Prepared Testimony of

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to be an Associate Justice
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It is an honor to appear in support of Judge Sotomayor's nomination to the Supreme Court. It struck me in preparing to testify today that my experience practicing before Judge Sotomayor provided clear bookends to my career as federal prosecutor. As a junior Assistant United States Attorney, I had one of my first trials in her courtroom: as the United States Attorney for the Southern District of New York, I argued before her in my last appearance representing the government.

I have known Judge Sotomayor since 1994, when as a prosecutor fairly new to the office, I tried a narcotics case in her courtroom. Judge Sotomayor was a relatively new appointee to the federal bench at that time and I remember a sense of curiosity in the office about how she would conduct criminal trials, as it is my recollection that this was one of her first. That question was quickly answered: she conducted that trial fairly, ran a tight ship in the courtroom, displayed courtesy and professionalism to both parties at all times, and showed a keen grasp of all the evidentiary and other legal issues that arose during the course of the two-week proceeding.

It was not a simple case. The defendant was charged with running a massive heroin distribution operation in upper Manhattan. The government called a number of witnesses, including two individuals who had participated in the conspiracy and later cooperated with the authorities, as well as a number of civilian and law enforcement witnesses. Substantial evidence, including weapons and other items seized during raids by the Bureau of Alcohol, Tobacco and Firearms, was introduced through those witnesses.

Judge Sotomayor maintained perfect control of the courtroom while ensuring that the defendant received a fair trial and was afforded all of his constitutional rights. She made timely but deliberate and careful rulings on all the issues. Whether she ruled for the government or not, I felt that our arguments were given a fair hearing in every instance.

The judge demonstrated a striking command of the applicable criminal law. I remember on the eve of the jury charge, Judge Sotomayor brought up a very recent ruling by the Supreme Court. She informed us that she did not think the ruling would effect her instructions but she asked that we get back to her with our view by the next morning. After several hours of catch-up analysis that night, both the prosecution and the defense agreed.

Ultimately, the defendant was convicted of conspiracy to distribute large quantities of heroin. After the verdict, the judge called both parties in to thank us for our efforts and professionalism, a much-appreciated courtesy.

That was one of my first trials as a prosecutor. 14 years later, in June 2008, I again found myself appearing in front of Judge Sotomayor, this time she was a seasoned

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judge on the Court of Appeals for the Second Circuit and I was the United States Attorney for the Southern District of New York.

The case was a government appeal involving the brutal beating of a restrained prisoner -- after the attack, the prisoner was in a coma for a year before dying. The government's conviction of the guard responsible for the attack had been overturned by the trial judge on a number of grounds that we felt misinterpreted the proof and misapplied the relevant legal standards.

I did not try the case, but given the crime involved and the trial court's decision, I believed it was important for the U.S. Attorney to appear and argue the matter on behalf of the government. I spent a great deal of time preparing for that argument. As I began to speak, it became immediately apparent that so had Judge Sotomayor.

Judge Sotomayor closely questioned both parties on the law and its application to the facts of the case. She was demanding. It was clear she wanted detailed answers to her probing questions. Again I saw a careful and deliberate judge seeking to make the right ruling and affording the parties the opportunity to make their case.

It was a challenging argument on important issues in a case involving a very serious crime. As I left the courtroom, I had no idea how the court would come out. A few months later, Judge Sotomayor, writing for a unanimous court, reversed the district court and reinstated the jury's guilty verdict.

Judge Sotomayor's detailed opinion demonstrated careful study of the factual record and the applicable law, carefully setting out and adhering to the appropriate standard of review. It was concise, well-reasoned and to the point.

Though 14 years passed between those two appearances in front of Judge Sotomayor, some things remained constant. The judge was prepared and knew the law. She demanded preparation and professionalism from the parties. She gave us a fair hearing and listened to our arguments. Her rulings were well-reasoned and supported by the applicable law as applied to the facts at hand.

I hope this testimony in support of Judge Sotomayor's nomination, from the perspective of someone who has appeared in her courtroom, is helpful to the committee and I would be happy to answer any questions you may have.

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