

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.