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Via Electronic Mail

United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Members of the Committee on the Judiciary:

We are law professors and scholars who teach and study in the area of immigration law. We are following with great interest the efforts of the Judiciary Committee to draft an immigration reform bill. Many organizations and other legal scholars have written to object to the judicial review-limiting provisions of the Chairman's Mark of the "Comprehensive Immigration Reform Act of 2006." We write because we share the serious reservations of our colleagues and urge that these far-reaching provisions be withdrawn pending further study of their effect and desirability.

Among other changes, the Chairman's Mark proposes to place exclusive jurisdiction over immigration appeals in the Court of Appeals for the Federal Circuit, a specialized court that currently hears cases in areas distant from immigration law. The Chairman's Mark also establishes a system of default denials of petitions for review by a single judge, and would eliminate judicial review altogether in various other immigration matters.

We are aware of no studies or public discourse evaluating these untested measures or explaining how they would effectively address problems with the current system, or even what those problems might be. Nor has there been any explanation of how a minimally expanded Federal Circuit will provide meaningful review of a caseload many times the size of its current docket. In view of the liberty interests at stake, measures fundamentally reshaping and limiting judicial review of immigration decisions should not be lightly adopted—and certainly not without thoughtful study of the problems these measures purport to address. Such an unconsidered restriction of judicial oversight would be particularly inappropriate in light of the Attorney General's ongoing review of agency decision-making. This review was largely prompted by federal court decisions finding malfeasance by the immigration agencies, highlighting the critical role of judicial review in maintaining the system's integrity.

The judicial review provisions in the Chairman's Mark represent a fundamental restructuring of the current system and should not be undertaken without further study. Accordingly, we suggest that Section 701, Section 707, and any provisions restricting judicial review be withdrawn from the Chairman's Mark. We appreciate the opportunity to provide these brief comments.

Respectfully,



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