

# Biden Supreme Court Nomination

## About Ketanji Brown Jackson: Next Steps & Healthcare Views

- **Justice Breyer's departure activates Biden's commitment to diversity and representation on the Supreme Court.** Currently, of the nine justices on the Supreme Court, six are Republican appointees and 3 are Democratic appointees.
- **Ketanji Brown Jackson is formally nominated today.** President Biden promised to appoint a Black woman to replace Breyer. His appointee will be the first Black woman to hold the job in the Supreme Court's history.
- **Odds are good...Judge Jackson has been confirmed previously.** Biden's designated appointee could galvanize his Democratic base prior to midterm elections, potentially moving the needle to the left in key health policy decisions. Jackson is highly qualified and has garnered needed votes previously. The Senate confirmed her to the D.C. Circuit in June on a vote of 53-44, with support from all 50 members of the Democratic caucus and Republican Sens. Graham of SC, Collins of ME and Murkowski of AK.
- **About Ketanji Brown Jackson.**
  - She is 51 years old, serves on the U.S. Court of Appeals for the District of Columbia Circuit, one of the most influential courts and (often) a steppingstone for Supreme Court justices.
  - She joined that court last June after 8 years as a federal trial judge in the nation's capital, where she wrote more than 550 opinions, including one from 2019 in which she ruled former White House counsel Don McGahn didn't have absolute immunity from having to testify in a congressional investigation of then-President Trump
  - She has worked in private practice at Miller Cassidy, Goodwin Proctor, Feinberg Group. Jackson was a public defender.
  - Jackson clerked for Justice Breyer; She was on former President Obama's Supreme Court shortlist in 2016
  - Jackson shares family ties with fmr GOP House Speaker Paul Ryan. Her husband's twin is Ryan's brother-in-law, and as a member of Congress, Ryan testified in support of Jackson nomination to the district court.
- **On healthcare, a small track record, but ruled in favor of industry in a FDA case (Depomed).** On healthcare, Brown ruled in the U.S. Court of Appeals for the D.C. Circuit. In 2014, in *Depomed v. Department of Health and Human Services*. Specifically she ruled the FDA violated the [Administrative Procedure Act](#) by failing to grant pharmaceutical company Depomed market exclusivity for its orphan drug, Gralise since the drug met the statutory requirements for exclusivity under the Orphan Drug Act. She has ruled on women's health issues, as well as disability related issues.
- **The Supreme Court could see several pivotal cases on its docket in the upcoming session(s).** While vaccine mandates were a hot topic of late, SCOTUS could also deliberate cases that index heavily on health equity and pandemic preparedness. Specifically, they could hear

cases pertaining to challenges to the ACA, Medicaid expansion, and nursing home patients' rights, including care providers' possible liabilities in certain COVID-19 related nursing home deaths.

- **WHAT'S NEXT:** Now, Judge Jackson will go through an extensive vetting process by the Judiciary Committee. This process could take several weeks and possibly months. The new Supreme Court Justice will need a simple Senate majority for confirmation (51 votes).