

July 14, 2021

The Honorable Dick Durbin
Chairman, Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Chuck Grassley
Ranking Member, Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Re: Nomination of Toby J. Heytens as Circuit Judge, United States Court of Appeals for the Fourth Circuit

Dear Chairman Durbin and Ranking Member Grassley:

We write to express our support for Toby Heytens's nomination to a seat on the U.S. Court of Appeals for the Fourth Circuit. We came to know Toby while serving as law clerks at the Supreme Court of the United States during the October 2002 Term, when Toby clerked for Justice Ruth Bader Ginsburg. Our ranks include partners at prominent law firms, professors at leading law schools, and current or former government officials from both Democratic and Republican administrations. Many of us routinely practice before the federal appellate courts. We are Republicans, independents, and Democrats, and while our views differ on a great many issues, we are united in supporting Toby's nomination and in urging his confirmation.

Toby received a B.A. from Macalester College in 1997 and a J.D. from the University of Virginia School of Law in 2000. He served as a law clerk for Judge Edward Becker on the U.S. Court of Appeals for the Third Circuit and, as mentioned above, for Justice Ruth Bader Ginsburg on the U.S. Supreme Court. Between those clerkships, he served as a Bristow Fellow in the Office of the Solicitor General at the U.S. Department of Justice. After practicing in the Supreme Court and Appellate Practice Group at O'Melveny & Myers LLP from 2003 to 2006, Toby joined the faculty of the University of Virginia School of Law. He was an Associate Professor of Law there from 2006 to 2007 and from 2010 to 2014, and a Professor of Law from 2014 to 2018. From 2007 to 2010, he again served in the U.S. Justice Department's Office of the Solicitor General as an Assistant to the Solicitor General, during which time he argued six cases before the Supreme Court. Since 2018, Toby has served as Solicitor General for the Commonwealth of Virginia. He has served with distinction in all of these positions.

Although Toby's outstanding qualifications speak for themselves, we can attest to his tremendous legal acumen, work ethic, and judgment. We can also attest to his collegiality and temperament. Our term clerking at the Supreme Court involved many difficult and contentious cases, over which there were deep disagreements. Yet in his interactions with each of us, Toby was invariably thoughtful, respectful, fair, and good humored, earning the admiration of us all. We are confident he will bring those same qualities to his service on the Fourth Circuit.

In sum, Toby Heytens is an outstanding nominee, and we urge the Senate to approve his nomination.

Sincerely,

Priya Aiyar
Law Clerk to Justice Breyer (OT 2002)

Leah Brannon
Law Clerk to Chief Justice Rehnquist (OT 2002)

Andrew DeVooght
Law Clerk to Chief Justice Rehnquist (OT 2002)

Victoria Dorfman
Law Clerk to Justice Thomas (OT 2002)

Mark C. Fleming
Law Clerk to Justice Souter (OT 2002)

John M. Golden
Law Clerk to Justice Breyer (OT 2002)

Emily Johnson Henn
Law Clerk to Justice O'Connor (OT 2002)

Derek T. Ho
Law Clerk to Justice Souter (OT 2002)

Robert K. Hur
Law Clerk to Chief Justice Rehnquist (OT 2002)

Sarah L. Levine
Law Clerk to Justice Souter (OT 2002)

Brian R. Matsui
Law Clerk to Justice Kennedy (OT 2002)

Troy A. McKenzie
Law Clerk to Justice Stevens (OT 2002)

Trevor W. Morrison
Law Clerk to Justice Ginsburg (OT 2002)

Justin A. Nelson
Law Clerk to Justice O'Connor (OT 2002)

John C. O'Quinn
Law Clerk to Justice Scalia (OT 2002)

Maritza U.B. Okata
Law Clerk to Justice Breyer (OT 2002)

Eric R. Olson
Law Clerk to Justice Stevens (OT 2002)

Elizabeth G. Porter
Law Clerk to Justice Ginsburg (OT 2002)

Cristina M. Rodríguez
Law Clerk to Justice O'Connor (OT 2002)

Gil Seinfeld
Law Clerk to Justice Scalia (OT 2002)

Anne K. Small
Law Clerk to Justice Breyer (OT 2002)

Karl Remón Thompson
Law Clerk to Justice Ginsburg (OT 2002)

Igor V. Timofeyev
Law Clerk to Justice Kennedy (OT 2002)

Kathryn A. Watts
Law Clerk to Justice Stevens (OT 2002)

Amy J. Wildermuth
Law Clerk to Justice Stevens (OT 2002)

Michael F. Williams
Law Clerk to Justice Kennedy (OT 2002)¹

¹ Professional ethics rules prevented certain members of our clerkship class from signing this letter.