

August 2, 2010

VIA FACSIMILE

Re: *Nomination of Solicitor General Elena Kagan to be Associate Justice of the Supreme Court of the United States*

Dear Senator:

The undersigned organizations committed to advancing and protecting women's rights and equality write in support of the nomination of Solicitor General Elena Kagan to be an Associate Justice of the Supreme Court of the United States. We have the greatest respect for Elena Kagan's outstanding accomplishments, considerable legal skills, and fair-mindedness. Her qualifications and her record give us great confidence that she will respect the rule of law and approach legal questions with the intent of the law and its contours as her guiding principles. In addition, we celebrate the fact that, by joining Justices Ginsburg and Sotomayor upon her confirmation, she will make history: for the first time, three women will serve simultaneously on the highest Court in the land. In addition, General Kagan will be only the fourth woman ever to have served on the Supreme Court in 221 years.

Elena Kagan is exceptionally qualified to be an Associate Justice of the Supreme Court. Her academic and legal credentials are of the highest caliber. After succeeding at Princeton, Oxford University, and Harvard Law School, she clerked for then-Circuit Court Judge Abner Mikva and subsequently for Justice Thurgood Marshall. Elena Kagan was one of only a handful of women to clerk for the Supreme Court during that term. She became a tenured law professor at the University of Chicago Law School in 1995, an accomplishment shared by very few women at that time: in 1994, only four women were tenured or even on tenure track at the Law School. She subsequently received tenure at Harvard Law School in 2001, and, in 2006, became the first woman to be Dean of the Law School in its almost two-hundred year history. She served as Associate Counsel to the President and deputy director of the White House Domestic Policy Council in the Clinton Administration, in which capacity she dealt with a broad range of legal and policy issues critical to women and their families. And, of course, in 2009, she became the first woman Solicitor General. Her performance in those most demanding roles has received widespread approbation. In addition to her record of extraordinary achievement and her experience with a broad array of legal issues, she has received the bipartisan support of nine former Solicitors General, over 50 former Deputy Solicitors General and Assistants to the Solicitor General, 69 law school deans, and nearly 30 of her former co-clerks on the Supreme Court, as well as a unanimous rating of Well-Qualified from the ABA's Standing Committee on the Federal Judiciary.

Moreover, Elena Kagan's record and testimony before the Senate Judiciary Committee support the conclusion that, if confirmed, her approach to legal questions would be open-minded, fair and impartial, and in keeping with the law's purpose and intent. Further, her record as a whole demonstrates that she will bring to the Court an understanding of and commitment to the rule of law and to equal justice. All Americans, but most especially women, rely upon our Constitution and laws to ensure that our

fundamental freedoms are protected, and upon the rule of law to ensure that fairness and equal opportunity are a reality in our daily lives. Women’s constitutional rights under the Equal Protection Clause and the right to privacy, as well as statutory protections in such areas as education, employment, health and safety, and economic welfare, have been of critical importance to them. Therefore, it is essential that any judicial nominee, and most especially a nominee to the Supreme Court, understand and demonstrate a commitment to protecting the legal rights of all Americans, including women’s rights.

Elena Kagan’s record and testimony indicate that she will fairly and faithfully apply constitutional and statutory protections important to women. For example, during her Supreme Court confirmation hearings, she demonstrated her understanding of the critical role that Justice Thurgood Marshall played regarding civil rights, as well as her support of heightened protections against sex discrimination under the Equal Protection Clause and the constitutional right to privacy. Her testimony was consistent with her record throughout her career – such as her experience during the Clinton Administration of working on antidiscrimination protections applicable at work, at school, and in many other spheres. Documents from her Supreme Court clerkship and her time as part of the Clinton Administration also reflect her support for the constitutional right to privacy and its application to women. Moreover, her decisions as Solicitor General, including to personally argue as *amicus* in *Robertson v. United States ex rel. Watson*, a constitutional challenge to a D.C. statute that allows victims of domestic violence to bring court actions for violation of restraining orders, evidences an understanding of the ways in which the legal system can affect those, like victims of domestic violence, who need its protections the most. Her record thus demonstrates the commitment to respect the law and the protections it provides to the women of the country that she would bring to the Court if confirmed. In short, Elena Kagan’s record demonstrates that she is a worthy successor to retiring Justice John Paul Stevens.

Even this brief review of Solicitor General Kagan’s record illustrates her outstanding accomplishments, considerable legal skills, respect for the rule of law, and understanding of the impact of the law in Americans’ daily lives. Moreover, when Elena Kagan is seated on the highest court in the land in the company of two other female Justices, the country will be one step closer to the day when it is not only accepted, but in fact expected, that women will be well-represented “in all places where decision are being made,” as Justice Ginsburg said. With this more representative bench, the quality of justice – for both men and women – will be enhanced.

We urge you to support the confirmation of Elena Kagan as an Associate Justice of the United States Supreme Court.

Sincerely,

National Women’s Law Center
Black Women’s Health Imperative
Coalition of Labor Union Women
Feminist Majority Foundation

Jewish Women International
Legal Momentum
National Asian Pacific Women's Foundation
National Association of Women Lawyers
National Congress of Black Women, Inc.
National Council of Jewish Women
National Council of Women's Organizations
National Latina Institute for Reproductive Health
National Organization for Women (NOW)
National Partnership for Women and Families
National Women's Political Caucus
Older Women's League
Turning Anger Into Change
Wider Opportunities for Women
Women Employed
Women's Law Center of Maryland, Inc.
Women's Research & Education Institute (WREI)