

Ms. BRADSTREET. That is correct, Senator.

The CHAIRMAN. Carlos Ortiz is the national president of the Hispanic National Bar and has been before this committee—the bar has been represented here and is one of the premier organizations in the country, and we are delighted to have you here to testify.

John Feerick is the president of the Association of the Bar of the City of New York. He is also the dean of one of the fine law schools in the country, Fordham Law School.

Also from a previous panel—and we apologize if we have confused you, Mr. Wiesenfeld, as to when we were going to ask you to be here, but thank you for being here. I am looking for your bio here as I go through my—anyway, you were a client of the soon-to-be-Justice.

Mr. WIESENFELD. Stephen Wiesenfeld from *Weinberger v. Wiesenfeld*.

The CHAIRMAN. Yes, but we had more information about you as well I was going to read in the record, but if you are satisfied with that description and that introduction we'll let it stand.

Why don't we begin in the order that I have asked you to testify and, Ms. Bradstreet, why don't you begin your testimony. Thank you for coming across the country to be here.

PANEL CONSISTING OF ANGELA M. BRADSTREET, CALIFORNIA WOMEN LAWYERS, SAN FRANCISCO, CA; CARLOS G. ORTIZ, PRESIDENT, HISPANIC NATIONAL BAR ASSOCIATION; JOHN D. FEERICK, PRESIDENT, ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK; AND STEPHEN WIESENFELD, FORT LAUDERDALE, FL

STATEMENT OF ANGELA M. BRADSTREET

Ms. BRADSTREET. Thank you, Senator. It has been the thrill of a lifetime.

Chairman Biden, distinguished members of this committee, I am deeply honored to be here on behalf of California Women Lawyers to express our strong support of President Clinton's nomination of Judge Ruth Bader Ginsburg as an Associate Justice of the Supreme Court.

California Women Lawyers is, in fact, the largest women's bar association in the Nation, representing the interests of over 30,000 women attorneys in the State of California.

The CHAIRMAN. Excuse me for interrupting. When you say represent the interests, does that mean there are 30,000 women who are dues-paying members of the bar association?

Ms. BRADSTREET. We have about 10,000 who are actually dues-paying members of our organization, Senator.

The CHAIRMAN. Thank you very much.

Ms. BRADSTREET. By the way, I did get the statistics for your State, if you are interested.

The CHAIRMAN. I am.

Ms. BRADSTREET. Well, I got them from the American Bar Association yesterday, and there are 495 women attorneys out of a total of 2,150.

The CHAIRMAN. Well, 25 percent; we are getting there.

Ms. BRADSTREET. Yes.

Our mission, Senator, is the advancement of women in the legal profession and the complete eradication of gender bias in our society. We are privileged to currently be assisting Senator Feinstein in her tireless work on issues affecting women, and it is a special honor to be appearing before our first senior woman Senator from California.

After a thorough and formal evaluation process involving a review of her legal opinions, cases argued, writings, and interviews with respected peers which examined her intellectual qualifications, judicial temperament, lack of bias, and analytical skills, California Women Lawyers found Judge Ruth Ginsburg to merit the highest rating possible to serve as an Associate Justice.

Judge Ginsburg's contribution as a pioneer of women's rights cannot be overstated, for, as has been noted, she won five of the most important sex discrimination cases that have ever before been argued before the Supreme Court of the United States. Indeed, the case of *Frontiero* has been hailed as a landmark decision in establishing gender parity as a constitutional mandate in the workplace.

When only 20 years ago she persuaded a majority of Justices that a law which, in essence, denied a working woman equal pay to a working man, Judge Ginsburg forged not only a dynamic reinterpretation of the equal protection clause, but also a fundamental positive change in society's previous stereotypical attitudes toward women in the workplace.

Her explicit recognition that, and I quote:

The shape of the law on gender-based classification indicates and influences the opportunity women will have to participate as men's full partners in the Nation's social, political and economic life.

is cause for great optimism that this nominee's presence on the Supreme Court will make a major difference in the achievement of complete gender equality for all.

Her prolific writings also demonstrate that Judge Ginsburg recognizes and will work earnestly to protect a woman's right to choose. Her approach to choice, suggesting that a constitutionally protected sex-equality perspective should also be adopted, in addition to a due process privacy perspective, is a well-reasoned one, for the notion that we as women should be in control of our own destiny is crucial to our attaining an equal place in society.

It is therefore, Mr. Chairman, particularly apt that the appointment of one who has paved the way for women's equality as the second woman Justice on the Supreme Court should symbolize an historic departure from the tokenism that has traditionally existed in the appointment of women to positions of power.

With still only 14.5 percent of circuit court positions and barely 13 percent of district court positions being filled by women today, Judge Ginsburg's appointment to the highest court in the land will take this Nation a giant step forward in shattering the glass ceiling of our legal profession and indeed in other professions, too.

In conclusion, California Women Lawyers most respectfully urges the distinguished members of this committee to vote in favor of the nomination of this outstanding woman to whom all women today owe a great debt.

Thank you so much.

[The prepared statement of Ms. Bradstreet follows:]

PREPARED STATEMENT OF ANGELA M. BRADSTREET

Senator Biden and distinguished Senators: I am deeply honored to be here on behalf of California Women Lawyers to express our strong support of President Clinton's nomination of Judge Ruth Bader Ginsburg as an Associate Justice of the United States Supreme Court.

California Women Lawyers is the largest women's bar association in the nation, representing the interests of over 30,000 women attorneys in the State of California. Our mission is the advancement of women in the legal profession and the eradication of all forms of gender bias in our society generally. We are privileged to currently be assisting Senator Dianne Feinstein in her tireless work on issues affecting women.

After a thorough and formal evaluation process involving a review of her legal opinions, cases argued, writings and interviews with respected peers, which examined her intellectual qualifications, judicial temperament, lack of bias and analytical skills, California Women Lawyers found Judge Ruth Bader Ginsburg to merit the highest legal rating possible to serve as an Associate Justice of the Supreme Court, that is, exceptionally well qualified.

Judge Ginsburg's contribution as a pioneer of women's rights cannot be overstated. For she won five of the most important sex discrimination cases that have ever been argued before the Supreme Court of the United States. Indeed, the case of *Frontiero v. Richardson* has been hailed as a landmark decision in establishing gender parity as a constitutional mandate in the workplace. When twenty years ago she persuaded a majority of the Justices that a law automatically allowing married men in the military, but not married women, medical care benefits for a spouse in essence denied a working woman equal pay to a working man, Judge Ginsburg forged not only a dynamic reinterpretation of the equal protection clause, but also a fundamental change in society's previous stereotypical attitudes towards women in the workplace.

Indeed her explicit recognition that "the shape of the law on gender based classification * * * indicates and influences the opportunity women will have to participate as men's full partners in the nation's social, political and economic life" (*Some Thoughts on Autonomy and Equality in Relation to Roe v. Wade*, R. Ginsburg, 63 N. Carolina L.R., 375) is cause for great optimism that this nominee's presence on the Supreme Court will make a major difference in the achievement of complete gender equality for all.

Her prolific writings also clearly demonstrate that Judge Ginsburg recognizes, and will work earnestly to protect, a woman's right to choose. Her approach to choice, suggesting that a constitutionally protected sex-equality perspective should be adopted, rather than simply a due process privacy perspective, is a well reasoned one. For, the notion that we as women should be in control of our own destiny is crucial to our attaining an equal place in society.

It is, therefore, particularly apt that the appointment of one who has paved the way for women's equality all of her life as the second woman Justice on the Supreme Court of the United States should symbolize an historic departure from the tokenism that has traditionally existed in the appointment of women to positions of power. With still only 14.5 percent of Circuit Court positions and barely 13 percent of District Court positions filled by women today (U.S. Department of Justice), Judge Ginsburg's appointment to the highest court in the land will take this nation a giant step forward in shattering the legal glass ceiling.

In conclusion, California Women Lawyers applauds President Clinton for his outstanding nomination and I respectfully urge the distinguished members of this Committee to vote in favor of this nomination.

Thank you very much.

The CHAIRMAN. Thank you very much for your testimony.
Mr. President. It has a nice ring to it, doesn't it?

STATEMENT OF CARLOS G. ORTIZ

Mr. ORTIZ. It sounds OK.

Thank you very much, Chairman Biden and members of the Senate Judiciary Committee. I bring you greetings from the many thousands of Hispanic-American attorneys from around the country, many of whom are your constituents in your respective States.

On behalf of the Hispanic National Bar Association, I want to tell you that we are privileged to once again appear before your

committee. We have testified in four of the last five nominations, I believe, now, and we take it very seriously and consider it very important.

The CHAIRMAN. And we take your views very seriously.

Mr. ORTIZ. Thank you. Based upon the HNBA's investigation, Senator, and review of Judge Ginsburg's record, we support her nomination and we find that she is highly qualified to serve on the U.S. Supreme Court.

The HNBA is the only national organization that represents thousands of Hispanic American attorneys throughout this country. The HNBA has supported and opposed judicial nominees across the political spectrum. Therefore, we do not expect nominees to adhere to any particular ideology. Instead, we review a person's overall record, scholarship and philosophy. In each of these areas, Judge Ginsburg has an exceptional record, particularly in her path-breaking litigation on behalf of women victimized by discriminatory policies and practices.

Many Hispanics, including many thousands of Hispanic women across the Nation, have been the beneficiaries of her legal reform efforts, which are in the finest American legal tradition. Judge Ginsburg enjoys a reputation as an extraordinarily intelligent student of the law. Her academic record is excellent, as you have already heard from numerous witnesses. Judge Ginsburg has a stellar record as a law professor and as a prolific scholar on women's rights, comparative law, and civil procedure, again, as you have heard from many speakers that have preceded us.

As an advocate, Judge Ginsburg played a pivotal role in women's causes. Judge Ginsburg has an exemplary record of advocacy for civil rights and equal protection of women in America, and it is therefore our hope that Judge Ginsburg will be equally committed to equal protection and justice for Hispanic Americans and other minorities who continue to suffer the abuses and indignities of racism and discrimination in America.

The discrimination Hispanic Americans experience is widespread and varied. For example, an anti-immigrant sentiment is growing throughout our Nation. It has been caused in part by the slowdown in the economy and threatens the civil rights of all Hispanics, as well as other minorities residing in this country.

Another example of the injustices suffered by Hispanic Americans is the same sort of employment discrimination suffered by Judge Ginsburg herself merely because of her gender when she attempted to enter the job market upon graduation from law school. Employment discrimination is a daily experience for many Hispanic Americans. The unemployment rate for Hispanic Americans nationally and in many of the States you represent, like Illinois, Arizona, California, Massachusetts, is tragically high, and even those Hispanics who have attained a college education are confronted with a glass ceiling barring their promotion and advancement.

To remedy these and other social ills afflicting Hispanics, the Hispanic community will be increasingly turning to the courts and ultimately to the Supreme Court for relief and for enforcement of our civil and constitutional rights.

As a jurist, Judge Ginsburg has had an equally outstanding career. Having carefully reviewed her opinions, the HNBA finds Judge Ginsburg to be fair and conscientious. Her opinions call for the equal treatment and advancement of all those who live within our country's boundaries. Judge Ginsburg has responded sensitively to the needs of our country's women and minorities. She has been on the side of change—change toward shared participation by all members of our society in our Nation's economic and social life. Her work has been devoted to a broad vision of participatory democracy.

The HNBA knows that Judge Ginsburg will bring to the Supreme Court her unique and sensitive life experiences. We hope that she is able to project her life experiences of gender and religious discrimination to the plight of discrimination against Hispanic-Americans in many forms, including education, employment, housing, voting rights, immigration, health, social services, et cetera, and the list goes on and on.

Other victims of discrimination share our high hopes for Judge Ginsburg as Justice Ginsburg also. They believe that, given her outstanding leadership in fighting gender discrimination, Judge Ginsburg would likely be sensitive to discrimination across-the-board.

On a related and important note, we urge you, the members of this committee, to remember that the Hispanic community today faces the same formidable barriers of neglect and opposition that Judge Ginsburg encountered in her early career. In your own judicial recommendations, nominations and confirmations, we encourage you to draw from among the talented pool of Hispanic-Americans throughout our country's legal communities.

We also ask you to pay particular attention to the pressing need for Hispanic-Americans to sit and serve with distinction on the Nation's Federal courts, especially in such States as Illinois and Massachusetts where significant populations of Hispanic-Americans have never had an Hispanic Federal judge. We hope you will continue to view the HNBA as a resource in helping to make our Nation a better place for all Americans.

Before concluding our statement, we must express our sincere hope that the next nominee to the U.S. Supreme Court who comes before the Senate Judiciary Committee will be an Hispanic-American. Just as we believe the Nation will benefit from the appointment of Judge Ginsburg, we also strongly believe that our Nation needs and would greatly benefit from an Hispanic American—actually, the first ever Hispanic-American Supreme Court Justice.

In closing, the HNBA finds Judge Ginsburg highly qualified to serve on the United States Supreme Court and we look forward to her distinguished service.

Thank you.

[The prepared statement of Mr. Ortiz follows:]

PREPARED STATEMENT OF THE HISPANIC NATIONAL BAR ASSOCIATION

Chairman Biden, members of the Senate Judiciary Committee:

The Hispanic National Bar Association (HNBA) is privileged to present testimony to this Committee. Based upon the HNBA's investigation and review of Judge Ruth Bader Ginsburg, we support her nomination and find that she is highly qualified to serve on the United States Supreme Court.

The HNBA is the only national organization that represents thousands of Hispanic American attorneys throughout this country. The HNBA is a nonpartisan organization, and has supported and opposed judicial nominees across the political spectrum. Therefore, we do not expect nominees to adhere to any particular ideology, instead, we review a person's overall record, scholarship, and philosophy. In each of these areas, Judge Ginsburg has an exceptional record, particularly in her pathbreaking litigation on behalf of women victimized by discriminatory policies and practices. Many Hispanics have been the beneficiaries of her legal reform efforts, which are in the finest American legal tradition.

One of Judge Ginsburg's former classmates (now a state Supreme Court Justice in New Jersey) has described her as an extraordinarily intelligent student who was never arrogant about her intelligence. Her academic record is excellent. This is reflected in her graduation with honors from Cornell University and from Harvard and Columbia Law Schools.

Judge Ginsburg has a stellar record as a law professor, and as a prolific scholar in women's rights, comparative law, and civil procedure. She enjoyed a reputation for devotion to her students and to her scholarship. As a professor, Judge Ginsburg was a pioneer, becoming the first woman in the history of Columbia Law School to become a full professor and only the second woman to be hired by Rutgers Law School-Newark. Her publications are significant, reflecting insight and expertise in many areas.

As an advocate, Judge Ginsburg played a pivotal role in women's causes. While serving as counsel to the American Civil Liberties Union, she won five of six gender bias cases argued before the United States Supreme Court. She saw the need for action against gender discrimination and fashioned an incremental strategy to fight it. Judge Ginsburg has an exemplary record of advocacy for the civil rights and equal protection of women in America, and it is therefore our hope that Judge Ginsburg will be equally committed to equal protection and justice for Hispanic Americans, who continue to suffer the abuses and indignities of racism and discrimination in America.

The discrimination Hispanic Americans experience is widespread and varied. For example, an anti-immigrant sentiment is growing throughout our nation. This anti-immigrant sentiment has been caused in part by the slow-down of the economy and threatens the civil rights of all Hispanics as well as other minorities residing in this country. Moreover, Hispanics continue to be disproportionately represented in our jails and prisons for many reasons rooted in discrimination, while largely under-represented in our colleges, universities, and institutions of higher education for those same reasons. This has prompted the suggestion that we have dual systems of justice and of education in America.

Another example of the injustices suffered by Hispanic Americans is the sort of employment discrimination Judge Ginsburg herself faced when she attempted to enter the job market upon graduation from law school. Despite her sterling academic record, Judge Ginsburg was denied a United States Supreme Court clerkship and was turned away from numerous New York law firms because of her gender. Employment Discrimination is a daily experience for many Hispanic Americans. The unemployment rate for Hispanics in America is tragically high and even those Hispanics who have attained a college education are confronted with a "glass ceiling", barring their promotion and advancement. To remedy these and other social ills afflicting Hispanics, we will be turning increasingly to the courts, and ultimately to the Supreme Court, for relief and for enforcement of our civil and constitutional rights.

As a jurist, Judge Ginsburg has had an equally outstanding career. As a D.C. Circuit Court judge, Judge Ginsburg has addressed issues involving federal law on a daily basis. Because of the unique subject matter jurisdiction of the District of Columbia Circuit Court, Judge Ginsburg's current judgeship provides her with an excellent background for dealing with issues that will come before the United States Supreme Court. Judge Ginsburg is described as one who can bring people together and is committed to a collegial attitude. Former colleagues describe Judge Ginsburg as a healer who takes a very thoughtful, measured approach to problems. They have stated that she can bring people together because of her ability to listen and be fair. They believe she will have the ability to build consensus on the High Court.

Having carefully reviewed her options, the HNBA finds Judge Ginsburg to be a fair and conscientious judge. Her opinions call for the equal treatment and advancement of all those who live within our country's boundaries. Judge Ginsburg has responded sensitively to the needs of our country's women and minorities. She has been on the side of change—change toward shared participation by all members of our society in our nation's economic and social life.

Judge Ginsburg lectured on the role of women and the Constitution at the 1987 Eighth Circuit Judicial Conference in Colorado Springs, Colorado. There, she noted that the Constitution, as written in 1787, was a document for white, propertied adult males and she therefore rejected strict interpretation of the Framers' original intent as an unworkable form of Constitutional interpretation. She stated, "We still have, cherish and live under our eighteenth century Constitution because, through a combination of three factors or forces—change in society's practices, constitutional amendment, and judicial interpretation—a broadened system of participatory democracy has evolved, one in which we take just pride." Her life's work has been devoted to a broad vision of participatory democracy.

The HNBA knows that Judge Ginsburg will bring to the Supreme Court her unique life's experiences and sensitivity. We hope that she is able to project her life's experience of gender and religious discrimination to the plights of discrimination against Hispanic Americans in many forms, including education, employment, housing, voting, immigration, health, and social services, etc. Indeed, the HNBA hopes that Judge Ginsburg lives up to the 1987 speech that she gave in Colorado Springs. Specifically, we applaud her perspective that judicial interpretation can broaden the system of participatory democracy to include Hispanics to a greater degree than has occurred in this country's past history.

Other victims of discrimination share our high hopes for Judge Ginsburg as Justice Ginsburg. Anne H. Franke, counsel for the American Association of University Professors said of Judge Ginsburg, "We are very impressed by her dedication to discrimination cases. Having that kind of history of being a leader in the gender-discrimination area means she would likely be sensitive to discrimination across the board." Kenneth S. Tollett, an expert on desegregation law and a professor of higher education at Howard University, predicts that Judge Ginsburg's experience with sex discrimination would make her sensitive to problems facing African American students and historically African American colleges and is optimistic about her judicial perspective.

Judge Ginsburg has often been mentioned as a prospect for the Supreme Court, but that has neither prevented her from publicly addressing politically difficult and complex issues nor from making her views known. This is the type of courage that we expect of a United States Supreme Court Justice. The HNBA believes Justice Ginsburg will be as courageous and insightful as a member of our nation's highest court as she has been as an advocate for women, and as a judge on the Court of Appeals.

On a related and important note, we urge you to remember that the Hispanic community today faces the same combination of neglect and opposition Judge Ginsburg encountered in her early career. In your own judicial nominations, recommendations, and confirmations we encourage you to draw from among the talented pool of Hispanic Americans throughout our country's legal communities. The formal and informal barriers we face are as formidable as those Judge Ginsburg once encountered.

It must be noted that while we are pleased with the nomination of Judge Ginsburg, we are deeply disappointed that a Hispanic American has never been named to the United States Supreme Court. The HNBA persists in urging that a voice be given to the approximately 25 million Hispanic-Americans who now constitute the second largest and the fastest growing minority group in our nation. If our nation's highest court is to adequately reflect our nation's population and avoid the risk of losing its legitimacy, a Hispanic American must be appointed to the Court. Just as we believe the nation will benefit from the appointment of Judge Ginsburg, we also strongly believe that our nation needs—and would greatly benefit from—the appointment of a Hispanic American Supreme Court Justice.

We also ask you to pay particular attention to the pressing need for more Hispanics to sit and to serve with distinction on the lower federal courts. Hispanic-Americans are grossly under-represented in the judiciary in many regions of our nation. Houston, Texas, for example, a city with a significant Hispanic population, has no Hispanic federal judges. The state of Illinois has never had an Hispanic on any of its federal courts. In our nation's capital, the District of Columbia Circuit Court of Appeals, which will have a vacancy when Judge Ginsburg is elevated, has never had an Hispanic appointment. Moreover, there is no active Hispanic American judge today on any of our Circuit Courts of Appeals appointed by a Democratic President. The HNBA stands ready to assist you in locating Hispanic American talent. The HNBA has identified many highly qualified Hispanic American potential nominees.

In closing, the HNBA finds Judge Ginsburg highly qualified to serve on the United States Supreme Court and we look forward to her distinguished service.

Thank you for the opportunity to testify. I am willing to use the rest of my time to respond to any questions or comments the Committee may have of the HNBA.

The CHAIRMAN. Thank you very much.
Mr. Feerick.

STATEMENT OF JOHN D. FEERICK

Mr. FEERICK. Senator Biden and members of the committee, my name is John Feerick and I am the current president of the Association of the Bar of the City of New York. I appreciate very much the opportunity to testify today regarding the nomination of Judge Ginsburg.

I am joined by Helene Barnett, who sits immediately behind me, who chaired the subcommittee of the governing body of our association that conducted the evaluation on behalf of our association.

The CHAIRMAN. Welcome, Ms. Barnett.

Mr. FEERICK. As this committee is aware, the Association of the Bar of the City of New York is one of the oldest bar associations in the country and, since its founding in 1870, has given priority to the evaluations of candidates for judicial office. As far back as 1874, the association has reviewed and commented on the qualifications of candidates for the U.S. Supreme Court. It is a particular honor to participate in this confirmation process for this particular nominee, who is also a member of our association and served on our executive committee from 1974 to 1978.

In May 1987, our association adopted a policy that directs the executive committee, our governing body, to evaluate all candidates for appointment to the U.S. Supreme Court. The executive committee has developed an extensive procedure for evaluating Supreme Court nominees, including a process for conducting research, seeking views of persons with knowledge of the candidate and of our membership of more than 19,000 dues-paying members of the New York and other bars. As well, we evaluate the information received and express a judgment on the qualifications of a person for the U.S. Supreme Court.

Judge Ginsburg is the first nominee to be evaluated under our recently adopted set of guidelines. The association's effort, as I have already noted, was undertaken by a subcommittee of our executive committee and our committee on the judiciary, which joint committee was chaired by Helene Barnett.

In examining the qualifications of Judge Ginsburg, the following materials were reviewed by our association: all of her more than 300 written opinions, concurrences and dissents while sitting on the U.S. Court of Appeals for the District of Columbia; her published articles and lectures; information relating to Judge Ginsburg's 1980 D.C. Circuit nomination and confirmation; comments solicited from association members presented in writing and at a forum held at our association; and news articles, commentaries and other materials with regard to the nomination.

Members of the executive committee also interviewed Judge Ginsburg. In addition, dozens of interviews were conducted with her judicial colleagues, academic colleagues, and former law clerks, and lawyers who litigated with and against or argued before Judge Ginsburg.

Our executive committee, upon evaluating the qualifications of Judge Ginsburg, passed a resolution at its meeting of July 14, 1993, finding her qualified to be a Justice of the U.S. Supreme

Court based on our committee's affirmative finding that she possesses to a substantial degree all of the qualifications enumerated in the association's guidelines for evaluations of nominees to the U.S. Supreme Court—exceptional legal ability, extensive experience and knowledge of the law, outstanding intellectual and analytical talents, maturity of judgment, unquestionable integrity and independence, a temperament reflecting a willingness to search for a fair resolution of each case before the Court, a sympathetic understanding of the Court's role under the Constitution in the protection of the personal rights of individuals, and an appreciation of the historic role of the U.S. Supreme Court as the final arbiter of the meaning of the United States Constitution, including a sensitivity to the respective powers and reciprocal responsibility of the Congress and the Executive.

The association's guidelines do not provide for gradations of ratings, and thus only permit a rating of qualified or unqualified. These guidelines do, however, establish a very high standard, a standard which, in our opinion, Judge Ginsburg clearly meets.

We look forward to a long and exceptional career on the Supreme Court for Judge Ginsburg, and I am once again very grateful to you and this committee for the opportunity to share those views with you.

[The prepared statement of Mr. Feerick follows:]