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**To:** Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )

**Subject:** : BusinessWeek: The War Over the Courts Has Just Begun

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-----Original Message-----

Business Week

Washington Outlook

Edited by Richard S. Dunham

The War Over the Courts Has Just Begun

When Democrats on the Senate Judiciary Committee scuttled the nomination of conservative jurist Charles W. Pickering, it was not only a slap in the face

for Minority Leader Trent Lott, the judge's patron and top booster. It was also a rare setback for the man pushing Pickering from the shadows, Justice Dept. powerhouse Viet D. Dinh.

Dinh, 34, who earned his conservative stripes by working on the Senate Whitewater probe and on the impeachment of former President Bill Clinton, is

the Justice Dept.'s point man in vetting and promoting Bush's judicial picks. That makes the little-known official one of the most important players in moving the judiciary rightward after eight years of Democratic nominees. "I firmly believe the proper role of a judge...is to follow the law rather than make the law," Dinh told BusinessWeek.

The former Georgetown University law professor doesn't just weigh in on judges. He also signs off on all of Justice's anti-terrorism initiatives, from trying alleged militants in military tribunals to allowing jailers to eavesdrop on conversations between terror suspects and their lawyers. Another controversial Dinh move: prohibiting FBI agents from using a national gun-purchasing database to find out if suspected radicals have bought firearms.

While Dinh blends in ideologically at John Ashcroft's Justice Dept., his personal history sets him apart. Born in war-torn Saigon as the youngest of seven children, he spoke almost no English when he arrived in the U.S. as a 10-year-old refugee. To help support the family, Dinh and his siblings worked in a California sweatshop after school, sewing clothes until 11 p.m. Dinh still managed to win admission to Harvard, where he later earned a law degree with honors. He subsequently clerked for Supreme Court Justice Sandra Day O'Connor.

While no one questions Dinh's credentials, some Dems have criticized his ideology and operating style. Democratic Hill staffers say he withheld important documents on Pickering and was overly antagonistic in promoting him behind closed doors. "His abrasive approach sometimes hurts more than helps the Administration's agenda," says a Senate aide.

Team Bush realizes it needs to do something to avoid more Pickering-style debacles. While White House Counsel Alberto R. Gonzales says he's pleased with Dinh's work, he also plans to add a senior GOP operative to the White House staff to shepherd Bush's judicial picks full-time. "We're looking at someone who can coordinate between the White House and Justice Dept.," Gonzales says.

The fact that the White House is looking for reinforcements is a sign of how serious the judicial-selection wars have become. On the day of Pickering's defeat, Bush political guru Karl Rove told Christian activists that if Democrats thought they had successfully dissuaded the President from tapping conservatives for the bench, "they sent the wrong message to the wrong guy."

For Dinh and his allies, that means a war of attrition--at least as long as Democrats control the Senate. Two fortysomething appellate court nominees already are in Democrats' crosshairs: Ohio State University law professor Jeffrey S. Sutton and former Assistant Solicitor General Miguel Estrada. Democrats worry that the very conservative Estrada, Bush's pick for the D.C. Circuit Court, is being groomed to be the first Hispanic Supreme Court justice.

Some judicial watchers speculate that Dinh himself could be named to the high court one day. Whether that lies within the realm of possibility will depend in large part on whether Dinh sees to it that, despite the Pickering setback, Team Bush succeeds in the struggle to shift the federal bench to the right.

By Alexandra Starr

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