STATEMENT OF CARTER G. PHILLIPS, MANAGING PARTNER

SIDLEY AUSTIN, LLP, WASHINGTON D.C.

THANK YOU, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. IT IS AN HONOR AND A PRIVILEGE TO HAVE THE OPPORTUNITY TO TESTIFY BEFORE THIS COMMITTEE IN FAVOR OF THE CONFIRMATION OF JUDGE SAMUEL A. ALITO TO BE AN ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT. I BELIEVE IT SHOULD BE CLEAR TO ANYONE WHO HAS WATCHED THE HEARINGS DURING THE PAST FEW DAYS THAT JUDGE ALITO IS A BRILLIANT JURIST WHOSE 15 YEARS OF EXPERIENCE ON THE BENCH AND MORE THAN 25-YEAR CAREER OF DISTINGUISHED GOVERNMENT SERVICE HAVE MORE THAN PREPARED HIM TO BE A SUPERB JUSTICE ON THE UNITED STATES SUPREME COURT.

MY PURPOSE IN APPEARING HERE TODAY IS TO SHARE WITH YOU MY OWN EXPERIENCES WITH JUDGE ALITO DURING THE TIME THAT WE WORKED TOGETHER AS ASSISTANTS TO THE SOLICITOR GENERAL FROM JUNE 1981 UNTIL OCTOBER 1984, WHEN I LEFT GOVERNMENT SERVICE TO PRACTICE PRIVATELY HERE IN WASHINGTON. SINCE THAT TIME MY PRACTICE PRIMARILY HAS BEEN BEFORE THE SUPREME COURT WHERE I HAVE ARGUED ALMOST 50 CASES. I BELIEVE I AM QUALIFIED TO COMMENT BOTH ON THE JUDGE'S PROFESSIONAL AND PERSONAL QUALITIES AND HOW THEY MAKE HIM EXTREMELY WELL SUITED TO BE A SUPREME COURT JUSTICE.

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

JUDGE ALITO AND I INTERVIEWED FOR OUR POSITIONS IN THE SOLICITOR GENERAL'S OFFICE THE SAME DAY. LIKE ME, JUDGE ALITO HAD APPLIED TO JUDGE WADE McCREE, THE SOLICITOR GENERAL OF THE UNITED STATES DURING THE CARTER ADMINISTRATION, AND WE WERE BOTH INTERVIEWED BY JUDGE McCREE AND THE FOUR DEPUTIES IN THE OFFICE. WE SPENT A SOMEWHAT AWKWARD LUNCH TOGETHER THAT DAY BECAUSE WE WERE BOTH INTERVIEWING FOR THE SAME JOB AND WERE SEATED BY OURSELVES RATHER THAN WITH THE OTHER LAWYERS IN THE SG'S OFFICE. BUT FROM THAT CONVERSATION WE DEVELOPED A FRIENDSHIP THAT DEEPENED WHEN IT TURNED OUT THAT WE BOTH WERE HIRED BY JUDGE McCREE TO BE ASSISTANTS AND WE BOTH BEGAN OUR EMPLOYMENT IN JUNE 1981, WHILE THE JUDGE WAS STILL THE SOLICITOR GENERAL.

IT WAS CLEAR TO ME THEN AND IS STILL CLEAR TO ME THAT JUDGE ALITO DID NOT BRING WITH HIM ANY KIND OF AGENDA TO THE POSITION OF ASSISTANT TO THE SOLICITOR GENERAL. HE WOULD HAVE BEEN JUST AS COMFORTABLE IN THAT POSITION WHETHER THE PRESIDENT WAS JIMMY CARTER OR RONALD REAGAN AND WHETHER THE SOLICITOR GENERAL WAS WADE McCREE OR REX LEE.

JUDGE ALITO'S SOLE INTEREST WAS TO BE THE MOST EFFECTIVE APPELLATE AND SUPREME COURT ADVOCATE HE COULD BE ON BEHALF OF THE INTERESTS OF THE UNITED STATES. TO SAY HE WAS SUPERB IN THAT POSITION

IS AN UNDERSTATEMENT. HIS BRIEFS WERE THOUGHTFUL AND HIS WRITING WAS POWERFUL AND EFFECTIVE. HE WAS A PRODIGIOUS WORKER; TYPICALLY, HE WAS IN THE OFFICE BEFORE I ARRIVED AND STAYED UNTIL LONG AFTER I HAD GONE HOME.

JUDGE ALITO WAS AN EXTRAORDINARY RESOURCE BOTH TO ME AND TO THE OTHER LAWYERS. THE SG'S OFFICE IS VERY SMALL; THERE ARE ONLY ABOUT 20 ASSISTANTS AND IN THOSE DAYS, THE COURT WAS HEARING 160 CASES AND THE OFFICE WAS PARTICIPATING IN ABOUT 120 OF THEM. IT WAS EXTREMELY HECTIC AND IT WAS NECESSARY FOR EACH OF US TO BE ABLE TO RELY UPON OTHER ASSISTANTS TO BOUNCE IDEAS OFF OF AND TO GET FEEDBACK ABOUT WHAT KINDS OF ARGUMENTS IN A BRIEF OR MEMORANDUM WOULD BE EFFECTIVE. I SPENT MANY HOURS WITH JUDGE ALITO IN THAT PROCESS, IN PART, BECAUSE HE WAS VERY GENEROUS WITH HIS TIME, BUT ALSO BECAUSE HIS BREADTH OF KNOWLEDGE AND KEEN INTELLECT MADE HIM PERFECT FOR THOSE KINDS OF DISCUSSIONS. NO MATTER WHAT THE CASE INVOLVED OR HOW COMPLICATED IT WAS, HE FULLY UNDERSTOOD THE LEGAL PROBLEM AND PROVIDED MEANINGFUL FEEDBACK ABOUT HOW BEST TO APPROACH IT. HE WAS A VERY SPECIAL COLLEAGUE AND SOMEONE I WAS PROUD TO SERVE WITH AND APPRECIATED ALWAYS.

I ALSO HAD THE PRIVILEGE OF WATCHING JUDGE ALITO ARGUE BEFORE THE SUPREME COURT. AS HE HAS DEMONSTRATED DURING THESE HEARINGS,

HE IS AN ORAL ADVOCATE OF UNSURPASSED SKILL. I WITNESSED JUDGE ALITO PREPARE FOR AND PRESENT THE ARGUMENT IN THE *FCC v. LEAGUE OF WOMEN VOTERS* CASE WHEN HE WAS TOLD ON A FRIDAY THAT HE WOULD BE ARGUING THIS VERY DIFFICULT FIRST AMENDMENT CASE THE NEXT WEEK BECAUSE ANOTHER LAWYER IN THE OFFICE WAS SUDDENLY UNAVAILABLE TO ARGUE THE CASE. THE JUDGE'S PRESENTATION WAS MASTERFUL. THERE ARE VERY FEW LAWYERS WHO COULD HAVE DONE WHAT HE DID, MUCH LESS ACCOMPLISH IT WITH GRACE AND EFFECTIVENESS.

I KNOW THAT THERE HAS BEEN SOME CONCERN EXPRESSED AS TO WHETHER JUDGE ALITO HAD SOME KIND OF IDEOLOGICAL AGENDA DURING HIS TIME IN THE SOLICITOR GENERAL'S OFFICE. I SPOKE WITH HIM ALMOST EVERY DAY ON DOZENS, IF NOT HUNDREDS, OF CASES DURING THE MORE THAN THREE YEARS WE WORKED TOGETHER IN THAT OFFICE. I NEVER ONCE HEARD HIM MAKE AN ARGUMENT THAT REFLECTED ANY PARTICULAR POLITICAL VIEWS. TO THE CONTRARY, JUDGE ALITO'S FOCUS WAS SOLELY ON WHAT ARGUMENTS COULD BE MADE THAT WOULD BEST PROMOTE THE INTERESTS OF HIS CLIENT, THE FEDERAL GOVERNMENT. HE WAS THE CONSUMMATE PROFESSIONAL AND SOMEONE I ADMIRED GREATLY.

INDEED, AS I LOOK BACK ON THOSE YEARS, I AM STRUCK THAT OUT OF ALL OF THE LAWYERS WHO SERVED WITH JUDGE ALITO AND ME, HE WAS THE ONE WHO WAS NOMINATED TO THE FEDERAL BENCH. HE WAS SO COMPLETELY

NON-POLITICAL THAT I WOULD HAVE GUESSED HIM TO BE ONE OF THE LEAST LIKELY TO BE SELECTED TO BE A JUDGE AND NOW A JUSTICE.

SINCE JUDGE ALITO HAS BEEN ON THE THIRD CIRCUIT, I HAVE SEEN HIM DURING ORAL ARGUMENTS, READ A SUBSTANTIAL NUMBER OF HIS OPINIONS AND APPEARED BEFORE HIM. THOSE EXPERIENCES MERELY CONFIRM WHAT I ALREADY KNEW. HE IS A REMARKABLY GIFTED, DEDICATED AND FAIR PERSON WHO HAS PERFORMED SELFLESSLY AND ADMIRABLY AS A PUBLIC SERVANT FOR MORE THAN 25 YEARS. IF THERE WERE A CATEGORY ABOVE "WELL QUALIFIED" IN THE AMERICAN BAR ASSOCIATION'S RANKING SYSTEM, HE WOULD HAVE DESERVED THAT RANKING. HIS OPINIONS ARE CLEAR, TO THE POINT AND ELEGANT. HIS DEMEANOR ON THE BENCH IS ERNEST AND RESPECTFUL. HIS QUESTIONS REFLECT THAT HE IS WELL PREPARED AND UNDERSTANDS THE ISSUES FULLY.

GIVEN MY PERSONAL EXPERIENCE WITH JUDGE ALITO AS A PROFESSIONAL AND MY EXPERIENCE IN PRACTICING BEFORE THE SUPREME COURT, WHICH INCLUDES ALMOST 50 ORAL ARGUMENTS BEFORE THAT COURT, I AM ABSOLUTELY CERTAIN THAT JUDGE ALITO WILL BRING HONOR TO THE COURT AND WILL DISTINGUISH HIMSELF AS AN OUTSTANDING JUSTICE. I URGE THE COMMITTEE AND THE FULL SENATE TO VOTE TO CONFIRM JUDGE ALITO TO SIT ON THE UNITED STATES SUPREME COURT AS AN ASSOCIATE JUSTICE. MR. CHAIRMAN, THANK YOU FOR ALLOWING ME TO APPEAR.