



November 12, 2019

The Honorable Mitch McConnell
Majority Leader
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader
322 Hart Senate Office Building
Washington, DC 20510

Re: Letter from Board of Directors of the Lawyers' Committee for Civil Rights Under Law in Opposition to Nomination of Steven Menashi to the Second Circuit Court of Appeals

Dear Majority Leader McConnell and Minority Leader Schumer:

We the undersigned members of the Board of Directors of the Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee"), write to urge you to oppose the nomination of Steven Menashi to the United States Court of Appeals for the Second Circuit. Since its founding in 1963, at the request of President John F. Kennedy, the Lawyers' Committee has been devoted to the recognition and defense of the civil rights of racial minorities and low-income people in the United States.

As members of the private bar, we expect and rely on the judiciary to ensure fair trials and secure equal rights for all through upholding the rule of law. Mr. Menashi's record on civil rights in general including issues involving race, diversity, immigration, and LGBTQ rights indicate that he is unfit to serve as a fair and impartial appellate judge and, if confirmed, would cause serious harm to the reputation and quality of the federal bench. Our nation requires judges of the utmost integrity, to ensure that every party who comes before the court is treated in a fair and impartial manner, and with dignity. While we have made significant strides towards equal justice under the law — due to the work of the Lawyers' Committee and other civil rights organizations, unlawful discrimination still presents challenges in the everyday lives of many who call America home. The confirmation of Mr. Menashi to the Second Circuit seat formerly held by Thurgood Marshall — our country's first African American Supreme Court Justice and one of our greatest civil rights advocates — is an affront to our country's progress and, in particular, to people of color.

Mr. Menashi's record demonstrates extreme ideological views on race and multiculturalism as well as a complete disregard of the experience of racial and ethnic minorities in our country. His inflammatory writings during the course of his collegiate

and legal career give us grave concerns about his ability to serve as a fair and impartial appellate judge. Mr. Menashi has:

- criticized education about multicultural awareness, asserting it was about “denigrating Western culture to promote self-esteem among ‘marginalized group;’”¹
- argued against multiculturalism and diversity, writing that “ethnically heterogenous societies exhibit less political and civic engagement, less effective government institutions, and fewer public goods;”²
- asserted that racial tension on college campuses stemmed from courses educating students about racial conflict;³
- forcefully defended the ability of organizations to throw parties mocking African Americans and other people of color, claiming objections over the insensitive nature of the parties by minority students, created a “hostile campus environment[] where students are unwilling to express themselves, lest they be condemned as bigots;”⁴
- compared universities’ use of race in the admissions process to Nazi Germany.⁵

It is imperative to members of the private bar and all who call America home, that federal judges be fair and neutral arbiters of the law. Mr. Menashi’s record unquestionably demonstrates that he is not qualified to occupy a seat on the federal bench. His confirmation hearing did nothing to assuage our fears of the harm he would cause to our country and to the integrity of our federal courts if he were to be confirmed. Mr. Menashi did not sincerely offer an apology nor express how his views on race and diversity have evolved. In addition, his lack of regard for the members of the Senate Judiciary Committee fulfilling their responsibilities under the U.S. Constitution, was telling and gives us great pause as to how he will treat the average American who comes before him. The Second Circuit is one of the most influential appellate courts in the country, and a confirmation to Thurgood Marshall’s seat — in the courthouse which bears his name — should not be given to anyone with such an egregious record on race and civil rights as Mr. Menashi.

¹ Steven Menashi, “The Empty Decade”, Doublethink, Summer 2002, <https://lawyerscommittee.org/wp-content/uploads/2019/10/The-Empty-Decade.pdf>.

² Steven Menashi, “Ethnonationalism and Liberal Democracy,” U. Pa. J. Int’l L. vol. 32:1, p. 57 (2010), <https://lawyerscommittee.org/wp-content/uploads/2019/10/Ethnonationalism-Democracy.pdf>.

³ “Matters of Life and Death,” The Dartmouth Review, Mar. 12, 2001, <https://lawyerscommittee.org/wp-content/uploads/2019/10/Matters-of-Life-and-Death.pdf>.

⁴ “Chilling Free Expression,” The Dartmouth Review, Aug. 16, 1999, <https://lawyerscommittee.org/wp-content/uploads/2019/10/Chilling-Free-Expression.pdf>.

⁵ “Matters of Life and Death,” The Dartmouth Review, Mar. 12, 2001, <https://lawyerscommittee.org/wp-content/uploads/2019/10/Matters-of-Life-and-Death.pdf>.

Thank you for your consideration of our opposition to the nomination of Mr. Menashi to a lifetime appointment on the United States Court of Appeals for the Second Circuit.

Respectfully,

Adam Klein, Co-Chair	New York, NY
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Marsha E. Simms	New York, NY
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Brenda Wright	Newton, MA

cc: United States Senate