

schools that African-Americans and Hispanics are suffering in, the Asians are topping out of the class.

So, I am saying to you that some responsibility must lie with what we are doing, especially us at this table who have been beneficiaries of affirmative action. We must do our job and that is not in any way to dismiss or deny that racism exists and that affirmative action has played a role.

Senator SPECTER. Thank you very much, gentlemen, and thank you, Mr. Chairman.

Senator SIMON. We want to thank all three of you for your testimony. Let me just add, if I may have the attention of Senator Thurmond here, we have averaged 37 minutes a witness. We have 27 witnesses to go. If we keep up the current pace, we will be here until about 9 tomorrow morning.

Until Senator Biden gets back, I wonder if we could agree to just have 5 minutes for members' questions rather than the current 10 minutes.

Senator THURMOND. I certainly think it ought to be restricted as much as possible.

Senator SIMON. OK, so there is no objection. At least until Senator Biden gets back, we will limit it to 5 minutes per member.

We thank the three of you. Our next panel is a panel supporting Judge Thomas: Pamela Talkin, a member of the Federal Labor Relations Authority and former chief of staff for Judge Thomas while he chaired the EEOC; Ms. Willie King from the Equal Employment Opportunity Commission. Ms. King was director of the Financial Management Division of the EEOC during then Chairman Thomas' tenure. James Clyburn, Commissioner of the South Carolina Human Affairs Commission, who is here on behalf of the International Association of Official Human Rights Agencies, which is the Association of State Fair Employment Agencies; and Dr. Talbert Shaw, the president of Shaw University.

We are happy to have all of four of you here. Ms. Talkin, we will start with you, if we may, and we will enter your full statements in the record. We will limit the witnesses to five minutes.

Should we start with you, Ms. Talkin, or however you would prefer?

Ms. TALKIN. Dr. Shaw has to leave and catch a plane, and he has been moved on to this panel so—

Senator SIMON. Dr. Shaw, we will start with you, and I will during my temporary reign here as Chair be firm on the 5-minute rule.

Dr. Shaw.

STATEMENTS OF A PANEL CONSISTING OF TALBERT SHAW, PRESIDENT, SHAW UNIVERSITY; PAMELA TALKIN, FEDERAL LABOR RELATIONS AUTHORITY; WILLIE KING, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION; AND JAMES CLYBURN, COMMISSIONER, SOUTH CAROLINA HUMAN AFFAIRS COMMISSION

Mr. SHAW. Mr. Chairman, distinguished members of this Judiciary Committee, I am Talbert Shaw, president of Shaw University in North Carolina, and I deeply appreciate this opportunity to testi-

fy before you in support of the appointment of Judge Clarence Thomas to the U.S. Supreme Court.

Although I do express today opinions of my own, it is significant that I speak as the president of Shaw University, an historically black liberal arts coeducational institution founded in 1865, fully accredited by the Southern Association of Colleges and Schools, and presently offering baccalaureate degrees in major academic disciplines to over 2,000 students.

I do not appear before you distinguished legislators claiming any expertise in American jurisprudence. Although philosophy is my academic discipline, I do bring a keen interest in history; generally, in American history, in particular, especially that aspect of our history that focuses on the evolution and development of democratic principles, principles that seek objectivity, equality, and justice, all representing a quest for the common good.

It is a common good predicated on objectivity; that is, allowing the facts to speak for themselves, but a good which fosters opportunity. When the facts have spoken, they should be allowed to come to fruition. This, I believe, is the foundation of the American dream of economic and spiritual well-being. It is a dream predicated on equal opportunity fueled by preparation and competence.

It seems convincing that if these indices of preparation, competence, and opportunity are applied in determining Judge Thomas' eligibility to serve on the Supreme Court, he could easily pass the test. Judge Thomas brings to the bench impeccable credentials. He holds a law degree from Yale University Law School, one of the most distinguished institutions of the country. Thus, objectivity in assessing the judge's credentials easily gives him an excellent grade. Therefore, his preparation to be a distinguished jurist is beyond question based on his academic credentials.

In addition to academic credentials, experience has also prepared the nominee for this day. Having served as assistant attorney general in the State of Missouri, legislative assistant to Senator Danforth, legal officer with the Office of Civil Rights in the Department of Education, chairman of the Equal Employment Opportunity Commission, and now judge in the D.C. Court of Appeals, which is considered the second highest Federal court, Judge Thomas' profile of service reveals a convincing progression of his appropriate professional ladder.

In fact, his experience as a Georgia youth in the days of severe racism reminds him that he grew up in the other America where one is never allowed to forget his black skin and that one never escapes the ghetto, whether one lives on a farm in Georgia or sits on the U.S. Supreme Court in the District of Columbia.

In his own words which appeared in the Atlantic magazine in 1988, and quoted in Jet on May 22, 1991, page 8, Judge Thomas states,

There is nothing you can do to get past your black skin. I don't care how educated you are, how good you are at what you do. You will never have the same contact or opportunities.

However, because of his credentials, his experience and ambition, an opportunity is knocking at his door today. It is an opportunity deeply embedded in the American dream which says that compe-

tence, industry, and creativity will be rewarded. That dream instilled in him by his parents kept hope alive in the long journey of 43 years along that circuitous path from Pin Point, GA, to hopefully the highest court of our land.

With credentials and experience documented, with an inescapable past that will keep him tied to his roots, thus sensitive to the struggles of the other America, Judge Thomas' appointment to the U.S. Supreme Court is further legitimized by its symbolic significance.

This point is very important here. A Nation with such ethnic diversity as America should consciously seek representation of all its citizens in the halls of justice. It further symbolizes that the American dream is achievable. It says to every American that regardless of race, creed or color, you can dream the impossible dream, you can climb every mountain.

Now, neither am I disturbed by the evolutionary process evidenced in the judge's thinking on a variety of legal and social issues.

Senator SIMON. If you could conclude your statement now, the 5 minutes is up.

Mr. SHAW. Yes, sir, I am concluding it right now.

The posture of growth that we find in the gentleman is saying that intellectual honesty suggests that we maintain a posture of openness so that we need not be frozen to the past, and this is a strong point that has been raised over and over again. Will the real Thomas stand up? We are saying that the man is open and he need not be tied to the frozen positions of the past, and I think this is one of the very strong points in his candidacy for this great position.

[The prepared statement of Mr. Shaw follows:]

TESTIMONY BEFORE THE SENATE JUDICIARY COMMITTEE
IN SUPPORT OF JUDGE CLARENCE THOMAS

BY

TALBERT O. SHAW, PRESIDENT
SHAW UNIVERSITY
RALEIGH, NORTH CAROLINA

MR. CHAIRMAN, AND DISTINGUISHED MEMBERS OF THIS JUDICIARY COMMITTEE, I AM TALBERT O. SHAW, PRESIDENT OF SHAW UNIVERSITY IN RALEIGH, NORTH CAROLINA, AND I DEEPLY APPRECIATE THIS OPPORTUNITY TO TESTIFY BEFORE YOU IN SUPPORT OF THE APPOINTMENT OF JUDGE CLARENCE THOMAS TO THE U.S. SUPREME COURT.

ALTHOUGH I DO EXPRESS, TODAY, OPINIONS OF MY OWN, IT IS SIGNIFICANT THAT I SPEAK AS THE PRESIDENT OF SHAW UNIVERSITY, AN HISTORICALLY BLACK, LIBERAL ARTS, COEDUCATIONAL INSTITUTION, FOUNDED IN 1865, FULLY ACCREDITED BY THE SOUTHERN ASSOCIATION OF COLLEGES AND SCHOOLS, AND PRESENTLY OFFERS BACCALAUREATE DEGREES IN MAJOR ACADEMIC DISCIPLINES TO OVER 2,000 STUDENTS.

I DO NOT APPEAR BEFORE YOU, DISTINGUISHED LEGISLATORS, CLAIMING ANY EXPERTISE IN AMERICAN JURISPRUDENCE, ALTHOUGH PHILOSOPHY IS MY ACADEMIC DISCIPLINE; BUT I DO BRING A KEEN INTEREST IN HISTORY, GENERALLY AND AMERICAN HISTORY IN PARTICULAR, ESPECIALLY THAT ASPECT OF OUR HISTORY THAT FOCUSES ON THE EVOLUTION AND DEVELOPMENT OF DEMOCRATIC PRINCIPLES, PRINCIPLES THAT SEEK OBJECTIVITY, EQUALITY AND JUSTICE, ALL REPRESENTING A QUEST FOR THE COMMON GOOD. IT'S A COMMON GOOD PREDICATED ON OBJECTIVITY, I.E., ALLOWING THE FACTS TO SPEAK FOR

THEMSELVES, BUT A GOOD WHICH FOSTERS OPPORTUNITY, I.E., WHEN THE FACTS HAVE SPOKEN, THEY SHOULD BE ALLOWED TO COME TO FRUITION. THIS, I BELIEVE, IS THE FOUNDATION OF THE AMERICAN DREAM OF ECONOMIC AND SPIRITUAL WELL-BEING. IT IS A DREAM PREDICATED ON EQUAL OPPORTUNITY FUELED BY PREPARATION AND COMPETENCE.

IT SEEMS CONVINCING THAT IF THESE INDICES OF PREPARATION, COMPETENCE, AND OPPORTUNITY ARE APPLIED IN DETERMINING JUDGE THOMAS' ELIGIBILITY TO SERVE ON THE SUPREME COURT, HE WOULD EASILY PASS THE TEST. JUDGE THOMAS BRINGS TO THE BENCH IMPECCABLE CREDENTIALS. HE HOLDS A LAW DEGREE FROM YALE UNIVERSITY LAW SCHOOL, ONE OF THE MOST DISTINGUISHED INSTITUTIONS IN THE COUNTRY. OBJECTIVITY IN ASSESSING THE JUDGE'S CREDENTIALS EASILY GIVES HIM AN EXCELLENT GRADE. THEREFORE, HIS PREPARATION TO BE A DISTINGUISHED JURIST IS BEYOND QUESTION.

IN ADDITION TO ACADEMIC CREDENTIALS, EXPERIENCE HAS ALSO PREPARED THE NOMINEE FOR THIS DAY. HAVING SERVED AS ASSISTANT ATTORNEY GENERAL IN THE STATE OF MISSOURI, LEGISLATIVE ASSISTANT TO SENATOR DANFORTH, LEGAL OFFICER WITH THE OFFICE OF CIVIL RIGHTS AT THE DEPARTMENT OF EDUCATION, CHAIRMAN OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, AND NOW JUDGE IN THE D.C. COURT OF APPEALS, WHICH IS CONSIDERED THE SECOND HIGHEST FEDERAL COURT, JUDGE THOMAS' PROFILE OF SERVICE REVEALS A CONVINCING PROGRESSION UP HIS APPROPRIATE PROFESSIONAL LADDER.

IN FACT, HIS EXPERIENCE AS A GEORGIA YOUTH IN THE DAYS OF

SEVERE RACISM REMINDS HIM THAT HE GREW UP IN THE "OTHER AMERICA," WHERE ONE IS NEVER ALLOWED TO FORGET HIS BLACK SKIN, AND THAT ONE NEVER ESCAPES THE GHETTO WHETHER ONE LIVES ON A FARM IN GEORGIA OR SITS ON THE U.S. SUPREME COURT. IN HIS OWN WORDS WHICH APPEARED IN THE ATLANTIC MAGAZINE IN 1988 AND QUOTED IN JET, MAY 22, 1991, PAGE 8, JUDGE THOMAS STATES, "THERE IS NOTHING YOU CAN DO TO GET PAST YOUR BLACK SKIN. I DON'T CARE HOW EDUCATED YOU ARE, HOW GOOD YOU ARE AT WHAT YOU DO. YOU WILL NEVER HAVE THE SAME CONTACT OR OPPORTUNITIES."

HOWEVER, BECAUSE OF HIS CREDENTIALS, EXPERIENCE, AND AMBITION, AN OPPORTUNITY IS KNOCKING AT HIS DOOR TODAY. IT IS AN OPPORTUNITY DEEPLY EMBEDDED IN THE AMERICAN DREAM WHICH SAYS THAT COMPETENCE, INDUSTRY, AND CREATIVITY WILL BE REWARDED. THAT DREAM INSTILLED IN HIM BY HIS PARENTS KEPT HOPE ALIVE IN THE LONG JOURNEY OF 43 YEARS ALONG THAT CIRCUITOUS PATH FROM PINPOINT, GEORGIA TO, HOPEFULLY, THE HIGHEST COURT OF OUR LAND.

WITH CREDENTIALS AND EXPERIENCE DOCUMENTED, WITH AN INESCAPABLE PAST THAT WILL KEEP HIM TIED TO HIS ROOTS, THUS SENSITIVE TO THE STRUGGLES OF THE "OTHER AMERICA," JUDGE THOMAS' APPOINTMENT TO THE U.S. SUPREME COURT IS FURTHER LEGITIMIZED BY ITS SYMBOLIC SIGNIFICANCE. A NATION WITH SUCH ETHNIC DIVERSITY SHOULD CONSCIOUSLY SEEK REPRESENTATION OF ALL ITS CITIZENS IN THE HALLS OF JUSTICE. IT FURTHER SYMBOLIZES THAT THE AMERICAN DREAM IS ACHIEVABLE; IT SAYS TO EVERY AMERICAN THAT REGARDLESS OF RACE, CREED OR COLOR, "YOU CAN DREAM THE 'IMPOSSIBLE' DREAM, YOU CAN CLIMB EVERY MOUNTAIN."

NEITHER AM I DISTURBED BY THE EVOLUTIONARY PROCESS EVIDENCED IN THE JUDGE'S THINKING ON A VARIETY OF LEGAL AND SOCIAL ISSUES, FOR INTELLECTUAL DISHONESTY INVOLVES CLINGING TO OUT-DATED OPINIONS DESPITE CONVINCING EVIDENCE TO THE CONTRARY. OPENNESS, THE POSTURE FOR GROWTH IN A WORLD OF NOVELTY AND CHANGE IS THE ONLY HONEST INTELLECTUAL ATTITUDE TO ASSUME IN THE MARKETPLACE OF IDEAS. ESPECIALLY IS THIS TRUE IN THE INEXACT SCIENCES, LIKE JURISPRUDENCE, WHERE INTERPRETATION IS THE METHODOLOGY OF PRACTICE IN QUEST OF UNDERSTANDING AND TRUTH. UNREADINESS TO ASSUME INFLEXIBLE POSITIONS ON LEGAL ISSUES COMPLICATED BY TIME AND CIRCUMSTANCE IS, IN MY OPINION, INTELLECTUALLY MATURE, AND PROCEDURALLY APPROPRIATE. AGAIN, IF THE JURISTS INTERPRETATION OF LAW IS INFORMED BY GENERAL PRINCIPLES AND SPECIFIC SITUATIONS, THEN THERE IS A DIALECTIC WHICH PROVIDES SPACE FOR SUBJECTIVITY ON WHICH GROUNDS APPEAL COURTS OVERTURN LOWER COURT DECISIONS. IT IS THIS ARENA OF INTERPRETATION THAT LEGITIMIZES SHIFTS IN OPINIONS IN THE LIGHT OF NEW EVIDENCE, FOR "TIME MAKES ANCIENT GOOD UNCOUTH."

THEREFORE, DISTINGUISHED MEMBERS OF THE JUDICIARY COMMITTEE, ON SUCH GROUNDS AS ACADEMIC CREDENTIALS, EXPERIENCE, SYMBOLIC SIGNIFICANCE, AND INTELLECTUAL HONESTY, I STRONGLY RECOMMEND THE CONFIRMATION OF JUDGE CLARENCE THOMAS FOR THE UNITED STATES SUPREME COURT.

THANK YOU.

ON CLARENCE THOMAS

Last night as I watched CNN report on hearings of this past Tuesday, I was encouraged to hear testimony of Dean Guido Carbaresi of Harvard Law School express the need for openness in the quest for truth, and that inflexible pre-established positions on complex legal issues is intellectually irresponsible, and could in fact be pragmatically dishonest.

A Supreme Court Justice with such pre-packaged attitudes would provide a great disservice to the American people. I had already written my testimony before hearing the Harvard Law Dean and thus was greatly comforted to hear my position affirmed by such a distinguished scholar.

Perhaps the Clarence Thomas, who brackets his previous positions and opinions in the quest for clarity and truth, assuming a willing posture to adjust his thinking as facts and circumstances dictate, is the most promising nominee for the highest court of our land in recent years. Resisting the temptation to nurture frozen and predictable judgments on complicated legal and social issues that plague the American people, Judge Thomas, if confirmed, could be a new refreshing voice on the Supreme Court and could possibly initiate a new era in American jurisprudence where such mischievous and nonenlightening labels as conservative and liberal are relegated to the dustbins of legal history.

Senator SIMON. We thank you for your testimony. We will enter your full statement in the record.

Ms. Talkin.

STATEMENT OF PAMELA TALKIN

Ms. TALKIN. Thank you, Mr. Chairman, Senators.

For some 10 weeks now, including today, I have heard the relentless repetition of various inaccurate assertions regarding Judge Thomas and his tenure at EEOC. Those statements do not describe either the man or the agency that I know.

There really should be no mistake about it. As chairman of the EEOC, Judge Thomas sought to vigorously enforce all the laws prohibiting discrimination on behalf of all workers, including women, older workers and Hispanic Americans. In fact, the record establishes that the EEOC came of age during the tenure of Chairman Thomas.

I was somewhat taken aback when Clarence Thomas, then chairman of EEOC, asked me, a Democrat and a politically correct career civil servant, to be his chief of staff. But it soon became apparent that we did share a commitment to equal employment opportunity, a commitment to the full protection of workers' rights, and the common goal of making EEOC a credible and aggressive law enforcement agency.

When Judge Thomas asked me to be his chief of staff, he concentrated on my law enforcement experience. He ignored by party affiliation and never questioned me as to my philosophical views. My strict and single mandate from Judge Thomas was to help him make the EEOC effective, and I believe he did make it effective.

The Thomas EEOC fully investigated more cases, filed more lawsuits, and that is more individual lawsuits and more class actions, than ever before, and received more damages on behalf of victims of discrimination—over \$1 billion—than ever before. The Thomas Commission achieved that with inadequate funding and under severe staffing restrictions.

For the first time, charges were fully investigated and full redress was sought for victims of discrimination. No more would the EEOC merely make perfunctory inquiries and then settle meritorious claims for 10 cents on a dollar and a neutral employment reference. Victims of discrimination were to receive back pay, and those unlawfully deprived of a livelihood were to get a job.

In the past, the EEOC field offices made unreviewable determinations to prosecute only a small number of cases. Under Judge Thomas, all cases in which the law had been violated were submitted to the Commission for litigation. No longer would the EEOC tell people that although they had been discriminated against, their case was too small or unimportant for the government to prosecute.

Some have mistakenly assumed that this increased effort on behalf of individual claimants represented a shift away from concern about the systemic discrimination that results from patterns and practices of employment. Well, it is simply not true. Judge Thomas sought to improve the handling of all cases at EEOC, including the systemic cases. He revitalized our systemic program.

In 1981, there was one systemic case in active litigation. In 1988, there were 16 such cases in active litigation, and 100 more under investigation. If not settled, then they could be litigated, too.

In addition, the EEOC on its own initiative broadened hundreds of individually-filed claims into class actions. As a matter of fact, the number of class action suits doubled during the tenure of Clarence Thomas.

Many have expressed a concern about whether Judge Thomas can separate his philosophical views from his official obligations. Well, I can tell you that Judge Thomas approved dozens of settlements which provided for the use of goals and timetables, and that is despite his now well-publicized and then well-publicized views regarding the efficacy of such measures. As an aside, I should note that even the potential use of goals and timetables arose in probably one-half of one percent of the 60,000 cases the EEOC handled annually.

Another example of Judge Thomas' ability to always carry out his official duties is in the area of affirmative action, not goals and timetables, as a remedy. We govern the Federal sector, and I know there has been a lot of discussion about *Johnson v. Santa Clara*, but we required every federal agency to also submit affirmative action plans, including goals and timetables, based upon the standards set forth in *Johnson v. Santa Clara*.

It is difficult to compress 8 years of accomplishments into 5 minutes of testimony. I won't try to discuss the many other innovative programs that Judge Thomas adopted to enhance our enforcement capabilities or to discuss the tremendous management strides he made.

I can only say that I know that Judge Thomas has a strong belief in the principles of equal employment opportunity; that he has a clear understanding of the need for affirmative steps to be taken to ensure such opportunity, and he obviously has a knowledge of the debilitating effects of discrimination.

I am proud to be a public servant. I have been for more than 20 years, and I can tell you that in more than 20 years of public service I have never met a public official, or actually any public servant, for that matter, who was more encouraging and tolerant of diversity of opinion and background.

I know that many of the Senators—I see the red light is on. I will finish. I know that Senator DeConcini had questions regarding Hispanic-Americans. I am prepared to answer that or any of the other questions that the Senators might have. Thank you for this opportunity.

[The prepared statement of Ms. Talkin follows:]

Testimony of Pamela Talkin

Mr. Chairman, Senators:

Thank you for the opportunity to testify at this proceeding.

My name is Pamela Talkin and I am currently a Member of the Federal Labor Relations Authority. From October 1986 through November 1989 I served as Chief of Staff of the Equal Employment Opportunity Commission reporting directly to then-Chairman Clarence Thomas.

For some time now I have listened to the relentless repetition of inaccurate assertions regarding the EEOC and Clarence Thomas. Those statements do not describe the agency or the man that I know. Let there be no mistake about it; as Chairman of the EEOC, Judge Thomas vigorously and effectively enforced all the laws against employment discrimination. Indeed, the record establishes that the EEOC came of age under the leadership of Clarence Thomas. As his Chief of Staff, I witnessed many of these developments as they occurred.

Why would the Republican Chairman of the EEOC ask me, a Democrat and a career Federal employee, to be his Chief of Staff? And why would a "politically correct" civil servant such as myself accept the position? The reasons are clear. We shared an abiding commitment to equal employment opportunity and the full protection and vindication of the rights of women, minorities, older Americans and workers with disabilities and a common goal of making the EEOC a credible and aggressive law enforcement agency. When he hired me as his Chief of Staff, Judge Thomas concentrated on my years of NLRB law enforcement experience, ignored my party affiliation and did not question me as to my philosophical views; my strict and single mandate from then-Chairman Thomas was to help him in making the EEOC effective.

Judge Thomas missed no opportunity to forcefully advise all EEOC employees that he expected no less than the same commitment from them. And EEOC employees were glad to live up to that expectation because they understood that Clarence Thomas desired and would encourage, permit and reward their best efforts toward that goal no matter what role the employees played and no matter what their age, color or gender.

During Clarence Thomas' tenure as Chairman, the EEOC fully investigated more cases, filed more legal actions and recovered more damages for victims of discrimination than at any other time in the agency's history. The Thomas Commission went to court on behalf of workers 60% more often than in previous years and collected a billion dollars on behalf of American workers, an amount far greater than that of any comparable period. These accomplishments were achieved in spite of inadequate funding and severe staffing restrictions.

For the first time in the agency's history, policies were adopted providing for all charges of discrimination to be thoroughly investigated and for the EEOC to seek full redress for all victims of discrimination. No longer would the agency simply make perfunctory inquiries and then settle meritorious claims for 10 cents on the dollar and a neutral employment reference. Workers who were unlawfully deprived of a livelihood were to receive a job and full backpay. And as a deterrent to future violations of the law, those who engaged in discrimination would be and were required to take such affirmative steps as retraining or discharging offending supervisors, eliminating unlawful practices and posting notices to employees to advise them of their rights and assure them that those rights would not again be

violated. There was no compromise in the EEOC's enforcement efforts.

In contrast to the past, when EEOC field offices made selective and unreviewable determinations to prosecute only a small number of cases found to have merit, under Judge Thomas the EEOC determined that all cases in which the law had been violated would be submitted to the Commission members for litigation consideration. People would no longer be told that although they had been discriminated against, the EEOC would not pursue their complaint. Now victims of discrimination did not have to search for an attorney who might handle their case for fees they could hardly afford; the government would vindicate their rights and enforce the law on their behalf. The message was clear; justice was to be achieved in every case.

Some have mistakenly assumed that the EEOC's increased efforts on behalf of individual workers constituted a shift away from concern about the continued existence of broad-based systemic discrimination resulting from employment patterns and practices within businesses or industries. To the contrary, Judge Thomas sought to improve the EEOC's handling of all cases. To that end he restructured and revitalized the EEOC's systemic program.

In 1981 the EEOC had only one broad systemic, pattern and practice case in active litigation. In 1988 the Commission had 103 such cases in various stages of investigation; 16 in active litigation. Moreover, the EEOC, on its own initiative, actively prosecuted, as broad class actions, hundreds of cases that had been filed as individual claims.

In accordance with established legal precedent, in pattern and practice cases Clarence Thomas voted, along with his fellow Commission members, to approve settlements which provided for the use of goals and timetables, despite his now well-publicized personal views regarding the efficacy of such measures. Reasonable people can and do, of course, differ with Judge Thomas' views on the utility of goals and timetables in certain circumstances. It should be noted, however, that cases involving even the potential use of such measures constituted less than one-half of one percent of the over 60,000 cases filed annually with the EEOC. Differences of opinion over the effectiveness of this one form of affirmative action, valid as they may be, cannot serve as a legitimate basis for assertions that Judge Thomas did not enforce the laws ensuring equal opportunity and prohibiting discrimination.

Judge Thomas was and remains committed to identifying, attacking and eliminating patterns and practices of

discrimination and all arbitrary barriers and obstacles to equal opportunity. Not only were millions of dollars in damages secured in individual and systemic cases but innovative approaches were taken to ensure that subtle barriers and obstacles to equal employment would also be eliminated. Major corporations were required to actively recruit minorities and women and to set aside millions of dollars for the training of minority and women employees and for the establishment of dozens of scholarship funds. All Federal agencies were required to analyze their workforce profile and workplace policies and to submit to the EEOC, along with goals and timetables, affirmative action plans that identified barriers to the full employment of minorities, women and employees with disabilities and that detailed what steps would be taken to remove those obstacles.

Judge Thomas' belief in the principles of equal opportunity, the need for affirmative action to ensure such opportunity and the debilitating effects of discrimination informed all his efforts as Chairman of the EEOC. He constantly sought to reach out and educate members of the public as to their rights and responsibilities under the law and the benefits to business and our country of ensuring that all Americans be permitted to contribute to their full potential. His commitment was apparent in his own approach

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to the employees of the EEOC. Women, employees with disabilities, older workers, Hispanic-Americans, Asian-Americans, African-Americans and other minorities were affirmatively and actively recruited, trained and promoted. No other Federal agency had as high a percentage of women and members of various racial and ethnic minorities in professional and managerial positions. In over 20 years of public service, I have never observed anyone who was more respectful, tolerant and encouraging of diversity of background and opinion than Clarence Thomas was at the EEOC.

When he became Chairman in 1982, Clarence Thomas found an EEOC in disarray. At the time, the General Accounting Office reported that the EEOC's finances were in shambles and its case processing was in a state of "complete chaos." The Office of Personnel Management had concluded that the work environment at EEOC was "beset by acrimony, improper employee conduct, poor performance and favoritism." Judge Thomas introduced sound financial management, established reliable recordkeeping procedures, completely automated operations, developed appropriate and fair personnel and performance evaluation systems, and streamlined the bureaucracy at the EEOC.

Clarence Thomas not only built the EEOC's infrastructure, but by virtue of his unstinting efforts and

enormous commitment to equal opportunity and the law, he also succeeded in transforming the EEOC into a respected and highly professional agency that enforced all the laws entrusted to it.

No one was more dismayed than Clarence Thomas when the evolving EEOC did not, on occasion, live up to its own enhanced expectations. As he often stated, we at the EEOC had to build our wagon while we were riding in it and, in those circumstances, with 50 field offices and over 3,000 employees, mistakes and failures sometimes occurred. Clarence Thomas recognized and took full responsibility for such shortcomings and renewed and redoubled his efforts to make the EEOC a formidable opponent of those who would violate the laws prohibiting discrimination.

Today's Equal Employment Opportunity Commission is a fitting and lasting tribute to Clarence Thomas' vision and his unwavering commitment to upholding the laws protecting American workers.

Senator SIMON. Thank you.
Ms. King.

STATEMENT OF WILLIE KING

Ms. KING. Thank you, Mr. Chairman, for giving me this opportunity.

I am Willie King, financial manager of the U.S. Equal Employment Opportunity Commission. I have been working in civil rights for approximately 30 years. My career in civil rights began at the Southern Christian Leadership Conference in February of 1962 in Atlanta, GA.

I won't speak to my activities in civil rights. I have three letters signed by the Rev. Dr. Martin Luther King, Jr., that I think will fully explain my civil rights activities. I have worked for EEOC for almost 26 years. I am one of the first employees to be hired by the Commission.

I am happy to say that I know Judge Thomas and that I have worked with him at the Equal Employment Opportunity Commission during his tenure as chairman. When Judge Thomas became chairman of the EEOC, there was an uneasy feeling in the finance and accounting office. Clearly, we had reason to be apprehensive because the General Accounting Office [GAO] had just issued a report criticizing every aspect of the agency's financial operation, from paying of the bills, accounting for travel advances, issuing travel checks, and issuing accounting reports.

The staff was sure that someone would be pointed out to Mr. Thomas and blamed. To our surprise, he tolerated neither blame nor finger-pointing. Rather, he wanted to know what it would take to clean up the financial operation and how long. He promised his full support and expressed his confidence in the employees working in finance.

Judge Thomas kept his word. He gave us clear expectations, moral support, and provided us with the necessary equipment to do our jobs. As a result, in May 1984, approximately 2 years after he became chairman, the GAO approved our accounting system. This was accomplished in record time because of the support and leadership provided by Judge Thomas.

Judge Thomas regularly stopped by the finance office to thank employees personally for doing a good job. Occasionally he would bring some young protege to my office, show them the operation, and ask me to explain to them the civil rights movement. Judge Thomas saw the agency and its mission as a direct result of the civil rights struggle.

The clerical and support staff at EEOC had a special relationship with Judge Thomas. He connected with employees at all levels. He established a rapport and received genuine and positive feedback because he cared about the people. The morale at EEOC was at an all-time high during his administration. The secretarial and resources star board that was started under his administration is still a viable and integral part of the day-to-day secretarial staff at EEOC.

Judge Thomas is a very compassionate man. He took interest in the less fortunate and the little people. He showed concerns for the

plight of working women and minorities. During his tenure as Chairman of EEOC, many women and minorities were recruited for and promoted to high level positions. Some were office directors, senior executive service, and high level secretaries.

In one service area alone, four black females were promoted to director at the same time. Only one of those women had a college degree. He took a chance on them because they had demonstrated the ability to do their jobs in an outstanding manner, and he remembers where he came from.

Judge Thomas also had an interest in people such as the handyman and single mothers. He was concerned about families, and he gave encouraging words when there were problems. He encouraged college students to do their best, telling them that B grades were not acceptable, to strive for A's.

Judge Thomas made older workers feel at ease by regularly stopping by and greeting them. One employee in the financial management division followed him out of the office crying when he left. The employees even dedicated the headquarters office building to Judge Thomas in appreciation for his outstanding contribution to EEOC and its mission. He was there for people in need.

In addition to the financial management improvements made under Judge Thomas, EEOC made monumental improvements in the areas of budget execution and formulation, administrative services such as personnel management. We have received thousands of dollars in rebates on our telecommunications area. We have made improvements in space management and automation. Just this past July, EEOC received the prestigious Outstanding Property Managers of the Year Award.

Senator SIMON. If you could conclude your statement now.

Ms. KING. All right. To conclude my statement, Mr. Chairman, I have two letters from employees at the Equal Employment Opportunity Commission expressing their support for Judge Thomas. One is from a group of women and one is from the EEOC employees at headquarters in general. I would like to make these two letters a part of the record.

Senator SIMON. They will be included in the record.

Ms. KING. Thank you very, very much.

[The aforementioned was not available at press time.]

Senator SIMON. Commissioner Clyburn.

STATEMENT OF JAMES CLYBURN

Mr. CLYBURN. Thank you, Mr. Chairman.

It is a pleasure for me to be here today to present testimony in favor of my good friend, Clarence Thomas. I have known Clarence for 10 years, and I consider him to be a personal and professional friend, in spite of the fact that he shares a conservative Republican philosophy and I am considered a more moderate to liberal Democrat. We have argued and debated many topics during our relationship. On some occasions we have agreed and at other times we have disagreed. But through it all, I have always found him to be zealous in his pursuit of the facts and intellectually honest and objective.

Today I will make observations based on my 17 years of experience as commissioner of the South Carolina Human Affairs Commission, and two of those years I spent as president of the International Association of Human Rights Agencies and 1 year as president of our national association. Today I represent over 200 civil and human rights agencies as their congressional and Federal liaison.

In the interest of time, I am going to limit my observations to two areas because you have heard about two or three others already.

As South Carolina Human Affairs commissioner, I can appreciate the difficulty in assessing the performance of an agency which enforces anti-discrimination statutes. There is judgment involved every step along the way, and emotional disagreements are a regular part of the decision-making process.

But if there is one unassailable impediment to fair treatment under the law, it is inefficient and non-professional conduct by the enforcing agency. Judge Thomas brought efficiency and professionalism to this process in many ways, including reduction in processing time of appeals, higher standards of professionalism among staff members, greater accountability in its financial management, and a greater delegation of authority to State and local contracting agencies.

I do not find Judge Thomas, as many seem to feel, to be anti-affirmative action. He does express displeasure with any forms of racial preference and appears to believe that it is a dilution of affirmative action to award benefits those who have not been identified as victims. I am among those who differ with Clarence on this methodology. But it should be noted that this same Clarence Thomas, while at the EEOC, required us at the State and local levels to complete affirmative action plans as a prerequisite to obtaining contracts with EEOC.

In another instance, I think it is important to note that the people who know Clarence Thomas best, aside maybe from the people who are at this table from EEOC, are those of us who run the State and local agencies throughout the country.

We found Clarence to be highly compassionate, sensitive, judicious, and we always found him to be of the intellectual honesty that is required in this field.

Mr. Chairman, I do not present myself as one who has agreed with Clarence on every occasion. Trying to find consensus in enforcing anti-discrimination laws is about like trying to match up the sides of a Rubik's cube. While there have been instances where my philosophy may have differed from his, I have never found anything in his philosophy of a nature to deny him this Supreme Court confirmation.

When I look at the record of Clarence Thomas, I find the record of a man deeply committed to an even-handed system of justice. I would suggest that in Clarence Thomas there is the integrity, the conscientious spirit, and the basic sense of fairness which well describe the requirements for a successful Justice on the Supreme Court.

Thank you.

Senator SIMON. Thank you, Commissioner.

Dr. Shaw, as you may be aware, I have been very much involved in the historically black colleges portion of the Higher Education Act. Much of that was written with the great leadership of Dr. Patterson in my office when I was over on the House side.

As I follow the legal theories of Judge Thomas, he would say we can assist people on the basis of economic need. And in fairness to him, he has not suggested this, but as I follow the theories logically—and the commissioner referred to the racial preference issue that he believes is unconstitutional and unsound—he would rule that we could not have the kind of legislation that we now have for the historically black colleges and universities.

If you knew on the Supreme Court he was going to rule against funding for historically black colleges and universities, would you still be supporting him?

MR. SHAW. If I knew—let me, Senator Simon, say that a certain settlement that he made with General Motors some years ago, a large settlement, he deliberately saw to it that \$10 million of that went to historically black colleges. And I might say to you, sir, that initially I was opposed to Judge Thomas until I heard his posture with reference to historically black colleges. He believes they ought to be retained and strengthened.

If that documented decision of him is to presage his behavior on the Court—

Senator SIMON. If I may interrupt, are you saying—and maybe he has said this. I am not suggesting that he is opposed to the historically black colleges. What I am suggesting is that his legal theory, if it is followed, would suggest that Federal assistance on the basis of race would be unconstitutional. Are you saying that he has said that he follows a legal theory that that can continue?

MR. SHAW. I do not know that he is against opportunity for all Americans. And although I am not conversant to the fact regarding a legal theory of his which if extended would eliminate black colleges, I think I understand him. His position on civil rights would in fact support institutions that would give opportunities to all Americans, Senator. He is for civil rights. He is for opportunity. This has, in fact, made him what he is.

If any person would overturn the instruments that are made to enforce the American dream, I would be against him or her getting on the Supreme Court. But I do not see any necessary implication in his legal theory that would, in fact, eliminate black colleges.

Senator SIMON. All right. Well, we are both arguing theories at this point, and I did not ask Judge Thomas that. Thank you.

Senator Thurmond.

Senator THURMOND. Thank you very much, Mr. Chairman.

I want to take this opportunity to welcome this panel here. Dr. Shaw, you are from Raleigh, NC, I believe. Was Shaw University named after you?

MR. SHAW. No, sir. I don't own the place, sir. It is 126 years old this year. [Laughter.]

It is one of the accidents of history, sir.

Senator THURMOND. Ms. Talkin, I understand you and Ms. King have worked with Clarence Thomas and know him personally well.

MS. TALKIN. Yes, Senator.

Senator THURMOND. You are basing your testimony on your personal knowledge.

Ms. TALKIN. Yes, Senator.

Senator THURMOND. And, Dr. Shaw, you are basing your testimony on personal knowledge or writings of Clarence Thomas or what?

Mr. SHAW. His writings which I have read and from what I have heard. I do not know him personally, but I am basing my—

Senator THURMOND. His writings and reputation; is that it?

Mr. SHAW. Yes, sir.

Senator THURMOND. Mr. Clyburn, are you basing your recommendation on personal acquaintance, aren't you?

Mr. CLYBURN. Yes, sir.

Senator THURMOND. Personal knowledge as well as writings and other things, too?

Mr. CLYBURN. Yes, sir.

Senator THURMOND. Well, I want to thank you all for coming. I am not going to take a lot of time. I think we have taken too much time of some of these witnesses. It boils down to this: The same two questions I have asked these others witnesses I am going to ask you. And, Mr. Clyburn, I want to especially welcome you here.

Mr. CLYBURN. Thank you.

Senator THURMOND. You are the South Carolina Human Affairs commissioner in South Carolina.

Mr. CLYBURN. Right.

Senator THURMOND. We are very proud of your work. You have done a fine job there.

Mr. CLYBURN. Thank you very much.

Senator THURMOND. These are the questions I am going to ask all of you. We will start here with Dr. Shaw.

Is it your opinion that Judge Thomas is highly qualified and possesses the necessary integrity, professional competence, and judicial temperament to be an Associate Justice of the U.S. Supreme Court?

Mr. SHAW. Yes, sir. May I just read a last paragraph of my statement which is four lines in response to you?

Therefore, distinguished members of the Judiciary Committee, on such grounds as academic credentials, experience, symbolic significance, and intellectual honesty, I strongly recommend the confirmation of Judge Clarence Thomas for the U.S. Supreme Court.

So, yes, sir.

Senator THURMOND. So, your answer is yes?

Mr. SHAW. Yes.

Senator THURMOND. Ms. Talkin, I would ask you the same question.

Ms. TALKIN. I don't presume to substitute my judgment for this panel, but I would concur that he is well qualified.

Senator THURMOND. So, your answer is yes?

Ms. TALKIN. It is.

Senator THURMOND. Ms. King?

Ms. KING. Yes.

Senator THURMOND. The answer is yes. Mr. Clyburn?

Mr. CLYBURN. Yes.

Senator THURMOND. The second question: Do you know of any reason why Clarence Thomas should not be made a member of the U.S. Supreme Court, since he has been appointed by the President?

Mr. SHAW. No, sir, I don't.

Senator THURMOND. The answer is no. Ms. Talkin?

Ms. TALKIN. No, Senator.

Senator THURMOND. Ms. King?

Ms. KING. No.

Senator THURMOND. Mr. Clyburn?

Mr. CLYBURN. No, sir.

Senator THURMOND. I think you have answered the questions that the committee wants to know. We have spent days here probing affirmative action, but it all boils down to this, whether you favor him or not, and you said you do support him and you have told us why, so that is all we need to know.

Thank you very much. We are pleased to have you here.

Mr. CLYBURN. Thank you.

Senator THURMOND. Thank you, Mr. Chairman.

Senator SIMON. Senator Grassley?

Senator GRASSLEY. Thank you very much for your testimony, and I won't take a lot of time, just a very general question.

Because you know and have studied Clarence Thomas well, and particularly those who have worked closely with him, and because so often other panels have questioned his commitment to civil rights and equal opportunity, I want to ask each of you in much the same way that Senator Thurmond did, for a short opinion or statement:

Due to your extensive exposure to Clarence Thomas, do you have any question at all of his commitment to equal opportunity and civil rights, and not only in regard to African-American civil rights, but do you have any question that he is committed to the advancement of the civil rights of all minorities, whether it be African-Americans, women, the elderly, Hispanics, Asians, or any other group?

Dr. Shaw first, and then Ms. Talkin.

Mr. SHAW. I did not get the essence of your question, sir.

Senator GRASSLEY. Do you have any doubt in your mind—

Mr. SHAW. I don't.

Senator GRASSLEY [continuing]. About his commitment to civil rights?

Mr. SHAW. I don't.

Senator GRASSLEY. Ms. Talkin?

Ms. TALKIN. In my experience, Judge Thomas has demonstrated an unwavering dedication to civil right.

Senator GRASSLEY. And for all groups?

Ms. TALKIN. For all groups, and I can give you numerous examples, if you want.

Senator GRASSLEY. Ms. King?

Ms. KING. Based on my 30 years of work in the civil rights movement and the work with Judge Thomas, I am positively convinced that he does not have any problems in the area that you just outlined of civil rights.

Senator GRASSLEY. Mr. Clyburn?

Mr. CLYBURN. No, Senator, I do not. I think it is kind of interesting, if I may, that questions raised about the sole issue of affirmative action, every debate I have ever had with Clarence Thomas on this subject has always convinced me that he believes in affirmative action as a concept, very strongly. He has real problems with methodology, and there is difference of opinion as to what the methods ought to be.

Our of fairness to him, I think we ought to take into account, Senator Simon, that what Clarence has said time and time again is that race ought to be but one factor, that's the threshold that ought to be crossed, and after that threshold is crossed, then he thinks other things ought to kick in, in order to determine whether or not affirmative action ought to take place. So, I think that is a little bit different from what people seem to say as being against affirmative action.

Senator GRASSLEY. Senator Simon, I am through.

Senator SIMON. We thank the witnesses very much for being here. We appreciate you taking the time and also your patience in sitting through a lot of the hearings here.

Senator Biden wants to be here for the next panel, but we would ask Mr. Buchanan, Mr. Chambers, Mr. Rauh and Ms. Hernandez, if all four of you could come to the podium. Mr. Lucy is also on this next panel.

Senator Biden is on his way over here, and we will just take a 2-minute recess until he gets here.

[Recess.]

The CHAIRMAN [presiding]. The meeting will come to order.

Our seventh panel this morning, talk about optimism—when the staff wrote this, they said the seventh panel this morning—the seventh panel is one of our most distinguished panels that has come to testify in opposition to Judge Thomas, and includes John Buchanan, a former Congressperson, now the Policy Chair of People for the American Way. John, you have not only been here today, I have observed you have been here I think every day from the outset.

Julius Chambers, on behalf of the NAACP Legal Defense and Education Fund. I read your statement, Mr. Chambers, and you sure did a whole heck of a lot of work on going back and going through all of the former Justices, when they were appointed and how old they were, and I am anxious to hear what you have to say.

A man who is not at all unfamiliar to this committee, one of the distinguished lawyers in the Nation, Joseph L. Rauh, Jr. Joe is known to everyone on this committee and has been here on almost every important issue in the last couple of years.

Antonia Hernandez, on behalf of the Mexican-American Legal Defense and Education Fund and the Alliance for Justice.

And Mr. William Lucy, president of the Coalition of the Black Trade Unionists, and secretary-treasurer for the American Federation of State and County Municipal Employees. It is good to see you, Bill.

Again, I was told by Senator Thurmond that, in my absence, Senator Simon ran a tough ship. He said he got it done, he said he got everybody in in 5 minutes and limited Senators' questions. See even the stenographer smiling over there. So that there is not a re-

bellion on the committee, and I am not suggesting you should value my chairmanship, it would be helpful to me that you not make me look bad, in light of Simon's chairing of this committee.

All kidding aside, your entire statements will be placed in the record. We have a number of questions for you, so to the extent you can come close to keeping the limit, I would appreciate it.

Has the panel determined how they would like to proceed? Congressman, why don't you begin first, and we will work our way across, that is how we will do it.

STATEMENT OF A PANEL CONSISTING OF JOHN H. BUCHANAN, JR., POLICY CHAIR, PEOPLE FOR THE AMERICAN WAY; JULIUS CHAMBERS, NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC.; JOSEPH L. RAUH, JR., LEADERSHIP CONFERENCE ON CIVIL RIGHTS; ANTONIA HERNANDEZ, ON BEHALF OF THE MEXICAN-AMERICAN LEGAL DEFENSE AND EDUCATION FUND AND THE ALLIANCE FOR JUSTICE; AND WILLIAM LUCY, COALITION OF BLACK TRADE UNIONISTS

Mr. BUCHANAN. Thank you, Mr. Chairman.

First, People for the American Way Action Fund has additional material we would like to submit for the record.

The CHAIRMAN. Without objection, it will be placed in the record.

Mr. BUCHANAN. Mr. Chairman and Senator Thurmond, it is neither easy or pleasant to come before this committee to testify against the nomination of Clarence Thomas. We do not take this step lightly. In fact, the People for the American Way Action Fund has only once before opposed a Supreme Court nominee.

Like Judge Thomas, I grew up in the Deep South in the bad old days of segregation, discrimination and white supremacy. My profound empathy and identification with black Americans is the reason I became a civil rights activist, as a Representative of Birmingham, AL, in the U.S. Congress. For 16 years, I served as a Representative to many families like Judge Thomas' and have served and do serve as a pastor to black Americans. I am keenly aware of the experience he shares with generations of African-Americans, and I understand the burden they have carried and the road they have traveled.

But in evaluating this nomination to the Supreme Court, the committee knows it must look beyond background and character, for character alone does not tell us what type of a Justice Clarence Thomas would make. Indeed, Mr. Chairman, I would submit that character is a threshold requirement for such a nomination, something that should be a granted and a given. We agree that it is vital to examine Clarence Thomas' record as a public official. That is what the People for the American Way Action Fund did, after Judge Thomas was nominated—reading every speech he made available and every article he had authored, and examining his service at the Office of Civil Rights and the EEOC.

After that searching and thorough process, we concluded that Judge Thomas' record reveals hostility to numerous Supreme Court precedents involving individual liberties and civil rights. In short, Mr. Chairman, Judge Thomas' troubled tenure in the executive branch, his obvious animosity toward Congress, and his oft-ex-