences, issue subpoenas, conduct hearings (which may include written and/or oral testimony

and cross-examination), review briefs, and prepare and issue decisions. All but about 300 of the approximately 1,900 ALJ are at the Social Security Administration.

The president's executive order followed the June 21 Supreme Court decision in *Lucia v. Securities and Exchange Commission*, 585 U.S. (2018), which determined that ALJs at the Securities and Exchange Commission (SEC) are "inferior officers" of the United States, not employees, and must be appointed under the Appointments Clause of the U.S. Constitution.

The plaintiff, Raymond J. Lucia, appealed an ALJ ruling from the SEC, arguing that the ALJ had not been properly appointed. The Supreme Court decision reversed the appellate court's decision that had rejected the plaintiff's argument.

The White House stated in a fact sheet that, under the process outlined in the president's executive order, "agencies will be free to select from the best candidates who embody the appropriate temperament, legal acumen, impartiality, and judgment required of an ALJ, and who meet the other needs of the agencies."

The executive order has raised concerns about politicization of the ALJ selection process. House Ways and Means Ranking Member Richard Neal (D-Mass.) emphasized in a statement that "impartiality plays a central role in the work of ALJs" and that allowing the appointment of judges "will result in unfair, biased rulings that harm ordinary Americans."

In response to the executive order, ABA President Hilarie Bass urged the House Rules Committee in a July 16 [letter](#) to allow consideration of an amendment proposed by Rep. Robert C. Scott (D-Va.) to H.R. 4167, the fiscal year 2019

see "ALJs," page 8

USPTO issues 10 millionth patent



The ABA's Intellectual Property Law Section cosponsored a reception June 19 to celebrate the issuing of U.S. Patent Number 10 million by the United States Patent and Trademark Office (USPTO). The patent covers "Coherent Ladar Using Intra-Pixel Quadrature Detection" and symbolizes the breadth of American invention with applications in such varied fields as autonomous vehicles, medical imaging devices, military defense systems, and space and undersea exploration. The system was invented by Joseph Marron and is owned by Raytheon Company. The reception and commemorative signing of the patent were held on the grounds of George Washington's Grist Mill and Distillery near Mount Vernon, recognizing not only President Washington's role in signing the first patent, but also the fact that the grist mill received one of the first patents ever granted (#X3). Commissioner for Patents Drew Hirshfield (left) joined members of the ABA IP Law Section's Leadership in front of the new patent cover design: Section Chair-Elect Mark Dickson, Section Chair Scott Partridge, and Section Vice-Chair George Jordan. Also attending the event were IP Section Council Members Sharon Israel, Chris Katopis and Jon Sick, as well as several other section members and ABA staff.

Senate preserves core of SNAP program in its farm bill

The Senate passed its version of the farm bill June 28 without including controversial new work requirements like those in the House bill for those who qualify for the Supplemental Nutrition Assistance Program (SNAP).

H.R. 2, as amended and passed by the Senate by an 86-11 vote, would leave the core of the SNAP program in place but create pilot projects to find ways to improve the income-verification process for program eligibility.

The House version of the bill, passed June 21, includes provisions

requiring able-bodied adults ages 18 to 59 who are not disabled or caring for young children to work or participate in job training programs to qualify for SNAP benefits. The provisions also would limit the availability of SNAP benefits based on receipt of benefits from other federal programs for low-income individuals.

During floor debate on the bill, senators spoke against changes to the SNAP program.

Sen. Tina Smith (D-Minn.) emphasized that the farm bill works when all three pillars of the bill

work together: traditional farm programs, rural development, and nutrition. She noted that the nutrition programs are of vital importance. “If we remove one of those pillars, the farm bill will not be able to stand,” she said.

The senators tabled an amendment that would have limited SNAP benefits for able-bodied adults to one month out of every 36 months if a recipient failed to work at least part-time or participate in a training program. Opponents of the amendment argued that the legislation already included state pilot projects intended to help move people from SNAP to work.

The ABA expressed opposition to SNAP work-requirement proposals in letters sent June 12 to [House](#) leadership and members of the [Senate](#) Committee on Agriculture, Nutrition and Forestry.

In the letters, ABA Governmental Affairs Director Thomas M. Susman pointed out that approximately 41.2 million Americans, including 28.3 million adults and 12.9 million children, live in food-insecure households. The proposed cuts for the SNAP program, he said, will result in many citizens facing hunger and malnourishment.

Susman said the association understands that difficult choices must be made to reach balanced federal spending policies, but he said SNAP cuts would result in “failure to support millions of American families and children in maintaining the basic necessity of adequate food and nutrition.” He added that the ABA also has concerns about the impact of the restrictions on rehabilitated felons who need SNAP benefits for successful reentry to the community.

A conference committee will be meeting to work out the differences between the two versions of the farm legislation. ■

Trump travel ban upheld by Supreme Court

The U.S. Supreme Court ruled 5-4 on June 26 that President Trump’s third attempt to ban travel to the United States from six Muslim-majority countries, North Korea and Venezuela is constitutional despite the president’s statements that he intended to institute a ban on Muslims.

The court’s decision in *Donald J. Trump, et al., v. Hawaii*, 585 U.S. ___ (2018), written by Chief Justice John G. Roberts Jr., states that the president lawfully exercised in his proclamation the broad discretion granted to him under §1182(f) to suspend the entry of aliens into the United States. According to the opinion, the law “entrusts to the president the decisions whether and when to suspend entry, whose entry to suspend, for how long, and on what conditions” whenever the president finds that entry “would be detrimental to the interests of the United States.”

The court rejected the claims by the state of Hawaii that the primary purpose of the president’s proclamation was religious animus and the president’s stated concerns about vetting protocols and national security were pretexts for discriminating against Muslims.

“The issue, however, is not whether to denounce the president’s statements but the significance of those statements in reviewing a presidential directive, neutral on its face, addressing matters within the core of executive responsibility,” the court said.

In a dissenting opinion, Justice Sonia Sotomayer stated that the majority’s holding in the case “completely sets aside the President’s charged statements about Muslims as irrelevant and erodes the foundational principles of religious tolerance that the Court elsewhere has so emphatically protected.” In addition, she wrote that it “tells members of minority religions in our country that they are outsiders, not full members of the political community.”

The ABA filed an [amicus brief](#) opposing the government’s interpretation of §1182(f) that concludes that the section gives the president absolute discretion to exclude any group of persons, for any length of time, and for any reason. “The record in this case – which consists of public

see “Travel ban,” page 8

Marrakesh Treaty approved by Senate for U.S. ratification

Blind and visually impaired individuals are now closer to greater access to literary works and printed music after the Senate gave its advice and consent June 29 to U.S. ratification of an ABA-supported treaty and accompanying implementation legislation.

The Marrakesh Treaty to Facilitate Access to Published Works to Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled requires contracting parties to adopt copyright exceptions and limitations in their domestic copyright laws to permit reproduction of public works into accessible formats usable by individuals with a range of disabilities that interfere

with the effective reading of printed material. More than 30 countries are party to the treaty, which also requires that the countries allow eligible individuals and libraries to export and import works among those countries.

The implementing legislation, S. 2559, would make adjustments to U.S. copyright law relating to the treaty's requirements. The bill is now pending in the House, which is expected to consider the legislation soon.

The treaty, which is administered by the World Intellectual Property Association, was negotiated in June 2013 in Marrakesh, Morocco, and submitted to the Senate

in February 2016 by President Obama. In his letter of transmittal, Obama noted that the United States played a leadership role in negotiating the treaty, and its provisions are broadly consistent with the approach and structure of existing U.S. law. The treaty came into force in September 2016 when Canada became the 20th nation to ratify it.

ABA Governmental Affairs Director Thomas M. Susman urged ratification of the treaty in a [letter](#) that was made part of the record of a hearing convened April 17 by the Senate Foreign Relations Committee.

"Ratifying the treaty would help open doors to countries worldwide by allowing literature to be disseminated in accessible format with no borders." Susman said.

The treaty received overwhelming support during the hearing. Manisha Singh, assistant secretary of state for the Bureau of Economic and Business Affairs, emphasized that less than 10 percent of the one million books published worldwide every year are available in Braille, large print, or accessible digital files. She said that the treaty would allow Americans who are blind or visually impaired or with other print disabilities to access an estimated 350,000 additional works.

The Senate Foreign Relations Committee, which approved the treaty on May 22 and submitted an executive report to the full Senate on June 19, stated that the treaty "strikes a careful balance, providing that copyright protection should not impede the creation and distribution of such accessible format copies, including the exchange of such copies internationally to designated beneficiaries while providing for appropriate safeguards to protect the interests of copyright holders." ■

ABA commemorates LGBTQ Pride Month



The ABA commemorated LGBTQ Pride Month and Loving Day in June with a special event featuring former U.S. Solicitor General and Gibson, Dunn & Crutcher partner Ted Olson.

Olson described his role in successfully challenging California's same-sex marriage ban (Proposition 8) in federal district and circuit in California. The Supreme Court ruled in 2013 that those appealing the lower court decision did not have standing to appeal. Within two years, the Supreme Court issued a decision that the fundamental right of same-sex couples to marry is guaranteed under the Constitution.

The celebration also marked the Supreme Court's decision in *Loving v. Virginia*, 388 U.S. 1 (1967), which struck down laws prohibiting interracial marriage.

Appearing with Olson (left) at the event was Zakiyyah Salim-Williams, the chief diversity officer at Gibson Dunn & Crutcher.

ABA recommends steps to help judiciary maintain excellence

Expressing the association's views last month on judgeship needs for the federal judiciary, the ABA offered several steps that Congress could take to help the judiciary maintain its excellence short of enacting a comprehensive judgeship bill.

In a [letter](#) for the record of a June 21 hearing convened by the House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet, ABA Governmental Affairs Director Thomas M. Susman pointed out that since the last comprehensive judgeship bill was enacted in 1990, only 34 new district court judgeships have been created even though court filings have increased 38 percent in district courts and 40 percent in circuit courts.

These increases are fueled in large part, he said, by congressional expansion of federal court jurisdiction and national drug and immigration policies that call for and fund enhanced law enforcement efforts without providing concomitant resources to the federal judiciary.

The Judicial Conference of the United States, which surveys the judgeship needs of the federal judiciary every two years, is recommending the creation of 52 district court and five circuit court judgeships and the conversion of eight temporary district court judgeships to permanent status. In testimony before the committee, Chief Judge Lawrence F. Stengel, chair of Judicial Conference's Committee on Judicial Resources, said

that the shortage of judges has reached urgent levels in five districts: the Eastern District of California, District of Delaware, Southern District of Florida, Southern District of Indiana, and Western District of Texas.

"While we believe that the Judicial Conference is in the best position to determine the number of judges needed to dispense timely justice and support its recommendation," Susman wrote, "we also acknowledge Congress's longstanding resistance to passing a comprehensive judgeship bill and its legitimate concern over the expense of creating new judgeships."

Susman proposed the following steps Congress could take short of comprehensive legislation:

- establish new judgeships in the five district courts singled out by the Judicial Conference for immediate relief;
- convert the eight existing temporary judgeships that have been recommended for conversion into permanent judgeships or at least extend their temporary status for 10 years; and
- consider the impact of legislation on the workload of the federal courts and provide the judiciary with sufficient resources to handle new responsibilities resulting from enactment of new laws.

The subcommittee hearing was the first action that Congress has taken on the Judicial Conference recommendation, which was submitted in March 2017. No further action has been scheduled. ■

Judicial Vacancies/Confirmations—115th Congress* (as of 7/12/18)

<u>Court</u>	<u>Vacancies</u>	<u>Pending Nominations</u>	<u>Confirmations</u>
US Supreme Court (9 judgeships)	0	1	1
US Courts of Appeals (179 judgeships)	14	12	22
US District Courts (678 judgeships)	129	76	20
Court of International Trade (9 judgeships)	2	2	0
Totals	145	91	43

*Includes territorial judgeships

WASHINGTON NEWS BRIEFS

GAY AND TRANS PANIC DEFENSE: S. 3188, introduced July 10 by Sen. Edward Markey (D-Mass.), would prohibit the use of “gay panic” and “trans panic” legal defenses, which the ABA considers to be remnants of a by-gone era when legalized discrimination and widespread hostility toward lesbian, gay, bisexual, and transgender individuals was the norm. “These defenses have no place in either our society or justice system and should be legislated out of existence,” ABA Governmental Affairs Director Thomas M. Susman wrote in a June 20 [letter](#) to Markey supporting the legislation. Gay panic and trans panic defenses seek to partially or completely excuse crimes such as murder and assault on the grounds that the victim’s sexual orientation or gender identity is to blame for the defendant’s violent reaction. Historically, these defenses have been used by defendants in three ways: to claim insanity or diminished capacity because a sexual proposition by the victim triggered a nervous breakdown in the defendant; to bolster a defense of provocation by arguing that a victim’s sexual advance, although entirely non-violent, was sufficiently provocative to induce the defendant to kill; and to contend that the defendant reasonably believed the victim was about to cause the defendant serious bodily harm because of the victim’s sexual orientation or gender identity. ABA policy adopted in 2013 recommends enactment of legislation that would require courts to instruct the jury not to let bias, sympathy, prejudice, or public opinion influence its decision about the victims, witnesses, or defendants based upon sexual orientation or gender identity, and specifying that neither a non-violent sexual advance, nor the discovery of a person’s sex or gender identity, constitutes legally adequate provocation to mitigate the crime of murder to manslaughter, or to mitigate the severity of any non-capital crime.

IMMIGRATION: A fiscal year 2019 funding bill approved July 11 by the House Appropriations Committee includes language addressing the separation of families at the southern U.S. border that resulted from the Trump administration’s “zero tolerance” immigration policy. An amendment added to the bill during markup would overturn the settlement in the 1997 *Flores v. Reno* case, which sets out the proper treatment of undocumented children in detention and prohibits the government from keeping children in detention for more than 20 days. Under the amendment, children would be allowed to stay with their parents in detention indefinitely. The bill – which would fund the Departments of Labor, and Health and Human Services (HHS) – also would require the government to: make public a formal plan for reuniting children and parents who were recently separated at the border as a result of

the “zero tolerance” policy; require HHS to provide regular reports to Congress about the children in their care; allow HHS to accept donations of various supplies for the children in detention; keep siblings together; and prohibit the administering of medication to the children without proper evaluation. ABA President Hilarie Bass, who made a trip to the border June 26, called on the government to “expeditiously and efficiently reunite families and minimize any further harm to the children.” The ABA president is coordinating an ABA response to the crisis that includes recruiting lawyer volunteers and launching a fundraising effort for ProBAR, which is a joint pro bono legal services project of the ABA, the State Bar of Texas, and the American Immigration Lawyers Association with support from the Texas Access to Justice Foundation.

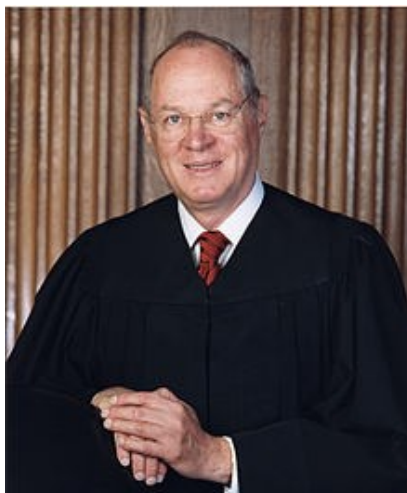
PENNSYLVANIA CAPITAL PUNISHMENT: ABA President Hilarie Bass this month applauded the release of *Capital Punishment in Pennsylvania*, a report of the Task Force and Advisory Committee of the Joint State Government Commission. Bass [wrote](#) to members of the Pennsylvania State Senate on July 3 that the commission’s bipartisan report builds upon and validates the work of prior studies, including the ABA’s 2007 Pennsylvania Death Penalty Assessment Report that found systemic deficiencies in numerous critical areas and concluded that “Pennsylvania cannot ensure that fairness and accuracy are the hallmarks of every case in which the death penalty is sought or imposed.” The Pennsylvania report, Bass said, “unfortunately confirms that the issues identified by the ABA in 2007 have persisted over the past 11 years” and continue to jeopardize the fair administration of justice in capital cases in the state. One of the major areas where the report found serious deficiencies is the state’s county-by-county indigent defense system, which suffers from a lack of statewide oversight to ensure that appointed counsel meet professional standards. Because of this lack of oversight, 150 death sentences in Pennsylvania have been overturned due to ineffective assistance of counsel. Bass added that effective defense counsel could prevent and address other problems identified in the report, including racial bias and execution of the intellectually disabled or severely mentally ill. The association supports the Pennsylvania report’s recommendation for a state-funded capital defender office, which is consistent with the ABA’s 2007 recommendations and the *ABA Guidelines for the Appointment & Performance of Defense Counsel in Death Penalty Cases*. Bass urged the state senators to maintain – as recommended by the ABA in 2007 – a moratorium on executions until due process protections are in place.

Supreme Court Justice Kennedy has 43-year judicial career

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Senate Majority Leader Mitch McConnell (R-Ky.) praised Kavanaugh's nomination and has indicated that he wants the Senate to confirm the Supreme Court nominee as quickly as possible, while Senate Minority Leader Chuck Schumer (D-N.Y.) said he would be opposing the nomination because of concerns about the nominees' conservative views.

Justice Kennedy, who was appointed in 1988 by President Reagan, said it "has been the greatest honor and privilege to serve our nation in the federal judiciary for 43 years, 30 of those on the Supreme Court," and added that his decision to step aside was based on his deep desire to spend more time with his family. Prior to his service on the Supreme Court, he was a judge on the Ninth Circuit Court of Appeals appointed by President Gerald Ford.



Justice Anthony Kennedy

During his tenure, Justice Kennedy cast the deciding vote in a number of 5-4 Supreme Court decisions relating to constitutional rights, including;

- *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), upholding the 1973 opinion in *Roe v. Wade* regarding abortion rights;

- *Roper v. Simmons*, 543 U.S. 551 (2005), opposing the death penalty for those who were under 18 when they committed their crimes;

- *Boumediene v. Bush*, 553 U.S. 723 (2008), granting Guantanamo Bay detainees the right to seek habeas corpus;

- *United States v. Windsor*, 570 U.S. 744 (2013), ruling that the federal government cannot discriminate against married lesbian and gay couples for the purposes of

determining federal benefits and protections; and

- *Obergefell v. Hodges*, 576 U.S. ___ (2015), making same-sex marriage legal in all 50 states.

He also wrote the opinion in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), ruling that political spending is a form of protected speech under the First Amendment and that the government may not restrict the campaign contributions of corporations or unions to individual candidates.

Chief Justice John G. Roberts Jr. noted that Justice Kennedy's jurisprudence "prominently features an abiding commitment to liberty and the personal dignity of every person," and he "taught collegiality and civil discourse by example." ■

ALJs

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appropriations legislation that includes OPM. The amendment would prohibit the use of funds by OPM or any other executive branch agency for the "development, promulgation, modification, or implementation" of the executive order.

"Nothing less than the integrity of the administrative judiciary is at issue here," Bass said, "That is why it is critical that Members of Congress have an opportunity to participate in the debate and help formulate a solution." ■

Travel Ban

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statements by the president and his associates – contains substantial evidence that the proclamation was motivated by a desire to bar Muslims from entering the country," the amicus brief stated, maintaining that the evidence should not be ignored. ■

The monthly *Washington Letter* reports news of national public interest to the legal profession, including congressional, executive branch and ABA activities concerning the association's legislative priorities. The newsletter is published by the Governmental Affairs Office as a service to ABA members and national, state and local bar associations. Full text is available on the Internet at http://www.americanbar.org/advocacy/governmental_legislative_work/publications.html. ©2018

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