

Editorial: New Congress must act on judicial appointments

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You could call them casualties of the “fiscal cliff” talks that consumed far too much time and energy. Before ending its term Wednesday, the U.S. Senate failed to act on 11 judicial nominees awaiting floor votes, including two for federal courts in Northern California.

Those stranded nominees have to start from scratch with the new Senate sworn in Thursday. Meanwhile, Californians will continue waiting, and waiting, to have their cases heard before these federal district courts, both “judicial emergencies” because of numerous vacancies and severe backlogs.

Troy L. Nunley was nominated in June by President Obama in the Eastern District of California, which has courts in Sacramento, Fresno, Redding and South Lake Tahoe. Nunley, a former prosecutor who has been a Sacramento Superior Court judge since 2002, had his confirmation hearing in September. The Senate Judiciary Committee didn't sign off on his nomination until Dec. 6.

William H. Orrick III was also nominated in June, he in the Northern District of California, centered in the Bay Area. Orrick, a corporate lawyer in San Francisco for 25 years, was most recently a deputy assistant attorney general for civil rights in Washington, D.C., who worked on the Justice Department's challenge of the Arizona immigration law. He has been waiting even longer; he had his hearing in July and was endorsed by the committee on Aug. 2.

On Thursday, Obama quickly renominated Nunley and Orrick,

along with Los Angeles Superior Court Judge Beverly Reid O'Connell in the Central District of California and 30 other nominees around the nation whom the previous Senate failed to confirm. As one liberal advocacy group noted, 25 of the 33 are women or minorities – part of the president's important effort to diversify the judiciary.

Now, it's up to the new Judiciary Committee whether the nominees have to go through another confirmation hearing. They definitely have to win committee approval again to get to the Senate floor.

Obama said that his list included "many who could have and should have been confirmed before the Senate adjourned." "I urge the Senate to consider and confirm these nominees without delay, so all Americans can have equal and timely access to justice," he said in a statement.

Unfortunately, judicial nominations have, even more than usual, become collateral damage in the partisan wars in Congress. There are more vacancies than at the end of George W. Bush's first term; the delay between committee approval and a vote on the Senate floor has grown dramatically on Obama's watch.

For nearly all the stranded nominees, there's little question that they're qualified. Many have bipartisan support. Supreme Court Chief Justice John Roberts, in his annual report on the judiciary, pleaded with the president and lawmakers Monday to fill vacancies that he said are handicapping federal courts.

This is another black mark against the 112th Congress, one of the least productive in recent history. By confirming these judges quickly, the new Senate can start making amends.