Testimony of Beverly Jones before the Senate Judiciary Committee,
Regarding the Nomination of John Roberts for
Chief Justice of the United States Supreme Court

September 15, 2005

Statement of Beverly Jones

Chairman Specter, Members of the Judiciary Committee, Judge Roberts:
My name is Beverly Jones, and I am from Lafayette, Tennessee. I would like to begin by thanking the Committee for inviting me to testify in these proceedings concerning the confirmation of Judge Roberts to be Chief Justice of the United States Supreme Court. If Judge Roberts is confirmed, his decisions will impact the lives of Americans for decades to come. His decisions will help determine the quality of life afforded to many Americans. Today, as you consider John Roberts's nomination, you will not know what his decisions may or may not be, but I hope that as you deliberate on this nomination you will not underestimate the importance his role and decisions will have on everyone, including people like me. If I may, Mr. Chairman, I would like to share with you the importance that the Constitution, the law and the Supreme Court have had for my life, and for my rights as a person with a disability.

I was a plaintiff in *Tennessee v. Lane,* a disability rights case that went up to the Supreme Court concerning the rights of people with disabilities to have access to the courts in Tennessee. The Supreme Court took the case to decide whether I could enforce the rights that Congress gave me under the Americans with Disabilities Act.

When Congress passed the Americans with Disabilities Act in 1990, it found that individuals with disabilities "have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society based on characteristics that are beyond the control of such individuals and resulting from stereotypical assumptions not truly indicative of the ability of such individuals to participate in, and contribute to society." On July 26, 1990, when President George H.W. Bush signed the law, he reaffirmed this finding and declared that just as we tore down the Berlin Wall to free the people of Eastern Europe, we would tear down the barriers that keep people with disabilities from participating in society.

For me, the passage of the ADA was like opening a door that had been closed to me for so long. I lost my ability to walk due to a traffic accident in 1984, and have used a wheelchair since then. At the time I became disabled, I decided that I would not allow what I wanted in life to be denied because of my physical limitations. At the time of my accident, I was a wife and mother, but had little education and limited job skills. A local judge encouraged me to look into becoming a court reporter and from there my ambitions began.

I completed court reporting school the year that the Americans with Disabilities Act was passed. But, to my surprise, when I began my first assignments, I found that I could not get into many of Tennessee's courtrooms and courthouses because they were inaccessible to people who use wheelchairs. I was forced to turn down jobs, or face humiliating experiences.

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Approximately seven out of ten courthouses in Tennessee were inaccessible when I filed my suit. In some cases, I could not even get in the front door – or the side or back door. In the years following the passage of the ADA, some courthouses became more accessible. But even in 1998, when my lawsuit was filed, a number of the courthouses I worked in remained inaccessible to me. Courtrooms were located only on upper floors, and reachable only by climbing stairs. I was often forced to ask complete strangers to carry me up the stairs.

This experience was humiliating and frightening. But as a single mom supporting myself and two kids, I could not afford to quit my job or strictly limit my work to accessible courthouses. After the passage of the ADA, I worked tirelessly to bring to the attention of public officials throughout Tennessee the requirements of the law, and to encourage them to do what the law required in terms of making public buildings, including courthouses, accessible. I spoke to local, state, and federal officials. I talked with anyone who would listen. Almost all of the time, my inquiries were met with polite ambivalence; a shrug of a shoulder; a pat on the back; a comment about keeping it up. I just could not seem to get any action. I could not get anyone's attention. I filed a complaint with the Justice Department, however I never heard anything back from them. The door that I thought had been opened was still closed and my freedom to live my dream was still a dream, and turning into a nightmare. The law was not working for me. Nobody, including the state of Tennessee, took either me or the law seriously until I and others brought a lawsuit.

The first thing that the State of Tennessee did was to challenge the constitutionality of the ADA, and so my case went through the courts for six years without any court reaching the substance of my claims. In 2004, my case reached the United States Supreme Court, which voted by a 5-4 margin to uphold my right to enforce the protections that the ADA gave me. It was then that the importance of who was deciding the issues in my case struck me in a most direct way.

The Court's decision revolved around whether Congress had developed enough evidence to show that individuals with disabilities were in fact being unconstitutionally discriminated against by states. That was not required by the Court at the time the law was passed, but now it was a critical issue. In my case, five Justices including found that Congress had developed sufficient evidence to show unconstitutional discrimination in cases like mine and allowed my case to go forward. Many changes have already been made in Tennessee as a result of the ruling, and I am now able to do my job with much greater ease and without humiliation and danger.

My case is over. We have accomplished what we wanted to be achieved. But what I have been able to accomplish with the help of Congress is not the end of the issue. For me it would be a hollow victory and a horrible legacy to see *Tennessee v. Lane* as the end of the road. There are too many others who need the protections of the law and the Constitution.

In fact, disability rights under the ADA will be considered again on November 9, 2005, when the Supreme Court will hear a case called *Goodman v. Georgia*. This case involves a man who is in prison in Georgia; the case was brought by a man who is a paraplegic just like me. He requires a wheelchair to move about. This man is confined in a 12 foot by 3 foot cell for twenty-three to twenty-four hours a day because of the inaccessibility of the prison facilities. He has to sleep in his wheelchair because his bed

is inaccessible and he has suffered broken bones because of his attempts to transfer in the past. The prison chapel and prison library are inaccessible and so he cannot participate in those services like all of the other inmates. His toilet is not accessible and he has been required to sit in his own body waste because of that. He has been unable to take a shower for more than two years because of the fact that the showers are inaccessible. He has been denied medical care and physical therapy because of the fact that those facilities are inaccessible. On November 9, the Court will consider whether Congress has the power to ensure that this man will be permitted to access the same services as every other prisoner in that facility.

Just as I don't know Judge Roberts, I don't know Tony Goodman. I don't know if he is a good or bad person. But that is not the point. All I know is that just as I should not have had to endure the humiliation, embarrassment, fear and pain that I did for more than fourteen years, he should not either. And if John Roberts is confirmed to Chief Justice, he must know that there are many others like Tony Goodman who need the protection of the law.

The role that Judge Roberts will play in defining the boundaries of the Constitution and the power of Congress to protect citizens just like me is critical. It is my hope that the Senate – led by my own Senator, Bill Frist – will carefully review the record of John Roberts to determine if he is committed to the protection of the rights and freedoms of every American. This will be your last opportunity to have him explain to you what his opinions are about the role of Congress in protecting civil rights for everyone, including citizens with disabilities.

Now, I am not here today to prejudge Judge Roberts. But I do know that there are those within the disability community who believe that John Roberts's record with respect to disability rights raises serious concerns. I understand that Judge Roberts has advocated that the ADA should be narrowly interpreted to protect only the so-called, "truly disabled." And that he has also argued to restrict people's ability to go to court to enforce the protections of laws such as Medicaid – an extremely important law that provides basic health care for many people with disabilities who cannot afford that care on their own. And that in the past, he has advocated narrow views of the powers that Congress uses to pass civil rights laws.

Because my case involved Congress's power to enact the Americans with Disabilities Act, I understand just how important it is to ensure that the judges on our courts respect Congress's authority to provide protections that are so desperately needed. Without the protections that Congress guaranteed in the Americans with Disabilities Act, my life and the lives of millions of other people with disabilities would be a lot harder.

For all of these reasons, I urge the Senate to pay close attention to Judge Roberts' professed and proven ability to ensure that the rights that people with disabilities fought so hard to secure are not stripped away. Members of the Senate, I hope that you will give John Roberts's record very careful scrutiny before voting on this nomination. I hope that the rights of millions of Americans with disabilities are important enough to merit that type of careful consideration. Thank you.