

July 23, 2021

The Honorable Richard Durbin
Chairman
Senate Committee on the Judiciary
Washington, DC 20510

The Honorable Charles Grassley
Ranking Member
Senate Committee on the Judiciary
Washington, DC 20510

Dear Chairman Durbin and Ranking Member Grassley:

We are pleased to write in support of the nomination of **Toby J. Heytens** to be United States Circuit Judge for the Fourth Circuit.

Each of us served in the Office of the Solicitor General with Mr. Heytens, who was an Assistant to the Solicitor General from 2007-2010 (spanning portions of the Bush and Obama Administrations) as well as a Bristow Fellow in 2001-2002. The signatories to this letter include members of both parties with a wide variety of jurisprudential views. But our professional experience with Mr. Heytens leaves each of us confident that he is highly qualified to serve on the Fourth Circuit and will be an excellent appellate judge.

Mr. Heytens demonstrated superb skills as a writer, legal analyst, and oral advocate before the Supreme Court during his time in the Office. In addition to his work on his own cases (including six oral arguments before the Court), he was particularly well known as a thoughtful and incisive participant in the Office's moot courts, helping to prepare other attorneys for their oral arguments. Although his questions were sharp, his tone never was. Whatever the subject matter, Mr. Heytens reliably spotted the weak points in both sides' arguments and gave clear-headed, objective advice about how best to present the government's position.

Some of us have also been involved in Supreme Court cases that Mr. Heytens has handled either through the UVA Supreme Court clinic or as Solicitor General of Virginia. Whether we were aligned with or against him, we saw once again that he is a truly excellent lawyer.

To be an excellent judge, of course, he must be more than an excellent lawyer. His performance in the Office of the Solicitor General gives us reason to be confident that he will successfully transition from advocate and scholar to judge. Assistants to the Solicitor General are nonpolitical career staff, hired for their legal excellence and charged with representing the United States before the Supreme Court irrespective of the administration or political party in office. The job requires attorneys to set aside their personal views, work collaboratively with others throughout the government, and advance the interests of the United States. During his service as an Assistant, Mr. Heytens consistently conducted himself in accordance with the nonpartisan and collegial traditions of the Office.

We enthusiastically support Mr. Heytens's confirmation to the Fourth Circuit.

Sincerely,

Paul D. Clement
Solicitor General (2005-2008)
Principal Deputy Solicitor General (2001-2004)

Gregory G. Garre
Solicitor General (2008-2009)
Principal Deputy Solicitor General (2005-2008)
Assistant to the Solicitor General (2000-2004)

Theodore B. Olson
Solicitor General (2001-2004)

Neal Kumar Katyal
Acting Solicitor General (2010-2011)
Principal Deputy Solicitor General (2009-2010)

Daryl Joseffer
Principal Deputy Solicitor General (2008-2009)
Assistant to the Solicitor General (2004-2008)

Michael R. Dreeben
Deputy Solicitor General (1994-2019)
Assistant to the Solicitor General (1988-1994)

Thomas G. Hungar
Deputy Solicitor General (2003-2008)
Assistant to the Solicitor General (1992-1994)

Lisa S. Blatt
Assistant to the Solicitor General (1996-2009)

Edward C. DuMont
Assistant to the Solicitor General (1992-1996, 1997-2001)

John P. Elwood
Assistant to the Solicitor General (2002-2005)

James A. Feldman
Assistant to the Solicitor General (1989-2006)

Irving L. Gornstein
Assistant to the Solicitor General (1994-2007)

Douglas H. Hallward-Driemeier
Assistant to the Solicitor General (2004-2009)

Benjamin J. Horwich
Assistant to the Solicitor General (2009-2014)

William M. Jay
Assistant to the Solicitor General (2007-2012)

Jeffrey A. Lamken
Assistant to the Solicitor General (1997-2003)

David A. O'Neil
Assistant to the Solicitor General (2008-2010)

Joseph R. Palmore
Assistant to the Solicitor General (2010-2014)

Nicole A. Saharsky
Assistant to the Solicitor General (2007-2017)

Lisa Hertzner Schertler
Assistant to the Solicitor General (2007-2009)

Pratik A. Shah
Assistant to the Solicitor General (2008-2013)

Melissa Arbus Sherry
Assistant to the Solicitor General (2009-2014)

Scott Keller
Bristow Fellow (2008-2009)

Matthew Krueger
Bristow Fellow (2007-2008)

Judson O. Littleton
Bristow Fellow (2009-2010)

Erin E. Murphy
Bristow Fellow (2007-2008)

Matthew Owen
Bristow Fellow (2009-2010)

Annie Owens
Bristow Fellow (2007-2008)

Matthew E. Price
Bristow Fellow (2007-2008)