TESTIMONY OF BRUCE M. BOTELHO
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Submitted to the United States Senate Committee on the Judiciary
On the Nomination of John G. Roberts, Jr. to be Chief Justice of the
Supreme Court of the United States

I urge you to support the nomination of Judge John G. Roberts, Jr. to be Chief Justice of the Supreme Court of the United States. I offer this testimony from the perspective of a client – in my case, a state client. As Attorney General of the State of Alaska for Governor Tony Knowles (D) from 1994 to 2002, I retained John Roberts to represent or advise Alaska in numerous matters before the United States Supreme Court. Although I am a life-long Democrat with liberal views on social issues, I support this nomination based on my first-hand experience with Judge Roberts. I believe that he possesses the integrity, intellectual capacity, compassion, and courage to undertake the momentous job of Chief Justice of the Supreme Court.

I first retained Judge Roberts in January 1997 to represent Alaska in an Indian law case that we had lost in the United States Court of Appeals for the Ninth Circuit. The case had been in the federal courts for nearly 18 years and was complex and convoluted. The issue was whether land that Congress had conveyed to a Native corporation under the Alaska Native Claims Settlement Act, later conveyed to a tribe, was Indian country. The case was immensely important to Alaskans, at once divisive and highly-charged politically. As attorney general, I felt it was critical that the Supreme Court review and decide the case. Because the

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case facially involved only Alaska, however, we were concerned that the Court would not grant certiorari. Thus, we set out to secure the services of the most qualified and talented Supreme Court practitioner we could find. I chose John Roberts following a thorough review of possible candidates and a careful selection process. That decision was probably one of my best as attorney general.

From the beginning Judge Roberts wanted to learn everything there was to know about the case. He met with us and studied the maps and pictures of Alaska we spread across the table. He engaged my assistant attorneys general as equals, picking their brains for ideas, facts, and background information. He wanted to learn every detail, including the correct pronunciation of the village names, the structure and role of Native organizations in Alaska, and the geography of our vast state. Meanwhile, he studied the relevant law and began testing with us his analysis and theories of the case. His goal was always to best prepare himself to represent the interests of the State of Alaska.

Judge Roberts tackled the subject in short order, prepared a successful petition for certiorari, and briefed and argued the case, which resulted in a unanimous reversal by the Supreme Court. *Alaska v. Native Village of Venetie Tribal Governmen*t, 522 U.S. 520 (1998).

I retained Judge Roberts on a number of other matters over the next six years. Among these were the defense of Alaska's Sex Offender Registration Act, the state's claim of ownership of submerged lands in the Tongass National Forest,

the issue of federal pre-emption of state environmental laws, fundamental issues involving the Alaska Statehood Act, and issues concerning the balance of federal and state authority over land and resource management under the Alaska National Interest Lands Conservation Act. Working with Judge Roberts on these cases, I got to know the most remarkable and inspiring lawyer I have ever met.

I have several general observations about John Roberts that I believe are important for your consideration of his nomination to be Chief Justice.

First, he unfailingly developed a complete comprehension of each case. Judge Roberts has an astounding capacity to absorb and understand the relevant universe of law. Of course, he has a deep foundation of knowledge upon which to build, but he readily expanded this to encompass the particular law applicable to each case. Further, he took the time to understand completely the factual background of each case. For example, to prepare for the *Venetie* case, he flew to Alaska to observe life in the rural areas of our state. He wanted to be able to personally represent the facts to the Court rather than rely upon a second-hand impression acquired from reading about another person's experience. He also traveled with my staff and me throughout Southeast Alaska to obtain first-hand knowledge of the geography of the region, knowledge that was critical to effectively presenting our legal positions to the Supreme Court in the submerged lands case.

Second, Judge Roberts's legal skills are truly extraordinary. His briefs were not only technically perfect; they also had clarity, persuasiveness, and spark. His scholarly yet practical approach to the law and issues, and his attention to detail and presentation, made his briefs a pleasure to read. His oral argument style was similarly skillful, with the added element of his remarkably gracious personality.

Third, John Roberts was retained to represent Alaska by a Democratic Governor and a Democratic Attorney General, and he approached each matter without regard to politics. Nothing he said or did ever suggested his personal views on an issue, and I honestly cannot tell you how he would have ruled on our cases if he had faced them as a judge. He clearly considered his job to be to represent Alaska's interests and position to the Supreme Court based on solid legal principles and precedent, not to promote any personal views.

Fourth, Judge Roberts's character is impeccable. It is impossible for me to separate his character from his legal work. He is modest, respectful, polite, and eminently approachable. He has a remarkable ability to engage people, and seeks to learn from them even as they learn from him. He did not simply take a case and a couple months later send us a product. Rather, he collaborated with us and sought our views and critique at all levels of the project. My staff and I always felt comfortable calling him on his direct line or even at his home, e-mailing, and

visiting with him. He challenged us, worked with us, and made us laugh. In the process he made hard work fun and rewarding.

But perhaps Judge Roberts's most striking feature was his deep respect for the law. He was always faithful to the text and context of the law; he demonstrated an astute awareness of his role as an advocate within the limits of the law; his judgment and common sense were exquisite; he knew where to draw the lines and gave his advice and guidance accordingly. But while he was a perfectionist in his own work, he was not rigid in his approach as a lawyer. He followed a natural, collegial process, seeking out and considering a variety of viewpoints and arguments. He did not enter the debate opinionated, but rather maintained a thoughtful and flexible stance. He was always willing to make adjustments as he gained knowledge. He subjected ideas to rigorous examination to reach logical, sound conclusions based on the facts and law. Ultimately his command of the case – the facts, the law, and the arguments on all sides – was nothing short of stunning.

All of these characteristics – his judgment, skill, intellect, integrity, character, common sense, and respect for the law and its role in our society – are key elements of John Roberts's success as a lawyer and judge. Knowing how John Roberts draws on these attributes in his legal work, I trust him, despite our political differences, to make decisions that are based on a deep understanding of the factual background, the law, and the historical context of each case. I urge

you to support his nomination as Chief Justice of the United States Supreme Court. America deserves the best and you have the opportunity to make that happen. Thank you.