



July 7, 2009

The Honorable Patrick Leahy
 Chair
 Judiciary Committee
 United States Senate
 433 Russell Senate Office Building
 Washington, DC 20510

The Honorable Jeff Sessions
 Ranking Member
 Judiciary Committee
 United States Senate
 335 Russell Senate Office Building
 Washington, DC 20510

Dear Senators Leahy and Sessions:

On behalf of the undersigned national advocacy organizations representing the interests of millions of people with disabilities, we write to express our strong support for the confirmation of Judge Sonia Sotomayor as Associate Justice of the Supreme Court of the United States. We have reviewed hundreds of Judge Sotomayor's decisions, including her disability rights decisions, from her career as a trial judge and appeals court judge, along with her public statements in speeches and in interviews. Based on her sterling judicial record, and on her valuable life experience, we strongly believe that Judge Sotomayor will adequately and fairly protect the rights of all Americans, including people with disabilities. As such, we ask that you vote to confirm her nomination.

Judge Sotomayor's decisions under our seminal civil rights law, the Americans with Disabilities Act (ADA), have demonstrated a good understanding of – and healthy respect for – the rights of persons with disabilities. In important ADA cases concerning the definition of “disability” – an area of the law subject over the years to many inappropriately narrowing judicial interpretations, so much so that last year Congress amended the ADA to restore its broad reach – Judge Sotomayor has often combed through voluminous or technical testimony to determine whether the plaintiff was protected by the law.¹ Similarly, her understanding of the importance of accommodations to help workers with disabilities maintain employment is reflected in her

¹ See, e.g., *Bartlett v. New York State Bd. of Law Exam'rs* (“*Bartlett I*”), 970 F. Supp. 1094 (S.D.N.Y. 1997); *Bartlett v. New York State Bd. of Law Exam'rs* (“*Bartlett II*”), No. 93 Civ. 4986(SS), 2001 WL 930792 (S.D.N.Y. Aug. 15, 2001).

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thoughtful decisions in workplace accommodation cases.² She has not been afraid to dissent from a decision finding that plaintiffs did not have disabilities.³ Nor has she been afraid to overturn a jury verdict where incorrect instructions to the jury impeded a plaintiff's ability to obtain relief under the ADA.⁴

In her ADA decisions, and in other cases, Judge Sotomayor has demonstrated great sensitivity to the needs of, and challenges facing, people with disabilities in this country. For example, her analysis of special education issues arising under the Individuals with Disabilities Education Act (IDEA) reflects – and language from her decisions explicitly states – a keen awareness of the importance of timely special education services to students with disabilities and their families.⁵ She has been vigilant in reviewing administrative decisions denying Social Security benefits, especially where applicants are not represented by attorneys.⁶ In a notable dissent, Judge Sotomayor argued forcefully that the appointment of a guardian ad litem violated the constitutional rights of a plaintiff who had received psychiatric treatments, because she was not properly notified that she would have no control over her case once the guardian was appointed.⁷

Given her record of balanced and thoughtful decisionmaking, we believe that Judge Sotomayor understands and appreciates Congress's role in enacting important disability rights protections. In enacting the ADA and other disability rights laws, Congress carefully considered the history of people with disabilities in the United States, and acknowledged that many people with disabilities have been ostracized from their families and communities – that they have been prevented from going to school in their neighborhood schools, from working at jobs for which they were qualified, and from participating fully in all aspects of community life. The care that Judge Sotomayor has taken in her disability rights decisions indicates a respect for Congress's intent that these laws have a broad remedial effect on the relationships between individuals with disabilities and covered entities such as employers, schools, state agencies, and public accommodations. For this reason, we expect that she would accord Congress appropriate deference in this area.

It is our belief that Judge Sotomayor will bring her fair, thorough approach to disability rights cases to her work on the Supreme Court. Judge Sotomayor understands the language and purpose of the ADA and other disability rights laws. Further, she understands that the decisions of judges, including Supreme Court justices, that interpret these laws have consequences for people with disabilities. Admirably, she has been unafraid to take strong positions on issues where she believes her reading of the law and facts is correct. Based on her record and her

² See, e.g., *Rodal v. Anesthesia Group of Onondaga, P.C.*, 369 F.3d 113 (2d Cir. 2004).

³ See *EEOC v. J.B. Hunt Transp., Inc.*, 321 F.3d 69 (2d Cir. 2003).

⁴ See *Norville v. Staten Is. Univ. Hosp.*, 196 F.3d 89 (2d Cir. 1999).

⁵ See, e.g., *Murphy v. Arlington Cent. Sch. Dist. Bd. of Educ.*, 297 F.3d 195 (2d Cir. 2002); see also *Frank G. v. Board of Educ. of Hyde Park*, 459 F.3d 356 (2d Cir. 2006) (reasoning affirmed by *Forest Grove Sch. Dist. v. T.A.*, No. 08-305, 557 U.S. ___, 2009 WL 1738644 (Jun. 22, 2009)).

⁶ See, e.g., *Kohler v. Astrue*, 546 F.3d 260 (2d Cir. 2008); *Jasmin v. Callahan*, No. 97 CIV. 2429(SS), 1998 WL 74290 (S.D.N.Y. Feb. 20, 1998); *Battista v. Chater*, 972 F. Supp. 211 (S.D.N.Y. 1997).

⁷ See *Neilson v. Colgate-Palmolive Co.*, 199 F.3d 642 (2d Cir. 1999).

experience – including the fact that she has publicly acknowledged her own insulin-treated diabetes – we strongly urge you to confirm Judge Sotomayor for the Supreme Court.

Thank you for your important work on Judge Sotomayor's nomination. Should you have questions about this letter, please feel free to contact Andrew Imparato of the American Association of People with Disabilities at (202) 521-4301, Jim Ward of ADA Watch/National Coalition for Disability Rights at (202) 448-9928, or Jennifer Mathis or Lewis Bossing of the Judge David L. Bazelon Center for Mental Health Law at (202) 467-5730.

Sincerely,

Alexander Graham Bell Association for the Deaf and Hard of Hearing
American Association for Affirmative Action
American Association on Health & Disability
American Association of People with Disabilities
American Diabetes Association
ADA Watch/National Coalition for Disability Rights
Association of Programs for Rural Independent Living
Autism Society of America
Burton Blatt Institute
Disability Rights Education and Defense Fund
Empowerment for the Arts International
Epilepsy Foundation
Higher Education Consortium for Special Education
Judge David L. Bazelon Center for Mental Health Law
MindFreedom International
National Association of the Physically Handicapped.
National Association of Social Workers
National Association of State Head Injury Administrators
National Center for Environmental Health Strategies, Inc.
National Center for Learning Disabilities
National Council on Independent Living
National Disability Institute
National Disability Rights Network
National Down Syndrome Society
National Spinal Cord Injury Association
Teacher Education Division of the Council for Exceptional Children
United Church of Christ Disabilities Ministries Board of Directors
United Spinal Association