December 21, 2005

Honorable Arlen Specter, Chairman

Honorable Orrin G. Hatch
Honorable Charles E. Grassley
Honorable Jon Kyl
Honorable Mike DeWine
Honorable Jeff Sessions
Honorable Lindsey O. Graham
Honorable John Cornyn
Honorable Sam Brownback
Honorable Tom Coburn

Honorable Patrick Leahy
Honorable Edward M. Kennedy
Honorable Joseph R. Biden, Jr.
Honorable Herbert Kohl
Honorable Diane Feinstein
Honorable Russell D. Feingold
Honorable Charles E. Schumer
Honorable Richard J. Durbin

Re: **Lambda Legal's Opposition to the Nomination of Samuel Alito Jr. to the U.S. Supreme Court**

Dear Members of the United States Senate Committee on the Judiciary:

As a legal organization advocating for LGBT people and people with HIV, we know how important it is that every member of the judiciary be committed to the Constitution and its core principles of liberty, equality and justice for all. In examining Samuel Alito's nomination for a lifetime appointment to the Supreme Court, we bring to bear our more than 30 years of experience advocating in favor of these principles that are the bedrock of our legal system.

Unfortunately, what our analysis reveals is that Judge Alito has a political agenda different from that required of members of the judiciary. It is based on his personal political ideology and stands apart from any principle that can reasonably be located in the Constitution. We do not believe that Judge Alito has the necessary commitment to liberty and equality for *all* Americans. Judge Alito puts particular political ends above a fair reading of the Constitution, Bill of Rights and the laws passed by Congress. Put differently, his political agenda leads him to write judicial decisions to make the law conform to his politics. He then applies legal craftsmanship and precedent to justify the law he is making.

The job of a Supreme Court Justice is unique within the judiciary. Among other things, the constraints created by legal precedent are far less binding at the Supreme Court.

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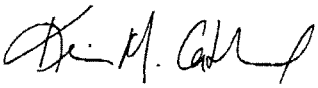
Putting politics ahead of the Constitution and laws of this country is dangerous at all levels of our judicial system. This practice is dangerous because it jeopardizes the system of checks and balances that the judiciary is meant to safeguard, making the concerns of groups of people lacking political power especially vulnerable.

For these reasons, Lambda Legal is compelled to oppose Samuel Alito's nomination.

With Chief Justice Roberts, Lambda Legal waited until after the confirmation hearings to decide our position because we did not feel that we had enough information about him. But Judge Alito is a different matter altogether. In this case, he has an extensive track record of court decisions and other materials that lend insight to his philosophy. Please read our analysis of Judge Alito's record, below.

Respectfully Submitted,



Kevin M. Cathcart
Lambda Legal
Executive Director

Attachment: Lambda Legal's Analysis of Samuel Alito.