Hearings before the Senate Judiciary Committee on the

Nomination of John G. Roberts to be Chief Justice of the United States

September 15, 2005

Testimony of Christopher S. Yoo*

It is an honor to be invited here to testify in support of John Roberts's nomination as Chief Justice of the United States. I have had the chance to get to observe Judge Roberts from three different vantage points: first, as an associate working for the appellate group at Hogan & Hartson; second, as a law clerk watching him argue cases before the Supreme Court; and third, as a member of the faculty of the Vanderbilt University Law School reading his judicial opinions. Because other witnesses can speak to his excellence as a Supreme Court advocate and his qualities as a member of the Court of Appeals, I will focus my remarks on the time Judge Roberts and I spent together at Hogan. During his time at Hogan, Judge Roberts demonstrated an open-mindedness and ability to bring people together that would serve him well as Chief Justice. He also treated everyone around him with respect and decency. I had the chance to witness these qualities first hand in the support and compassion that he showed to me when a tragedy struck my family.

Judge Roberts's open-mindedness is evident in his decision to join Hogan & Hartson when leaving the White House Counsel's Office in 1986. Hogan has long prided itself on its ability to embrace attorneys from across the political spectrum. To cite just two prominent examples, its ranks include such leading Republicans as former House Minority Leader Bob

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* Professor of Law, Vanderbilt University Law School. Associate, Appellate Group, Hogan & Hartson LLP, (1998-1999). Law Clerk, the Honorable Anthony M. Kennedy, Supreme Court of the United States (1997-1998); Associate, Appellate Group, Hogan & Hartson LLP, (1996-1997). Law Clerk, the Honorable A. Raymond Randolph, U.S. Court of Appeals for the District of Columbia Circuit (1995-1996). J.D. Northwestern University School of Law (1995). M.B.A. The Anderson School at UCLA (1991). A.B. Harvard College (1986).

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Michel and such leading Democrats as former Chairman of the House Subcommittee on Health and the Environment Paul Rogers. It is also a firm that takes seriously the bar's obligation to provide free legal services to public interest organizations and to individuals who are unable to afford them.

Judge Roberts was exceptionally well liked throughout the firm. His regular lunch partners reflected the underlying diversity of the firm itself. Even more telling is his decision to return to Hogan after his successful stint as Principal Deputy Solicitor General. At a time when firms were lining up for the chance to hire him, including firms that attract those who wish to surround themselves with like-minded colleagues, Judge Roberts preferred to return to a more balanced and politically diverse environment.

Judge Roberts's open-mindedness can also be seen in the manner in which he developed Hogan's appellate practice. Although the practice group was never large, the attorneys he hired reflected the diversity of the entire firm. Indeed, I suspect that he takes considerable pride in the fact that nearly half of the associates brought into the appellate group under his leadership were women and that the women with whom he worked most closely on Supreme Court and appellate matters are now partners in the appellate group. He also represented a broad range of clients with diverse and even conflicting ideologies without requiring that every client's position match his own personal views. His reputation for fairness and willingness to engage all viewpoints were so well established that Democratic Attorneys General and Governors did not hesitate to hire him to represent their interests. In the process, he successfully advocated positions on behalf of clients on environmental protection and race-conscious remedies that did not match what many might regard as the standard "conservative" position on those issues.

Indeed, the pattern of fairness and open-mindedness that is apparent in his professional decisions is consistent with my own experiences working with Judge Roberts. He brought the same probing intellect and rigorous professionalism to every aspect of each case, searching through every possible viewpoint in the process of deciding how best to approach it. Simply put, Judge Roberts's tenure at Hogan & Hartson suggests a person who is fair and who is willing to engage and consider all points of view before making up his mind.

My other memory of Judge Roberts from our time together at Hogan is the respect with which he treated everyone around him, from senior partners to secretaries and paralegals to law students who were only working at the firm for a summer. He was always supportive and encouraging, even while holding us to the highest professional standards.

He also never forgot the personal side of the people who worked for him. I had the chance to see this aspect of Judge Roberts's character firsthand shortly after I rejoined the firm after my Supreme Court clerkship. I was working full bore on a full slate of cases. My father-in-law had just arrived in the D.C. area to celebrate the recent birth of my second son, Brendan. Shortly after my father-in-law arrived, he was admitted to the intensive care unit of Arlington Hospital. After a three-and-a-half month battle for his life, he eventually died.

Judge Roberts reacted the way that we wish everyone would. The minute he found out about my father-in-law's illness, he offered his sympathy and support. He rearranged my assignments to make it possible for me to make my family my first priority. He often checked in on me, always with a thoughtful gesture or a kind word. And when my father-in-law passed away, he released me from all of my assignments on a moment's notice and placed me on a paid leave of absence so that I could take care of my family when it needed me, even though I was facing a number of deadlines and doing so would mean taking on considerable work himself.

When I returned, he welcomed me back with open arms, without a single word about the problems caused by the abruptness of my departure. For John Roberts, it was all very simple. It was just the right thing to do.

At the same time, John Roberts has a humility that is somewhat surprising in someone so accomplished. It was most evident whenever he was preparing for a Supreme Court argument. He invariably became as nervous as a school boy. It was quite humbling to see one of the most distinguished appellate advocates in the country take nothing for granted and prepare for his twenty-fifth Supreme Court argument with the eagerness and the modesty of a newly minted attorney preparing for his first appearance in court.

In short, I am convinced that John Roberts possesses the open-mindedness, compassion, and humility that the Senate seeks in members of our nation's highest court. He combines these qualities with a respect for the law and for the Supreme Court as an institution that leave no doubt in my mind that he would make an admirable Chief Justice.

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