American Federation of Labor and Congress of Industrial Organizations

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December 14, 2005

Dear Senator:

The AFL-CIO, a federation of 53 national and international unions representing over nine million working women and men, has reviewed Judge Samuel Alito's record on the U.S. Court of Appeals for the Third Circuit in cases of importance to working families. Based on this review, we are compelled to oppose his nomination to be an Associate Justice on the United States Supreme Court.

As the enclosed memorandum explains more fully, Judge Alito's decisions and dissents show a disturbing tendency to take an extremely narrow and restrictive view of laws passed by Congress to protect workers' rights, resulting in workers being deprived of wage and hour, health and safety, anti-discrimination, pension, and other important protections. On a number of occasions, Judge Alito's colleagues on the Third Circuit have criticized his opinions for their excessively narrow view of worker protection and civil rights statutes. Judge Alito holds federal agencies to an unrealistically high standard when they seek to enforce worker protection laws, often reversing them on hypertechnical grounds and depriving workers of important protections as a result.

We are also very concerned about Judge Alito's views on the scope of Congressional power, given some of his rulings in this area, and his views about voting rights, given his criticism of the Warren Court and its reapportionment decisions. It is critical that Senators explore these and other areas thoroughly at Judge Alito's upcoming confirmation hearings in order to understand his views and his judicial philosophy on these important issues.

Working families are struggling mightily against an assault on our hard-won gains in the legislative arena and at the bargaining table. Wages are being cut, pensions and health benefits are being drastically reduced or eliminated, and job security is vanishing. Now more than ever, workers need the protections offered to them under the laws passed by Congress to protect their pay, benefits, retirement security, and health. Working families need and deserve Supreme Court justices who understand and respect the

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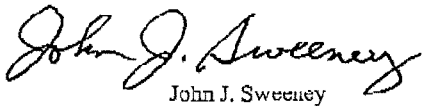
importance of our hard-fought rights and protections, not justices who take an unduly narrow view of the law, and of our rights. Judge Alito's judicial philosophy is one that appears to be at odds with workers' interests. Given the current composition of the Supreme Court, and the absence of even a single justice with a worker advocacy background, we cannot afford to have the Court further skewed against working families' interests.

In recent years, many cases have been decided in the Supreme Court by a one-vote margin. The Supreme Court decided, by one-vote margins, two cases involving the question of whether certain groups of workers were protected under the National Labor Relations Act. Millions of state employees were deprived of their ability to seek relief in court under the Fair Labor Standards Act, the Age Discrimination in Employment Act, and the Americans with Disabilities Act because of decisions decided by a one-vote margin. The Court issued a decision restricting states in their ability to adopt their own workplace safety laws, again by a one -vote margin. By a one-vote margin, the Supreme Court excused employers from having to pay back pay when they are found to have discriminated against union supporters who happen to be undocumented workers. The importance of this nomination to the rights and protections of working families is clear.

The AFL-CIO urges you to oppose Judge Alito's nomination and to insist on a more moderate nominee with a record demonstrating greater respect for workers' rights.

Sincerely,



John J. Sweeney
President

Enclosure
cc: All national and international union affiliates