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ACTION ALERT

DATE: May 28, 2009
TO: Concerned Parties
FROM: Hilary O. Shelton, Director, Washington Bureau

NAACP Calls for Expeditious Confirmation of Sonia Sotomayor for Associate Justice to the U.S. Supreme Court

FIRST FEMALE HISPANIC NOMINEE HAS A HISTORY OF FAIRNESS, INTELLIGENCE AND AN EVEN JUDICIAL TEMPERAMENT

THE ISSUE:

On Monday, May 26, 2009, President Barack Obama nominated Judge Sonia Sotomayor to serve on the U.S. Supreme Court; specifically, she will replace Justice David Souter, who has announced his plans to retire.

Sonia Sotomayor is an excellent choice. The daughter of immigrant parents (her father, a tool-and-die worker with a third grade education, died when she was nine years old; her mother, a nurse, raised Judge Sotomayor and her brother on a very modest salary), she grew up in the housing projects in the Bronx. She went on to graduate from Princeton University summa cum laude in 1976, and then from Yale Law School (where she was the editor of the law journal) in 1979.

After law school she got a job as an assistant district attorney in New York City, where she prosecuted cases involving police brutality, murder, child pornography and assaults. After a time in private practice, she was nominated in 1991 by President George H. Bush to serve as a federal judge for the U.S. District Court, southern District of New York. Six years later, she was nominated by President Bill Clinton to serve as an appellate judge for the U.S. Court of Appeals for the Second Circuit, where she has served since 1998. She has been a prosecutor, private litigator, trial judge, and appellate judge. No one currently on the Court has that complete package of experience. If confirmed for the Supreme Court, Judge Sotomayor would bring more federal judicial experience to the Supreme Court than any justice in 100 years, and more overall judicial experience than anyone confirmed for the Court in the past 70 years. She has been a big-city prosecutor and a corporate litigator, a federal trial judge on the U.S. District Court, and an appellate judge on the Second Circuit Court of Appeals.

A thorough review of Judge Sotomayor's record shows that she is an intelligent jurist with mainstream values and an even temperament. Her 17 years on the federal bench show that she takes an impartial and balanced approach to the cases before her, and that she is above all fair.

Hearings on Judge Sotomayor's nomination are expected to be held in the Senate Judiciary Committee in mid-June; a vote on her confirmation will hopefully take place in July, prior to Congress leaving town for their August state work period. This will allow Judge Sotomayor to begin her service on the Supreme Court when it convenes in October for its new session.

[More...](#)

THE ACTION WE NEED YOU TO TAKE:

Contact both your Senators and **URGE THEM TO SUPPORT THE NOMINATION OF SONIA SOTOMAYOR TO THE U.S. SUPREME COURT.** To contact your Senators you may:

✓ **Make a Phone Call:**

Call your Senators in Washington by dialing the Capitol Switchboard and asking to be transferred to your Senators' offices. The switchboard phone number is **(202) 224-3121** (see message section, below).

✓ **Write a Letter**

To write letters to your Senators, send them to:
The Honorable (name of Senator)
U.S. Senate
Washington, D.C. 20510

**A SAMPLE
LETTER IS
ATTACHED**

✓ **Send a Fax**

If you would like to send a fax, call your Senators' offices (through the Capitol switchboard) and ask for their fax numbers (you can use either the attached sample letter or the message box, below).

✓ **Send an E-Mail**

To send an e-mail to your Senators, go to www.senate.gov; click on "*Find Your Senators*". Look up your Senators by state; go to their web sites for e-mail addresses.

REMEMBER TO CONTACT BOTH YOUR SENATORS!!!!

THE MESSAGE

- Judge Sotomayor's historic nomination to the US Supreme Court is an excellent choice: a thorough review of her decisions after 17 years on the federal bench show her to be thoughtful, intelligent and extremely fair-minded.
- Judge Sotomayor has been a prosecutor, private litigator, trial judge, and appellate judge. No one currently on the Court has that complete package of experience.
- We encourage the United States Senate to act promptly to confirm Judge Sotomayor, after a complete review of her record, so she can begin the next term in October.

THANK YOU FOR YOUR ATTENTION TO THIS IMPORTANT MATTER!!!
If you have any questions, call Hilary Shelton at the Washington Bureau at (202) 463-2940.

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Sample Letter

(date)

The Honorable _____
United States Senate
Washington, D.C. 20510

RE: SUPPORT FOR SONIA SOTOMAYORS' SNOMINATION TO THE US SUPREME COURT

Dear Senator _____;

As your constituent, I hope that you will do all you can to see that Sonia Sotomayor's historic nomination to the United States Supreme Court is confirmed by the US Senate as quickly and as smoothly as possible. Judge Sotomayor is an excellent choice, and a thorough review of her record shows her to be an intelligent, impartial and fair-minded jurist. Furthermore, her personal background and her professional experiences will clearly be an asset as she deliberates cases before her as a Justice on the US Supreme Court.

Sonia Sotomayor, the first Hispanic woman nominated to the highest court in the land, is clearly an inspired choice. Personally, her life story demonstrates that with hard work and intelligence the American dream is still attainable. Professionally, during her 17 years on the federal bench she has proven herself to take an impartial and balanced approach to the cases before them. She has been a prosecutor, private litigator, trial judge, and appellate judge. No one currently on the Court has that complete package of experience. If confirmed for the Supreme Court, Judge Sotomayor would bring more federal judicial experience to the Supreme Court than any justice in 100 years, and more overall judicial experience than anyone confirmed for the Court in the past 70 years. She has been a big-city prosecutor and a corporate litigator, a federal trial judge on the U.S. District Court, and an appellate judge on the Second Circuit Court of Appeals.

I thus urge you to review Judge Sotomayor's personal and professional history and you will clearly agree that she is eminently suited for the Supreme Court. I thus urge you to ensure that she is confirmed as swiftly and as smoothly as possible. I look forward to hearing your thoughts on this issue and on how I can help ensure that Judge Sotomayor is confirmed to the United State Supreme Court by August.

Sincerely,

(sign and print your name and
remember to include your address)

*Remember to contact your
Representative and BOTH
your Senators.*

TALKING POINTS:

The President's Approach:

- The President believes that selecting someone to replace Justice Souter is one of his most serious responsibilities. He vowed to seek someone with a sharp and independent mind, and a record of excellence and integrity. As a former constitutional law professor, he believes it paramount to select someone who rejects ideology and shares his deep respect for the Constitutional values on which this nation was founded.
- But, as the President has made clear, upholding those constitutional values requires more than just the intellectual ability to apply a legal rule to a set of facts. It requires a common sense understanding of how laws affect the daily realities of people's lives.

Judge Sonia Sotomayor:

- Judge Sonia Sotomayor embodies those qualities -- as someone who brings not only brilliance in the law but a common sense understanding of how the law practically works.
- Her American story and three decade career in nearly every aspect of the law provide Judge Sotomayor with unique qualifications to be the next Supreme Court justice.
- She has been hailed as “a role model of aspiration, discipline, commitment, intellectual prowess and integrity” for her ascent to the federal bench from an upbringing in a South Bronx housing project, and as “one of the ablest federal judges currently sitting” for her thoughtful opinions.

Judge Sotomayor's Background:

- Born to a Puerto Rican family, Judge Sotomayor grew up in a public housing project in the South Bronx. Driven by her mother's belief in the power of education and her own indefatigable work ethic, Sotomayor excelled in school, graduating as valedictorian of her high school class and winning a scholarship to Princeton University. After graduating *summa cum laude*, and Phi Beta Kappa, she entered Yale Law School, where she served as an editor of the Yale Law Journal.
- Out of law school, Judge Sotomayor became an Assistant District Attorney in Manhattan, where she tried dozens of serious criminal cases over five years and was known as a “fearless and effective prosecutor.”
- She entered private practice in 1984, and worked as an international corporate litigator handling cases involving everything from intellectual property to banking, real estate and contract law.

Judge Sotomayor's Judicial Track Record

- If confirmed for the Supreme Court, Judge Sotomayor would bring more federal judicial experience to the Supreme Court than any justice in 100 years, and more overall judicial experience than anyone confirmed for the Court in the past 70 years. She has been a big-city prosecutor and a corporate litigator, a federal trial judge on the U.S. District Court, and an appellate judge on the Second Circuit Court of Appeals.

- Before she was promoted to the Second Circuit by President Clinton in 1998, she was appointed to the District Court for the Southern District of New York by President George H.W. Bush – a show of bipartisan support that proves good judging transcends political party.
- As a trial judge, she earned a reputation as a sharp and fearless jurist who does not let powerful interests bully her into departing from the rule of law. In 1995, Judge Sotomayor ended the baseball strike by issuing an injunction against major league baseball owners.
- In 1998, Judge Sotomayor became the first Latina to serve on the U.S. Court of Appeals for the Second Circuit, one of the most demanding circuits in the country. She has participated in over 3000 panel decisions and authored roughly 400 opinions, handling difficult issues of constitutional law, to complex procedural matters, to lawsuits involving complicated business organizations.
- Judge Sotomayor is widely admired as a judge with a sophisticated grasp of legal doctrine and a keen awareness of the law’s impact on everyday life. She understands that upholding the rule of law means going beyond legal theory to ensure consistent, fair, common-sense application of the law to real-world facts.
- Known as a moderate on the court, Sotomayor often forges consensus and agreeing with her more conservative nominees far more frequently than she disagrees with them. In cases where Sotomayor and at least one judge appointed by a Republican president were on the three-judge panel, Sotomayor and the Republican appointee(s) agreed on the outcome 95% of the time
- Judge Richard C. Wesley, a George W. Bush appointee to the Second Circuit, said “Sonia is an outstanding colleague with a keen legal mind. She brings a wealth of knowledge and hard work to all her endeavors on our court. It is both a pleasure and an honor to serve with her. “

The Confirmation Process

- The President is committed to working with the Senate to ensure an orderly and civil confirmation process. The average number of days between nomination and confirmation for the last five Supreme Court justices is 72 days. Justice Roberts was confirmed 72 days after his nomination, and Justice Ginsburg was confirmed in just 50 days.
- The President believes it is important for the Senate to vote on Judge Sotomayor’s confirmation before the August recess – more than two and a half months away -- to allow the new Justice time to prepare and participate when the Court confers in September and selects cases to be heard this year.

Judge Sonia Sotomayor

Sonia Sotomayor has served as a judge on the United States Court of Appeals for the Second Circuit since October 1998. She has been hailed as “one of the ablest federal judges currently sitting” for her thoughtful opinions,ⁱ and as “a role model of aspiration, discipline, commitment, intellectual prowess and integrity”ⁱⁱ for her ascent to the federal bench from an upbringing in a South Bronx housing project.

Her American story and three decade career in nearly every aspect of the law provide Judge Sotomayor with unique qualifications to be the next Supreme Court Justice. She is a distinguished graduate of two of America's leading universities. She has been a big-city prosecutor and a corporate litigator. Before she was promoted to the Second Circuit by President Clinton, she was appointed to the District Court for the Southern District of New York by President George H.W. Bush. She replaces Justice Souter as the only Justice with experience as a trial judge.

Judge Sotomayor served 11 years on the Court of Appeals for the Second Circuit, one of the most demanding circuits in the country, and has handed down decisions on a range of complex legal and constitutional issues. If confirmed, Sotomayor would bring more federal judicial experience to the Supreme Court than any justice in 100 years, and more overall judicial experience than anyone confirmed for the Court in the past 70 years. Judge Richard C. Wesley, a George W. Bush appointee to the Second Circuit, said “Sonia is an outstanding colleague with a keen legal mind. She brings a wealth of knowledge and hard work to all her endeavors on our court. It is both a pleasure and an honor to serve with her.”

In addition to her distinguished judicial service, Judge Sotomayor is a Lecturer at Columbia University Law School and was also an adjunct professor at New York University Law School until 2007.

An American Story

Judge Sonia Sotomayor has lived the American dream. Born to a Puerto Rican family, she grew up in a public housing project in the South Bronx. Her parents moved to New York during World War II – her mother served in the Women’s Auxiliary Corps during the war. Her father, a factory worker with a third-grade education, died when Sotomayor was nine years old. Her mother, a nurse, then raised Sotomayor and her younger brother, Juan, now a physician in Syracuse. After her father’s death, Sotomayor turned to books for solace, and it was her new found love of Nancy Drew that inspired a love of reading and learning, a path that ultimately led her to the law.

Most importantly, at an early age, her mother instilled in Sotomayor and her brother a belief in the power of education. Driven by an indefatigable work ethic, and rising to the challenge of managing a diagnosis of juvenile diabetes, Sotomayor excelled in school. Sotomayor graduated as valedictorian of her class at Blessed Sacrament and at Cardinal Spellman High School in New York. She first heard about the Ivy League from her high school debate coach, Ken Moy, who attended Princeton University, and she soon followed in his footsteps after winning a scholarship.

At Princeton, she continued to excel, graduating *summa cum laude*, and Phi Beta Kappa. She was a co-recipient of the M. Taylor Pyne Prize, the highest honor Princeton awards to an undergraduate. At Yale Law School, Judge Sotomayor served as an editor of the Yale Law Journal and as managing editor of the Yale Studies in World Public Order. One of Sotomayor’s former Yale Law School classmates, Robert Klonoff (now Dean of Lewis & Clark Law School), remembers her intellectual toughness from law school: “She would stand up for herself and not be intimidated by anyone.” [*Washington Post*, 5/7/09]

A Champion of the Law

Over a distinguished career that spans three decades, Judge Sotomayor has worked at almost every level of our judicial system – yielding a depth of experience and a breadth of perspectives that will be invaluable – and is currently not represented -- on our highest court. New York City District Attorney Morgenthau recently praised Sotomayor as an

“able champion of the law” who would be “highly qualified for any position in which wisdom, intelligence, collegiality and good character could be assets.” [*Wall Street Journal*, 5/9/09]

A Fearless and Effective Prosecutor

Fresh out of Yale Law School, Judge Sotomayor became an Assistant District Attorney in Manhattan in 1979, where she tried dozens of criminal cases over five years. Spending nearly every day in the court room, her prosecutorial work typically involved "street crimes," such as murders and robberies, as well as child abuse, police misconduct, and fraud cases. Robert Morgenthau, the person who hired Judge Sotomayor, has described her as a “fearless and effective prosecutor.” [*Wall Street Journal*, 5/9/09] She was co-counsel in the “Tarzan Murderer” case, which convicted a murderer to 67 and ½ years to life in prison, and was sole counsel in a multiple-defendant case involving a Manhattan housing project shooting between rival family groups.

A Corporate Litigator

She entered private practice in 1984, becoming a partner in 1988 at the firm Pavia and Harcourt. She was a general civil litigator involved in all facets of commercial work including, real estate, employment, banking, contracts, and agency law. In addition, her practice had a significant concentration in intellectual property law, including trademark, copyright and unfair competition issues. Her typical clients were significant corporations doing international business. The managing partner who hired her, George Pavia, remembers being instantly impressed with the young Sonia Sotomayor when he hired her in 1984, noting that “she was just ideal for us in terms of her background and training.” [*Washington Post*, May 7, 2009]

A Sharp and Fearless Trial Judge

Her judicial service began in October 1992 with her appointment to the United States District Court for the Southern District of New York by President George H.W. Bush. Still in her 30s, she was the youngest member of the court. From 1992 to 1998, she presided over roughly 450 cases. As a trial judge, she earned a reputation as a sharp and fearless jurist who does not let powerful interests bully her into departing from the rule of law. In 1995, for example, she issued an injunction against Major League Baseball owners, effectively ending a baseball strike that had become the longest work stoppage in professional sports history and had caused the cancellation of the World Series the previous fall. She was widely lauded for saving baseball. Claude Lewis of the *Philadelphia Inquirer* wrote that by saving the season, Judge Sotomayor joined “the ranks of Joe DiMaggio, Willie Mays, Jackie Robinson and Ted Williams.”

A Tough, Fair and Thoughtful Jurist

President Clinton appointed Judge Sotomayor to the U.S. Court of Appeals for the Second Circuit in 1998. She is the first Latina to serve on that court, and has participated in over 3000 panel decisions, authoring roughly 400 published opinions. Sitting on the Second Circuit, Judge Sotomayor has tackled a range of questions: from difficult issues of constitutional law, to complex procedural matters, to lawsuits involving complicated business organizations. In this context, Sotomayor is widely admired as a judge with a sophisticated grasp of legal doctrine. “‘She appreciates the complexity of issues,’ said Stephen L. Carter, a Yale professor who teaches some of her opinions in his classes. Confronted with a tough case, Carter said, ‘she doesn’t leap at its throat but reasons to get to the bottom of issues.’” For example, in *United States v. Quattrone*, Judge Sotomayor concluded that the trial judge had erred by forbidding the release of jurors’ names to the press, concluding after carefully weighing the competing concerns that the trial judge’s concerns for a speedy and orderly trial must give way to the constitutional freedoms of speech and the press.

Sotomayor also has keen awareness of the law’s impact on everyday life. Active in oral arguments, she works tirelessly to probe both the factual details and the legal doctrines in the cases before her and to arrive at decisions that are faithful to both. She understands that upholding the

rule of law means going beyond legal theory to ensure consistent, fair, common-sense application of the law to real-world facts. For example, In *United States v. Reimer*, Judge Sotomayor wrote an opinion revoking the US citizenship for a man charged with working for the Nazis in World War II Poland, guarding concentration camps and helping empty the Jewish ghettos. And in *Lin v. Gonzales* and a series of similar cases, she ordered renewed consideration of the asylum claims of Chinese women who experienced or were threatened with forced birth control, evincing in her opinions a keen awareness of those women's plights.

Judge Sotomayor's appreciation of the real-world implications of judicial rulings is paralleled by her sensible practicality in evaluating the actions of law enforcement officers. For example, in *United States v. Falso*, the defendant was convicted of possessing child pornography after FBI agents searched his home with a warrant. The warrant should not have been issued, but the agents did not know that, and Judge Sotomayor wrote for the court that the officers' good faith justified using the evidence they found. Similarly in *United States v. Santa*, Judge Sotomayor ruled that when police search a suspect based on a mistaken belief that there is a valid arrest warrant out on him, evidence found during the search should not be suppressed. Ten years later, in *Herring v. United States*, the Supreme Court reached the same conclusion.

In her 1997 confirmation hearing, Sotomayor spoke of her judicial philosophy, saying "I don't believe we should bend the Constitution under any circumstance. It says what it says. We should do honor to it." Her record on the Second Circuit holds true to that statement. For example, in *Hankins v. Lyght*, she argued in dissent that the federal government risks "an unconstitutional trespass" if it attempts to dictate to religious organizations who they can or cannot hire or dismiss as spiritual leaders. Since joining the Second Circuit, Sotomayor has honored the Constitution, the rule of law, and justice, often forging consensus and winning conservative colleagues to her point of view.

A Commitment to Community

Judge Sotomayor is deeply committed to her family, to her co-workers, and to her community. Judge Sotomayor is a doting aunt to her brother Juan's three children and an attentive godmother to five more. She still speaks to her mother, who now lives in Florida, every day.

At the courthouse, Judge Sotomayor helped found the collegiality committee to foster stronger personal relationships among members of the court. Seizing an opportunity to lead others on the path to success, she recruited judges to join her in inviting young women to the courthouse on Take Your Daughter to Work Day, and mentors young students from troubled neighborhoods Her favorite project, however, is the Development School for Youth program, which sponsors workshops for inner city high school students. Every semester, approximately 70 students attend 16 weekly workshops that are designed to teach them how to function in a work setting. The workshop leaders include investment bankers, corporate executives and Judge Sotomayor, who conducts a workshop on the law for 25 to 35 students. She uses as her vehicle the trial of Goldilocks and recruits six lawyers to help her. The students play various roles, including the parts of the prosecutor, the defense attorney, Goldilocks and the jurors, and in the process they get to experience openings, closings, direct and cross-examinations. In addition to the workshop experience, each student is offered a summer job by one of the corporate sponsors. The experience is rewarding for the lawyers and exciting for the students, commented Judge Sotomayor, as "it opens up possibilities that the students never dreamed of before." [[Federal Bar Council News, Sept./Oct./Nov. 2005](#), p.20] This is one of many ways that Judge Sotomayor gives back to her community and inspires young people to achieve their dreams.

She has served as a member of the Second Circuit Task Force on Gender, Racial and Ethnic Fairness in the Courts and was formerly on the Boards of Directors of the New York Mortgage Agency, the New York City Campaign Finance Board, and the Puerto Rican Legal Defense and Education Fund.

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- ⁱ American Philosophical Society, Biographical Essays of Moderators, Speakers, Inductees and Award Recipients, Annual General Meeting, April 2003, at 36.
- ⁱⁱ Honorary Degree Citation, Pace University School of Law, 2003 Commencement.