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June 25, 2009

Senator Patrick Leahy, Chair
United States Senate
Committee on the Judiciary
433 Russell Senate Office Bldg.
Washington, DC 20510-0104

Senator Jeff Sessions, Ranking Member
United States Senate
Committee on the Judiciary
335 Russell Senate Office Bldg.
Washington, DC 20510 -0104

Dear Senators Leahy and Sessions,

The Society of American Law Teachers (SALT) supports the nomination and confirmation of Judge Sonia Sotomayor to the United States Supreme Court.

Representing hundreds of law professors from more than 170 law schools across our nation, SALT has reached this conclusion after careful, scholarly and independent research pertinent to this nominee. We believe that Judge Sotomayor's judicial record reflects sound legal analysis, appropriate caution, and the highest integrity. The Judiciary Committee and its very capable staff have reviewed in detail Judge Sotomayor's judicial record. SALT is commenting on her approach to judging and the background and attitudes she would bring to her work on the Court, but we are not commenting on specific decisions, knowing that the Committee staff is closely reviewing individual decisions.

Judge Sotomayor will bring a breadth of trial court experience that will well serve today's Court. As an assistant district attorney in New York City, she spent her days in the courtroom and tried dozens of criminal cases involving the very difficult and dangerous matters affecting life in our urban centers, an environment all-too-familiar to one who had been raised by a single mother in a South Bronx public housing project. Later in her career, she was appointed to the federal district court bench by President George H. W. Bush, and she served in that capacity for six years until President Clinton elevated her to the Court of Appeals for the Second Circuit. If confirmed, Judge Sotomayor would be the only member of the Supreme Court with any significant trial court experience, either as a litigator or as a judge. Based on her experience as both, she knows and appreciates the real-world implications of appellate court rulings.

Judge Sotomayor will also bring a life perspective not adequately represented on the current Court. To be sure, the perspectives reflected in the deliberations of each and every judge are informed by a whole host of factors, including issues of class, race and gender. When retired Justice O'Connor speaks of being "profoundly influenced" and awakened to the African-American condition by her colleague Thurgood Marshall and when Justice Ginsburg observes that her male colleagues do not seem to fully comprehend the experience of women in our society, we are reminded that justice can best be served when the Court, as a deliberative body, reflects a diversity of experience. Judge Sotomayor's life story, now well known to the Committee and to the public, not only serves as a symbol of hope and possibility for many communities across our nation, but as an invaluable asset to the Court's own decision-making.

In recent weeks, much has been debated in the press as to whether "empathy" is an appropriate judicial qualification. Empathy is, to paraphrase President Obama, "something more demanding" than sympathy or charity; it is the capacity to "stand in somebody else's shoes and see through their eyes," to care, to understand what others are facing, and what their lives are like. As Harper Lee put it in her famous novel, *To Kill a Mockingbird*: "You never really understand a person until you consider things from his point of view -- until you climb into his skin and walk around in it." Empathy is an essential part of exercising rational judgment. Empathy cannot be dismissed as simply a matter of personal feelings and emotions, but, rather, is a key component of "doing justice". Inevitably constricted by the narrowness of our own backgrounds, we must seek to expand our awareness of other people's varied experiences if we are to realize "equality under the law" and "justice for all." As law professors, we try to teach empathy in our classrooms, to appreciate what all parties in a particular dispute are experiencing ("where they're coming from," in the vernacular of our students). Surely, this capacity helps in negotiating a case and in oral arguments, but empathy has far greater value than simply providing tactical benefits. It is crucial to sound and informed judgment.

* * *

While we, as private citizens, have differing views among us on many of the hot-button issues that come before the courts and on which Judge Sotomayor occasionally has ruled, we uniformly agree, as law professors, that she is a careful, hard-working, and thoughtful jurist, viewed by scholars and colleagues on the bench as a moderate well within the legal mainstream. Far from being an "activist judge," Judge Sotomayor decides cases on the basis of her understanding of the law and the applicable legal principles. In addition, we believe that the broad range of her legal and life experiences will add a new and much-needed perspective to the work of our highest court.

We will pay close attention to the confirmation hearings, and we will make ourselves available for future consultation should you so desire. We look forward to a timely confirmation of Judge Sotomayor so that she can take her place on the court as the new term begins this October.

Sincerely,

A handwritten signature in black ink, appearing to read 'MMB' followed by a long, sweeping horizontal line.

Margaret Martin Barry
Co-Presidents

A handwritten signature in black ink, appearing to read 'Deborah W. Post' in a cursive style.

Deborah Waire Post
Co-Presidents