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ONE HUNDRED TENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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May 7, 2008

The Honorable Patrick J. Leahy
Chairman
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Arlen Specter
Ranking Member
U.S. Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Specter:

We are writing respectfully to oppose the confirmation of Grace Chung Becker as Assistant Attorney General of the Civil Rights Division (CRT) of the U.S. Department of Justice. We have serious concerns about her ability to lead the Division. First, Ms. Becker's recent positions on voting and education issues are hostile to civil rights and fall short of her obligation to advance the Division's historic and critical mission. Secondly, Ms. Becker does not have a civil rights background and therefore lacks the requisite qualifications necessary to effectively lead the Division. Finally, it appears that Ms. Becker's nomination represents a continuation of the Administration's efforts to politicize the Division and its decisions whether or not to initiate federal investigations and civil and criminal actions.

Established in 1957, in response to the need for federal intervention and enforcement in the realm of civil rights, the Civil Rights Division is responsible for upholding some of our nation's most important statutes. The Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968, are just a few of the meaningful laws that the Division is tasked with advancing.¹ Disturbingly, however, in recent years, the Division has failed in this

¹U.S. Department of Justice, Civil Rights Division, *Civil Rights Division Activities and Programs (2006 Edition)*, available at <http://justice.gov/crt/activity.html>.

The Honorable Patrick J. Leahy
The Honorable Arlen Specter
Page Two
May 7, 2008

mission of “upholding the civil and constitutional rights of all Americans.”² Though the Division states that its mission over the past 50 years “remains vitally important today,”³ it has significantly changed its agenda and priorities such that the traditional civil rights work of the Division has been severely neglected.⁴

During her two years with the Division, Ms. Becker’s actions have reflected a political agenda that jeopardizes significant civil rights gains. Last December, in her current capacity as Acting Assistant Attorney General for Civil Rights, Ms. Becker defended an Indiana voter identification law, recently approved by a sharply divided Supreme Court, that would disenfranchise thousands of voters, a disproportionate number of whom are minorities.⁵ In August of 2006, Ms. Becker, then overseeing the Educational Opportunities Section, weighed in on another matter before the U.S. Supreme Court, advising that consideration of race in furtherance of public school integration was unconstitutional.⁶

Ms. Becker’s poor understanding of the foundations of civil rights law may be a result of her lack of experience in the Division’s areas of responsibility. The House Judiciary Committee has received testimony that many recent Division hires and appointments have been based on political credentials rather than professional credentials.⁷ With political appointees controlling the hiring process, the Boston Globe reports that since 2003, just 42 percent of attorneys hired for the Division possess civil rights backgrounds. In 2001, before political appointees were unduly

²*Id.*

³*Id.*

⁴Neil A. Lewis, *Justice Dept. Reshapes Its Civil Rights Mission*, N.Y. TIMES, June 14, 2007. See also CITIZENS’ COMMISSION ON CIVIL RIGHTS, *The Erosion of Rights: Declining Civil Rights Enforcement Under the Bush Administration*, Mar. 2007, at 12-48.

⁵Brief for the United States as Amicus Curiae Supporting Respondents, *Crawford v. Marion County Election Board*, No. 07-21.

⁶Brief for the United States as Amicus Curiae Supporting Respondents, *Meredith v. Jefferson Co. Bd. of Educ.*, No. 05-915.

⁷See *Oversight Hearing on the Civil Rights Division of the Department of Justice Before the House Judiciary Committee* (110th Cong., 1st Sess.) (Mar. 22, 2007) (Testimony of Joseph D. Rich, Fair Housing Project Director, Lawyer’s Committee for Civil Rights Under Law).

The Honorable Patrick J. Leahy
The Honorable Arlen Specter
Page Three
May 7, 2008

influencing hiring practices, 71 percent of Division hires were experienced civil rights attorneys.⁸ Wade Henderson, President and CEO of the Leadership Conference on Civil Rights, believes that “[t]he amount of expertise in civil rights enforcement that has been driven out of the Division will be difficult to recapture.”⁹

Ms. Becker’s very brief and limited civil rights experience gives added credence to Mr. Henderson’s observations. According to the biography Ms. Becker provided to the Senate Judiciary Committee, she had little or no previous experience in civil rights or litigation, and in fact served for less than two years in all but one of her previous positions, thus hardly reflecting any area of expertise.¹⁰ We share the view expressed by the NAACP Legal Defense Fund (NAACP LDF) that the head of the Civil Rights Division should “bring more than on-the-job training.”¹¹ NAACP LDF suggests that “it seems reasonable to expect that the person chosen for the most prominent civil rights job in the country would have substantial familiarity with at least some types of civil rights claims.”¹² Unfortunately, Ms. Becker lacks the basic background in the Division’s primary mission.

In addition to the continuation of unacceptable civil rights efforts and hiring practices, Ms. Becker’s nomination also represents continued efforts to politicize the Department of Justice, and the Civil Rights Division in particular. Through a series of oversight hearings over the last year evaluating the enforcement work of the Division, the House Judiciary Committee learned, as J. Gerald Hebert, Executive Director and Director of Litigation of the Campaign

⁸Charlie Savage, *Civil Rights Hiring Shifted in Bush Era, Conservative Leanings Stressed*, BOSTON GLOBE, July 23, 2006.

⁹*Oversight Hearing on the Civil Rights Division of the Department of Justice Before the House Judiciary Committee* (110th Cong., 1st Sess.) (Mar. 22, 2007) (Testimony of Wade Henderson, President and CEO, Leadership Conference on Civil Rights at 9).

¹⁰Grace Chung Becker, *Biography of Grace Chung Becker*, Submitted to the Senate Judiciary Committee (on file with the House Judiciary Committee).

¹¹Letter from Mr. John Payton, President and Director-Counsel, NAACP LDF and Ms. Leslie M. Proll, Director, Washington Office, NAACP LDF, to the Honorable Patrick Leahy, Chairman, Senate Judiciary Committee and the Honorable Arlen Specter, Ranking Member, Senate Judiciary Committee (Mar. 11, 2008) (on file with the House Judiciary Committee).

¹²*Id.*

The Honorable Patrick J. Leahy
The Honorable Arlen Specter
Page Four
May 7, 2008

Legal Center best said it, that “politicization of the DOJ runs both broad and deep.”¹³ While the U.S. Attorneys scandal may be the more high profile example of political abuse committed in the Department during this Administration, activity within the Civil Rights Division has been equally egregious. Several patterns have emerged during the course of the House Judiciary Committee’s oversight indicating that politics has recently played a major role in the enforcement decisions of the Division, with many of the decisions resulting in the reversal of longstanding civil rights policies and a failure to uphold critical civil rights statutes. These include political appointees overriding career staff’s objections to a 2003 Texas redistricting plan and a 2005 Georgia voter identification law are the often cited examples as to Division efforts aligning with political efforts.¹⁴ Similar testimony has been received by your Committee as well.

Though Ms. Becker was not at the Division when decisions were made on the Texas and Georgia matters, her recent actions on the Indiana voter identification and the Seattle and Louisville school integration cases reflect a continued hostility to progress in the area of civil rights, and the continued politicization of the Division. Ms. Becker has been described as “more of the same,” in terms of leadership of a Civil Rights Division that has been “converted into a political machine to advance the electoral agenda of the G.O.P. and to disadvantage the constituency it was created to protect.”¹⁵ At her Senate confirmation hearing on March 11, 2008, Ms. Becker provided very little information to the contrary. In response to Ms. Becker’s testimony, the New York Times wrote “[i]f Ms. Becker is this contemptuous of the Senate’s role at her confirmation hearings, it is disturbing to think how dismissive she will be if she is confirmed.”¹⁶ A member of the Republican National Lawyers Association, Ms. Becker has done nothing to address concerns about whether she can be impartial and unbiased on important matters before the Division, especially when it comes to voting rights.¹⁷

As the Members of Committees charged with the great responsibility of oversight of the U.S. Department of Justice, we must ensure that the agency and all of its divisions are acting to

¹³*Oversight Hearing on Voter Suppression Before the House Judiciary Committee* (110th Cong., 2nd Sess.) (Feb. 8, 2008) (Testimony of J. Gerald Hebert, Executive Director and Director of Litigation, Campaign Legal Center at 11).

¹⁴*Id.* at 4.

¹⁵Scott Horton, *More Bad Nominees*, HARPER’S, Mar. 17, 2008.

¹⁶*A Poor Choice on Civil Rights*, N.Y. TIMES, Mar. 17, 2008.

¹⁷Alliance for Justice, Fact Sheet: Department of Justice Nominees, *available at* http://www.afj.org/about-afj/press/doj_nominees.html.

The Honorable Patrick J. Leahy
The Honorable Arlen Specter
Page Five
May 7, 2008

advance justice in a manner consistent with this nation's laws and the Constitution. There is no denying that serious problems remain at the Department, and that the Civil Rights Division in particular lacks the transparency, proficiency, and integrity necessary to protect and advance the civil rights and liberties of this nation's citizens. It is absolutely critical that new leadership within the Division be equipped with the character, skill, and ability required to return the Division back to the respected and esteemed institution that we once knew. The Division is in need of an Assistant Attorney General who will be zealous in her efforts to enforce the law in a fair, neutral, and nonpartisan manner. Sadly, Ms. Becker's record indicates that she is not the person for this job, and we must ask that you not confirm her for this important position.

Sincerely,

Phil Long

Lee Zep

Arthur Davis

Bob Satt

Tammy Baldwin

Delvin L. Watt

Chris V. Hutchinson

Donald Rader

Debbie Wasserman Schultz

Keith Ellison

Steve Chen

Shirley Jackson Lee

Robert White

Harold Johnson

cc: Hon. Lamar S. Smith
Hon. Members of the U.S. Senate Committee on the Judiciary