John Engler
President
National Association of Manufacturers
Senate Judiciary Committee
September 15, 2005

Mr. Chairman, Senator Leahy and distinguished members of the committee.

My name is John Engler, President of the National Association of Manufacturers (NAM), the nation's largest industrial trade association representing small and large manufacturers in every industrial sector and in all 50 states.

I am pleased to be here today to testify in support of the nomination of Judge John Roberts to be the next Chief Justice of the United States.

This is an important moment for the NAM, because it is the first time that we have participated in a proceeding of this type. I would like to take a minute to explain why we have taken this historic step.

When I joined the NAM on October 1st of last year, I brought with me 20 years of experience in the Michigan legislature, and 12 years as Governor, from 1991 to 2003.

As Governor, I found that Michigan businesses were facing crushing legal costs and barriers.

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I also learned that laws I helped write in the State Senate or signed as Governor were in many instances ignored, rewritten or set aside by judges unclear about or dismissive of their sworn duties.

In part because of this, the legal environment for doing business in Michigan had become unpredictable, unfavorable and unacceptable.

As Governor, I set out to change this by recruiting to the bench individuals who were committed to uphold the law and not legislate in the courtroom.

During my 12 years as Governor, I appointed more than 200 judges. That includes three State Supreme Court justices, who had a record of faithfully interpreting and applying the law.

As a result of these appointments, coupled with equally needed tort reform legislation, cases filed in the Michigan Circuit Courts dropped by 17% percent between 1997 and 2004. The legal cost of doing business in Michigan declined.

When the time came for the justices I had appointed to run for reelection, despite significant opposition from certain personal injury lawyers, who were the one group that profited from the prior unpredictable and unstable legal climate, my appointees to the Supreme Court were reelected.

Their reelection happened in significant part because the people of Michigan came to understand that the certainty and predictability that

judges help foster when they follow the law not only lead to a better business climate, but are key to jobs and prosperity.

The same is true at the national level. Nationally, our legal system consumes 2.3% of GDP, and its cost is 7 and one-half times as high as that of any of our trading partners.

The high cost of lawsuit abuse continues to be an impediment to our ability to compete in the global economy.

Of course, much of the solution to this does not lie in the federal courts, but in the Congress and the State legislatures, which must write clear laws that recognize these realities. That is why the NAM continues to advocate asbestos reform and continued tort reform, such as product liability.

That said, to achieve a business environment that is fair and predictable, and where the rules are clearly spelled out and adhered to, it is essential to have judges who will apply the rules the legislature establishes in a fair and predictable manner, and the United States Supreme Court must set the example.

The need for fairness and predictability is why the NAM decided that the time had come to take positions on judicial nominations.

After reviewing Judge John Roberts' record, the NAM is convinced that he is eminently qualified to lead the Court.

Judge Roberts has the intellect and experience needed to understand and address complicated transactions and difficult legal problems. At the

same time, he is committed to applying the law rather than applying his own personal views.

This philosophy is essential if we are to remain a nation guided by the rule of law.

Finally, he understands the importance of clarity when deciding cases and the practical consequences of decisions for business.

I should add that none of the current members of the Court comes from a recent private sector background. Judge Roberts does. Accordingly, if he is confirmed, Justice Roberts will add an important voice to the Court's deliberations because of his strong experience of how litigation affects major commercial transactions.

This background will allow Judge Roberts to assist the Court both in identifying cases that present business issues of national importance for its review and in understanding the practical ramifications of rules set out through its decisions.

As I close, let me make clear that the NAM did not seek to determine if Judge Roberts will reach or is likely to reach particular outcomes "favorable to business."

The principal difficulty with an outcome-based approach is that the outcomes a Justice should reach depend on what the duly-enacted law is.

In many areas, different companies and businesses will disagree on what the "pro-business" result actually is.

Therefore, the NAM is not looking for a Justice who is biased in favor of or against business or whose decisions reflect or are likely to reflect a "pro-business" outlook, but rather for a Justice who will properly and impartially apply the law. We are convinced Judge Roberts will be such a Justice.

For all these reasons, Judge Roberts should be confirmed as the 17th Chief Justice of the United States.

I respectfully urge this committee to act in a timely manner and report Judge John Roberts' nomination to the full Senate with a recommendation that he be confirmed as Chief Justice of the United States.