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SCHOOL of LAW

The Honorable Richard Durbin  
Chairman  
Committee on the Judiciary  
United States Senate  
711 Hart Senate Office Building  
Washington D.C. 20510

The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
135 Hart Senate Office Building  
Washington, D.C. 20510

July 23, 2021

Dear Chairman Durbin and Ranking Member Grassley:

We are writing to express our strong support for the nomination of Toby Heytens to the United States Court of Appeals for the Fourth Circuit.

We are legal scholars at the University of Virginia School of Law, where Toby has taught since he joined our faculty in 2006. We have expertise across many different areas of law, and we represent a wide range of legal and political perspectives within the legal academy. Based on our years of experience working with Toby, we know that he is brilliant, hard-working, conscientious, collegial, and dedicated to serving others. He will bring all those attributes and more to the federal judiciary.

Toby has had an impressive and distinguished legal career, marked by a diversity of experience across the government, the private sector, and the academy. After graduating at the top of his class from the University of Virginia School of Law, he clerked for Judge Edward Becker of the United States Court of Appeals for the Third Circuit, served as a Bristow Fellow in the Office of the Solicitor General of the United States, and then clerked for Justice Ruth Bader Ginsburg at the Supreme Court of the United States. He practiced as a litigator at O'Melveny & Myers LLP, before entering the legal academy. A tenured member of our faculty, Toby was most recently the David H. Ibbeken '71 Research Professor of Law. He has taught courses in Civil Procedure, Civil Rights Litigation, Federal Courts, and Remedies, and was co-director of our Supreme Court Litigation Clinic.

There is no question that Toby is highly qualified to become a federal appellate judge. While on leave from our faculty, in 2007-10, he served as Assistant to the Solicitor General of the United

States and argued six cases before the Supreme Court (giving him a career total of 10 cases argued before the Court). Since 2018, Toby has been the Solicitor General of Virginia, representing the Commonwealth at trial and on appeal in numerous cases before both state and federal courts.

As an educator, scholar, and litigator, Toby's great strength is his ability to articulate difficult and complicated arguments and to make them intelligible for public audiences. Toby brought that skill to the classroom, and students praised him for it in the highest terms, leading him to receive University-wide awards for teaching and service to our academic community. Toby has also won recognition, on multiple occasions, for his exemplary legal writing, both in his scholarship and in his briefing as a litigator. We think it is fair to say that he has distinguished himself as one of the most effective legal communicators in his generation.

Toby is also dedicated to helping others learn the skills that he has mastered. He was a founder of the mock trial team at Macalester College, his alma mater, and since 2006, he has coached Collegiate Mock Trial at UVA, mentoring more than 100 undergraduate students and leading teams to two national championships. For more than a decade, he has also served on the board of directors of the American Mock Trial Association, a nonprofit that has enabled thousands of students to participate across the country.

Throughout his career, Toby has demonstrated all the virtues that distinguish the finest members of the legal profession. He has the highest level of personal integrity and commitment to the rule of law, practical wisdom and clarity of thought, and the impartiality and fair-mindedness that we ought to expect from members of the federal judiciary.

We believe that Toby Heytens is exceptionally well-qualified to serve on the United States Court of Appeals for the Fourth Circuit, and we urge you to confirm his nomination.

Respectfully,

Micah Schwartzman  
Hardy Cross Dillard Professor of Law

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Harrison Distinguished Professor of Law

Barbara E. Armacost  
Professor of Law

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