



**STATEMENT  
OF  
NANCY SCOTT DEGAN  
STANDING COMMITTEE ON THE  
FEDERAL JUDICIARY  
AMERICAN BAR ASSOCIATION**

**concerning the**

**NOMINATION**

**of**

**THE HONORABLE NEIL M. GORSUCH**

**to be**

**ASSOCIATE JUSTICE OF THE SUPREME COURT  
OF THE UNITED STATES**

**before the**

**COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE**

**SUBMITTED ON MARCH 19, 2017**

Mr. Chairman, Ranking Member Feinstein, and Members of the Committee:

My name is Nancy Scott Degan of New Orleans, Louisiana, and it is my privilege to chair the American Bar Association's Standing Committee on the Federal Judiciary. I am joined today by Shannon Edwards of Oklahoma, our Tenth Circuit representative and the lead evaluator on the Standing Committee's investigation of Judge Neil M. Gorsuch. We are honored to appear here today to explain the Standing Committee's evaluation of the professional qualifications of Judge Gorsuch to be Associate Justice of the Supreme Court of the United States.

President Trump announced his nomination of Judge Gorsuch to be an Associate Justice on February 1, 2017. The Standing Committee began its evaluation that very day and continued its work for the next several weeks. By unanimous vote on March 9, the Standing Committee awarded Judge Gorsuch its highest rating of "Well Qualified" for appointment to the Supreme Court of the United States, and the Standing Committee published its rating that same day.

#### **THE STANDING COMMITTEE'S EVALUATION PROCESS**

The Standing Committee has conducted its independent and comprehensive evaluations of the professional qualifications of nominees to the federal bench since 1953. The fifteen distinguished lawyers who make up our Committee come from across the country, representing every federal judicial circuit in the United States. The members are from diverse backgrounds professionally, ethnically and politically--from large and small law firms, academia and corporate legal positions; they include a mix of "plaintiff" and "defense" lawyers. These leaders, who are identified on Exhibit "A," spend hundreds of hours each year without compensation conducting nonpartisan peer reviews of the professional qualifications of all nominees to the Supreme Court of the United States, all federal district and appellate courts, as well as the Court of International Trade and the Article IV territorial district courts.

The Standing Committee does not propose, endorse, or recommend nominees. Its sole function is to evaluate a nominee's integrity, professional competence, and judicial temperament, and then rate the nominee as "Well Qualified," "Qualified," or "Not Qualified." In so doing, the Committee relies heavily on the confidential, frank, and considered assessments of lawyers, academics, judges, and others who have relevant information about the nominee's professional qualifications.

The Standing Committee's investigation of a nominee to the Supreme Court of the United States is based upon the premise that the nominee must possess exceptional professional qualifications. As set forth in the ABA's publicly available manual about the Committee's work known as "the *Backgrounder*":

To merit the Committee's rating of "Well Qualified," a Supreme Court nominee must be a preeminent member of the legal profession, have outstanding legal ability and exceptional breadth of experience, and meet the very highest standards of integrity, professional competence and judicial temperament. The rating of "Well Qualified" is reserved for those found to merit the Committee's strongest affirmative endorsement.<sup>1</sup>

The significance, range, complexity, and nation-wide impact of issues that a nominee will confront on the Supreme Court demand no less. For that reason, our investigation of a Supreme Court nominee is more extensive than investigations conducted for nominations to the lower federal courts, and it is procedurally different in two principal ways.

First, Standing Committee members conduct investigations into the nominee's professional qualifications in every federal circuit in the United States, not only in the resident circuit of the nominee (here, the Tenth Circuit). In accordance with our procedures, and with regard to the investigation of Judge Gorsuch's qualifications, each Standing Committee member

---

<sup>1</sup> American Bar Association, *Standing Committee on the Federal Judiciary: What it is and How it Works* ("Backgrounder") 10 (2014).

prepared a confidential circuit report that was included in the comprehensive confidential final report on which the Standing Committee based its rating.

Second, when examining nominees to the Supreme Court, the Standing Committee assembles reading groups of scholars and practitioners to review the nominee's written work. With regard to our evaluation of Judge Gorsuch, the University of Pennsylvania Law School and the Loyola College of Law in New Orleans formed Reading Groups which combined totaled 26 professors who are recognized experts in the substantive areas of law they reviewed. Collectively, these professors have decades of experience not only in teaching and scholarship, but also in law firms, non-profit organizations, and state and federal government.

The Practitioners' Reading Group that analyzed Judge Gorsuch's writings was composed of 14 nationally recognized lawyers with significant trial and appellate experience. All of the members are knowledgeable concerning Supreme Court practice, and most have briefed and argued cases in the Supreme Court or are former law clerks to Justices on the Supreme Court.

To facilitate a review of Judge Gorsuch's writings, an intranet site was established to house all of Judge Gorsuch's opinions and publicly available writings.

The three Reading Groups, the dedicated members of which are identified in Exhibits "B," "C," and "D" to this Statement, were guided by the same standards that are applied by the Standing Committee. Measuring only professional competence, and if evident from writings, integrity and judicial demeanor, the members of the Reading Groups independently evaluated factors such as Judge Gorsuch's analytical ability, clarity, knowledge of the law, application of the facts to the law, expertise in harmonizing a body of law, and his ability to communicate effectively. Each member of each group reduced his or her evaluation to writing, with cited examples, and each member's written evaluation was provided to the members of the Standing

Committee. Additionally, the chair of each group provided a summary of each group's work.

During their extensive investigation of the professional qualifications of Judge Gorsuch, Standing Committee members wrote to invite input relevant to our investigation from almost 5,000 people, including all federal district and appellate judges, as well as magistrate judges, Justices of the Supreme Court of the United States, state judges, lawyers, and community and bar representatives. The members of the Standing Committee solicited information from the lawyers, judges, and additional persons identified by Judge Gorsuch in response to the Senate Judiciary Committee Questionnaire as possibly having knowledge of his professional qualifications. Standing Committee members also identified people with such knowledge through their interviews; their analyses of Judge Gorsuch's writings; and sources identified through the investigative process. We interviewed many who had worked with and against Judge Gorsuch in private practice; in his capacity as Deputy Attorney General; in his capacity as a federal circuit judge; as a member of various professional organizations; and in his capacity as a law professor. Additionally, we interviewed lawyers who have appeared before Judge Gorsuch on the bench, and we interviewed those who have worked with Judge Gorsuch on various bench and bar committees.

We interviewed childhood friends and professors of the universities attended by Judge Gorsuch, as well as those where he has taught. We also interviewed judges at each level of the state and federal judiciary, and lawyers who worked with Judge Gorsuch as a law clerk, in private practice, as Principal Deputy Associate Attorney General of the United States, and as a judge on the Tenth Circuit Court of Appeals. Additionally, the Standing Committee considered its confidential evaluation conducted in 2006 when Judge Gorsuch was nominated to the United

States Court of Appeals for the Tenth Circuit.<sup>2</sup>

The Standing Committee followed Judge Gorsuch's career as a law clerk to the Honorable David B. Sentelle of the United States Court of Appeals for the Tenth Circuit, and as a law clerk for both the late Associate Justice Byron White and current Associate Justice Anthony M. Kennedy of the Supreme Court of the United States. We also interviewed those who encountered Judge Gorsuch during his private practice at Kellogg, Huber, Hansen, Todd, Evans & Fiegel, PLLC; as Principal Deputy Associate Attorney General of the United States; and as an Adjunct Professor at the University of Colorado Law School. In each case, Standing Committee members sought all views, negative and positive, regarding Judge Gorsuch's professional qualifications for service on the Supreme Court.

In total, the Standing Committee reached out to 4,997 judges, lawyers, professors, community representatives and others for information regarding Judge Gorsuch's integrity, professional competence and judicial temperament. The Standing Committee received more than 1,000 responses, and the members of the Standing Committee conducted interviews with those respondents who had personal knowledge of Judge Gorsuch through their professional and/or personal dealings with him. These interviews were reduced to writing for the Standing Committee's collective consideration. Many of those who responded to the Standing Committee's request for information about Judge Gorsuch also provided substantive written information from their personal knowledge, and that material was also supplied to the Committee.

The Standing Committee based its evaluation on the data received from its extensive outreach; on its own analyses of Judge Gorsuch's writings; on reports of the three Reading Groups; and on a personal interview of Judge Gorsuch that was conducted by our lead

---

<sup>2</sup> In connection with the 2006 evaluation, the Standing Committee unanimously found Judge Gorsuch "Well Qualified" to serve on the Tenth Circuit Court of Appeals.

investigator, Tenth Circuit representative Shannon Edwards and me, as Chair of the Standing Committee, on February 27, 2017. The written record of all analyses and interviews was assembled to comprise the Standing Committee's confidential final report that was distributed to each Standing Committee member. Standing Committee members were given approximately 7 days to study this material -- totaling just under 1,000 pages -- to individually evaluate Judge Gorsuch's integrity, professional competence, and judicial temperament. Thereafter, the Standing Committee unanimously voted that Judge Gorsuch is "Well Qualified" to be an Associate Justice of the United States. As Chair of the Standing Committee, I submitted that rating to the White House and you, Chairman Grassley and Ranking Member Feinstein, on March 9, 2017. The rating was also published on the website of the Standing Committee on the Federal Judiciary.

### **OUR EVALUATION OF JUDGE GORSUCH'S PROFESSIONAL QUALIFICATIONS**

The Standing Committee did not consider Judge Gorsuch's ideology, political views or political affiliation. It did not solicit information with regard to how Judge Gorsuch might vote on specific issues or cases that could come before the Supreme Court of the United States. Rather, the Standing Committee's evaluation of Judge Gorsuch is based solely on a comprehensive, nonpartisan, nonideological peer review of his integrity, professional competence, and judicial temperament.

#### **1. Integrity**

In evaluating integrity, the Standing Committee considers a nominee's character and general reputation in the legal community, industry and diligence.<sup>3</sup> The Committee also considers the extent to which there have been any findings of ethical violations or disciplinary proceedings involving a nominee, of which there have been none relating to Judge Gorsuch. The Standing

---

<sup>3</sup> *Backgrounder* at 3.

Committee found that Judge Gorsuch enjoys an excellent reputation for integrity and is a person of outstanding character.

It was clear from our interview of Judge Gorsuch that he began learning the significance of a lawyer's integrity during his early childhood. His mother, father and his father's father were attorneys, and he recalled with fondness their love of the profession and their genuine commitment to helping others through the practice of law. On weekends, he went with his father and his siblings to the family law office located in a bank building in downtown Denver. He recalls his grandfather telling him that a lawyer's purpose is "to help people solve their problems." He described his grandfather as a "legal hero in Colorado," explaining that he gave his time away to anyone who called, and citing his work on desegregation in Denver.

Likewise, Judge Gorsuch has given generously of his time on committees dedicated to the improvement of the Federal Rules governing litigation, and to Inns of Court whose mission is to promote apprenticeship, fellowship and education among law students, lawyers, and judges. Expressing great affection for the Inns of Court to which he belongs, Judge Gorsuch stated, "I see the importance of having a place where we can all break bread and have an opportunity to see people as people." He likes the fact that seasoned and well-respected attorneys interact at Inn of Court meetings on a different playing field with judges, new lawyers, and law students. He observed that the Inns fill the void left from days when judges and attorneys enjoyed collegiality outside the courtroom.

Many lawyers, judges and others who were interviewed praised Judge Gorsuch's integrity. We cite representative comments as follows:

"He is in every way an upright person."

\* \* \*



"Neil Gorsuch approaches every case 'fairly and independently.'"

\* \* \*

"I have known and interacted professionally with Judge Gorsuch since his appointment to the Tenth Circuit Court of Appeals. In my experience as a judge ... I cannot identify a person more qualified—in every sense of the word—to serve as an Associate Justice of the United States Supreme Court. Judge Gorsuch would be an invaluable addition to the high court."

\* \* \*

"Judge Gorsuch is always willing to undertake projects and often offers to participate."

\* \* \*

"Judge Gorsuch is a man of great integrity. A wonderful adherent to the Canons of Judicial Ethics, he is known both inside and outside the court as a man of great character, and is held in high esteem."

\* \* \*

"I have observed that it makes no difference to him how a case might come out if that is where the law leads him, regardless of whether that result coincides with his personal preference. He is a true judges' judge and will bring a great deal of talent to the Supreme Court upon his confirmation."

\* \* \*

"There is no room for a self-centered approach in Neil's world. His abiding respect for legal traditions and his commitment to the law's demands will not permit it. Call it humility; or call it fortitude."

\* \* \*

"He is neither sexist, racist, nor homophobic."

\* \* \*

"Based on his demeanor and line of questioning [during oral argument], you may think he is leaning one way, but then he ultimately leans a completely different way. I think he seizes on oral argument as an opportunity to fully vet out every issue and make sure he is making the right choice. Most importantly, I feel like Judge Gorsuch applies the law fairly and consistently, irrespective of the outcome."

\* \* \*

"He has the highest character."

\* \* \*

"A fantastic guy and fantastic colleague and a hard worker."

\* \* \*

"A wise and empathic friend who always made time for his colleagues."

\* \* \*

Regarding his time at Georgetown Preparatory School, a former classmate remarked, "It's a small school and everyone knows each other. His reputation then was a nice guy, serious student, senior class president. Not flashy, but recognized as smart and nice."

One law school dean who knows Judge Gorsuch well described him as follows: "Judge Gorsuch is extremely smart, and is a highly talented and craftsman-like judge. He is a model of integrity, and a fierce defender of the rule of law and judicial independence. But beyond that, and perhaps most importantly, he is an extremely thoughtful, caring, and empathic person. As a litigant in his court, I would feel confident that, whatever the outcome, I had been heard, and that my position had been understood and evaluated carefully, thoroughly, and fairly. In short, whatever your politics, Judge Gorsuch is exactly what we want in our judges. He would make an excellent Justice."

On the basis of the foregoing comments and many additional comments received during our comprehensive evaluation process, the Standing Committee concluded that Judge Gorsuch possesses the integrity required to receive a "Well Qualified" rating.

## 2. Professional Competence

“Professional competence encompasses such qualities as intellectual capacity, judgment, writing and analytical abilities, knowledge of the law, and breadth of professional experience.”<sup>4</sup> A Supreme Court nominee must possess exceptional professional qualifications, including an “especially high degree of legal scholarship, academic talent, analytical and writing abilities, and overall excellence. [The nominee must be able] to write clearly and persuasively, harmonize a body of law, and to give meaningful guidance to the trial and circuit courts and the bar for future cases.”<sup>5</sup> Judge Gorsuch’s professional competence exceeds these high criteria.

Members of the Practitioners' Reading Group observed that Judge Gorsuch's opinions are "models of care, thoroughness, and analytical rigor in resolving the issues before him." Summarizing the analyses submitted by their Group's members, Co-Chairs, Judith Miller and Donald Ayer remarked:

Judge Gorsuch's thoroughness and care are apparent in virtually all of his opinions, and the summaries below convey that point clearly. That thoroughness and dedication may be most striking in some of the longest and most complicated of the cases. He takes seriously the need to address the points raised by the parties, and tirelessly does so even when many less-than-promising issues have been raised. At the same time, he is usually careful to refrain from deciding issues that either have not been properly raised or preserved, or that need not be reached to decide the case. But this impulse also seems to be in competition with a parallel desire to be helpful and illuminate issues for the future guidance of those to whom they may be relevant—or, more rarely, to press a particular point of view regarding issues even if not presented by the parties. Perhaps no less notable than Judge Gorsuch's generally thorough, sound and readily understandable discussions of legal issues, are the occasions on which he engages in a careful and commonsense discussion of certain facts to resolve a legal issue. These insightful discussions of the facts appear most commonly in criminal cases, in connection with issues such as harmless error and whether a counsel's ineffectiveness offers cause for relief. Like his resolutions of legal issues, these factual discussions seem to involve no single pattern or bias, and are resolved in favor of the defendant almost as often as in favor of the government.

---

<sup>4</sup> *Id.* at 3.

<sup>5</sup> *Id.* at 9.

One large area where his dedication to the fair application of the law is most apparent is criminal law. Of the 79 published cases involving criminal and Fourth Amendment law where Judge Gorsuch wrote, his views in 21 supported the defendant's position in important ways. One theme that he expressed in several of those cases, including one where he ordered reversal on plain error review, is that '[f]ew things should give us more pause than the possibility of mistakenly sending to prison a man Congress has said should not be there.'

\* \* \*

Judge Gorsuch's opinions seem to be driven by a strong impulse not only to decide the cases in the manner that he views as correct, but also to explain and illuminate the law... .

The Academic Reading Groups were equally complimentary of Judge Gorsuch's intellect and skill. Dean Lawrence Moore of Loyola College of Law stated:

The picture that emerges of Judge Gorsuch is a careful mind whose starting point is always the text of a statute. Despite what might make for dull reading, his opinions are lively and often conversational. They are exceptionally accessible to the non-lawyers. He often begins with a provocative question. His longer opinions show a complete mastery of the opinions of other judges and often the history of an area of law. This is a scholarly judge with a first-rate mind. Reviewer after reviewer remarked on Judge Gorsuch's mastery of a particular area of law. Unlike most of us professors who become experts in two or three areas of law, he seems to have mastered most. I would be willing to hire him as a professor to teach just about any area of law. That is competence plus.

University of Pennsylvania Law School Dean Theodore Ruger added that Judge Gorsuch's writings showed that he is a judge "of formidable judicial skill and frequent judicial restraint, capable of working with care and persuasive force across a range of doctrinal and statutory fields, and skillfully applying a range of interpretive methodologies." Dean Ruger explained:

There was a broad consensus among the Penn Law reading group members that Judge Gorsuch is a highly competent judge whose reasoning toward reaching results in his opinions was well within the professionally-accepted bounds of judicial competency. One reader described him as 'a rigorous legal technician who handles sophisticated and complex legal arguments very we... .' To other readers the judge came across as a 'skilled and sophisticated legal analyst...,' or 'a highly competent judge with strong analytical skills ... [who] engages opposing

arguments with respect...,' or 'a meticulous legal analysis.'... Even in a highly technical area ... where Judge Gorsuch does not have deep professional experience, his judicial writing ... was found by our own expert ... to be 'well informed and his analysis ... highly sophisticated. ...'

Certain members of the Reading Groups -- as well as some judges and lawyers we interviewed -- commented on Judge Gorsuch's sometimes disarmingly plain writing style. One federal district court judge stated:

I have known Judge Gorsuch since my appointment to the bench .... He is engaging, pleasant, and the consummate gentleman. I have the highest regard for him. Judge Gorsuch's opinions set him apart. They display a degree of lucidity that few judges' opinions attain. While I am not a fan of his use of contractions, he employs a less formal style very effectively to explain in simple terms complicated concepts. This stylistic achievement is impressive enough, but what most impresses me is his legal reasoning. He has superb analytic skills. He has a knack for identifying a guiding principle from the fog of facts and arguments and using that principle to shine a light on the answer. After several years of reading Judge Gorsuch's opinions affirming and reversing my orders, I concluded something that does not happen very often--that this is a person who is Supreme Court material.

Although the vast majority of those who commented on Judge Gorsuch's writing style lauded his straightforward approach to preparing opinions, a small minority described it as at times overly dismissive, especially of the losing position:

Every reader who commented on the judge's style described it as unusually clear and strong. [One team member] 'found all of the cases to be well reasoned and easy to follow,' and describe[d] Judge Gorsuch as 'a skilled writer, with a clear, fluid, plain-spoken style that has become even more focused and direct over his years on the bench.' ... Many other readers agreed, describing his opinion prose style as 'always clear and at times beautiful,' ... 'lucid, graceful and persuasive,' ... and 'light and lively' and filled with 'clarity, readability and humor. ... This attribute of Judge Gorsuch's judicial skill pervades his opinions, and our reviews of them -- however a handful of readers thought that the judge went too far with his unique style in some cases, at the cost of persuasive reasoning or proper respect for parties or colleagues. [One reader] wrote that occasionally Gorsuch's 'fondness for arresting prose leads him into metaphors that are perhaps too long extended. ...'

We discussed such comments during our personal interview with Judge Gorsuch. Confirming what we discerned from our many interviews, commentary from the reading groups, and the Standing Committee's own research, Judge Gorsuch remarked that most people would say

that he does not have a "poison pen," and that most lawyers and judges believe he writes "respectfully." He said he likes to write the way people talk. He uses contractions, and tries not to use too many footnotes. He sees "no reason to use a lot of legal jargon." He desires to "demystify opinions," and wants the litigants and regular people -- as well lawyers -- to be able to analyze and understand what he is saying. He noted that in order to write clearly and smart "you have to work at it, as it's much harder to write that way," He said he goes through many drafts to be as succinct as possible.

In light of Judge Gorsuch's comments, it is not surprising that the Practitioners' Reading Group observed that "Judge Gorsuch's opinions are written in an unpretentious conversational style that is easy to grasp and often quite entertaining. While his informality sometimes verges on being breezy (and he regularly uses contractions), that is no indication of unseriousness in his work." Likewise, one judge stated: "He has both affirmed and reversed decisions of mine and in each instance I have learned something, been treated with respect and appreciated his decisions. ... I think he writes better and thinks more clearly than any of the present members of the Supreme Court. I say this while not agreeing with his vaunted textualist approach to constitutional interpretation."

To reach their conclusion that Judge Gorsuch possesses the professional competence to be an Associate Justice of the Supreme Court of the United States, the members of the Standing Committee examined not only the thorough reports of the Practitioners' and Academic Reading Groups, but also the views of lawyers, academics, and Judge Gorsuch's judicial peers. Almost all of the experienced, dedicated, and knowledgeable sitting judges, legal scholars, and lawyers who have worked with or against Judge Gorsuch had high praise for his intellect and ability to communicate clearly and effectively.

Describing his professional competence, many used adjectives such as “brilliant,” “thoughtful,” “intelligent” and “really, really, really smart.” A sampling of specific comments from a wide array of lawyers, judges and academics include:

"One of the few people I would rate a 10 out of 10 in the area of professional competence."

\* \* \*

"Eminently one of the most qualified persons ever nominated to the Supreme Court."

\* \* \*

"Highly competent, thoughtful, and knowledgeable."

\* \* \*

Judge Gorsuch is "extremely qualified...His breadth and depth of experience are impeccable....To have Columbia, Harvard and Oxford in one person is phenomenal."

\* \* \*

"The best legal writer on the circuit court."

\* \* \*

"He is civil, smart, articulate and humble. He's exactly what one would hope for on the United States Supreme Court."

\* \* \*

"I have known Judge Gorsuch for many years. He is highly qualified by intellect, knowledge, and hard work. He would serve with distinction...As a matter of ability and aptitude, one could scarcely do better."

\* \* \*

"He is respectful and has a tireless work ethic."

\* \* \*

"He is a brilliant and very analytical thinker."

One federal appellate judge who has known Judge Gorsuch professionally for several years indicated that when he encounters a particularly challenging issue or case, he asks himself, "What would Neil Gorsuch do?"

Given the breadth, diversity, and strength of the feedback we received from judges and lawyers of all political persuasions and from so many parts of the profession, the Committee would have been hard pressed to come to any conclusion other than that Judge Gorsuch has demonstrated professional competence that is exceptionally outstanding. Time and again, those with whom he has worked and those who have been involved in cases over which he has presided have applauded his intellectual acumen, thoughtful discernment, and written clarity. Based on the results of our extensive investigation and the resulting input we received from varied and knowledgeable sources, we have determined that Judge Gorsuch possesses sufficiently outstanding professional competence to be rated "Well Qualified."

### **3. Judicial Temperament**

In evaluating judicial temperament, the Standing Committee considers a nominee's "compassion, decisiveness, open-mindedness, courtesy, patience, freedom from bias, and commitment to equal justice under the law."<sup>6</sup> Lawyers and judges overwhelmingly praised Judge Gorsuch's judicial temperament.

The following representative comments provide insight on Judge Gorsuch's demeanor as a jurist:

"As for demeanor, we could not have found someone better."

\* \* \*

---

<sup>6</sup> *Id.* at. 3.



"Measured and discreet. He has a ton of self-control."

\* \* \*

"Very decisive and open minded."

\* \* \*

"A terrific listener."

\* \* \*

"Even when he disagrees with a position, he does so graciously and respectfully."

\* \* \*

"He is a real-life Jimmy Stewart."

\* \* \*

He is "sincere and reasonable, and acts with great judgment and thoughtfulness in all settings."

\* \* \*

He is "very compassionate and understands the judge's role perfectly. He is as "even-keeled a judge can get; he does not lose his cool; he is courteous and unbiased."

\* \* \*

"A pleasant person and complete gentleman."

\* \* \*

"Totally even. I never saw him get upset at any point during the case. He was fair and reasonable, and did not take advantage of anyone."

Notably, a judge who was a front runner for the position for which Judge Gorsuch has been nominated indicated that when he was asked by the Vice President who the nominee should be if not himself, he responded, "This was the easiest question I had been asked all day. I said, without a doubt, the nominee should be Judge Gorsuch."

The Reading Groups provided helpful insight into Judge Gorsuch's judicial temperament, as well. Summarizing the views expressed by many of the group's 14 experienced advocates, the Chairs of the Practitioners' Reading Group noted that Judge Gorsuch's opinions "often seem to be addressed most directly to the parties themselves, and work hard to explain the situation and outcome in a way that will be understandable to the parties. They are also uniformly written in a civil and respectful tone. We are unaware of even a single instance in which Judge Gorsuch has engaged in an ad hominem attack or impugned the motives or conduct of any colleague on the bench, or of counsel before the court."

The Academic Reading Groups echoed this sentiment. Dean Moore of Loyola stated, "The word that describes Judge Gorsuch for me is humility. He can disagree without being disagreeable." One member of the University of Pennsylvania Reading Group added, "He is considerate and respectful of the parties, especially when he is deciding against an individual plaintiff....One distinctive feature of Judge Gorsuch's opinions is that he often gives both precedential and policy reasons to support a decision, in effect explaining the logic behind the rule he is applying."

While a few interviewees described challenging situations during oral argument before Judge Gorsuch, the overwhelming majority of those who provided input indicated that Judge Gorsuch is respectful, unbiased, and sensitive to the positions of litigants and their counsel. Additionally, when responding to our questions concerning his demeanor during oral argument, Judge Gorsuch made a point during our personal interview of acknowledging that when a lawyer appears before the court, it may already be his or her hardest day, and he does not take the opportunity to "beat up" on lawyers. He added that all he wanted from a court when he was a practicing lawyer was for the judges to be fair, and he strives to be such a judge.

Based on the information obtained from our comprehensive investigation, including our personal interview of Judge Gorsuch, the Standing Committee unhesitatingly found Judge Gorsuch's temperament to be well-suited to the job at hand and deserving of the "Well Qualified" rating.

#### **4. Judicial Independence**

We close our statement with a few words about judicial independence, not because judicial independence is itself a criterion that we individually evaluate, but because it is a quality essential to measuring integrity, professional competence and judicial demeanor. Our evaluation process provided an excellent opportunity to gain a glimpse at whether Judge Gorsuch is a judge who ascribes to the concept of an independent judiciary. Based on the writings, interviews, and analyses we scrutinized to reach our rating, we discerned that Judge Gorsuch believes strongly in the independence of the judicial branch of government, and we predict that he will be a strong but respectful voice in protecting it. As one interviewee noted with alacrity, "Judge Gorsuch has 'grit,' which he gets from being a multi-generation Westerner." Another stated, "He is dedicated to the constitutional doctrine of separation of powers and to the independence of the judiciary." Yet another observed, "In addition to his outstanding academic credentials and brilliant mind, Judge Gorsuch's demeanor and written opinions during his tenure on the Tenth Circuit Court of Appeals demonstrate that he believes unwaveringly in the rule of law and judicial independence. In my opinion, he is exceptionally well qualified to serve as a justice of the Supreme Court of the United States." We agree.

#### **CONCLUSION**

In conclusion, Mr. Chairman, I note that the goal of the ABA Standing Committee shares the goal of your Committee -- to assure a qualified and independent judiciary for the American

people. I trust that the foregoing summary of the Standing Committee's work assists the Committee in assuring that this objective is achieved. Thank you for the opportunity to present this statement concerning the professional qualifications of Judge Gorsuch as an Associate Justice of the Supreme Court of the United States.

## **EXHIBIT A**

### **ABA Standing Committee on the Federal Judiciary 2016-2017**

#### **CHAIR**

Nancy Scott Degan  
Baker Donelson Bearman Caldwell & Berkowitz PC  
New Orleans, Louisiana

#### **FIRST CIRCUIT**

Peter Bennett  
Bennett Law Firm PA  
Portland, Maine

#### **SECOND CIRCUIT**

Joseph M. Drayton  
Cooley LLP  
New York, New York

#### **THIRD CIRCUIT**

Adriane J. Dudley  
Dudley Rich Davis LLP  
St. Thomas, Virgin Islands

#### **FOURTH CIRCUIT**

Timothy W. Bouch  
Leach Bouch & Seekings LLP  
Charleston, South Carolina

#### **FIFTH CIRCUIT**

John J. (Mike) Mcketta, III  
Graves Dougherty Hearon  
& Moody PC  
Austin, Texas

#### **SIXTH CIRCUIT**

John R. Tarpley  
Lewis Thomason  
Nashville, Tennessee

**SEVENTH CIRCUIT**

Tiffany M. Ferguson  
T.M. Ferguson & Co.  
Chicago, Illinois

**EIGHTH CIRCUIT**

Cynthia E. Nance  
University of Arkansas School of Law  
Fayetteville, Arkansas

**NINTH CIRCUIT**

Barbara J. Dawson  
Snell & Wilmer  
Phoenix, Arizona

Debra E. Pole  
Sidley Austin LLP  
Los Angeles, California

**TENTH CIRCUIT**

Shannon L. Edwards  
Edwards Law Firm  
Edmund, Oklahoma

**ELEVENTH CIRCUIT**

Robert L. Rothman  
Arnall Golden Gregory LLP  
Atlanta, Georgia

**D.C. CIRCUIT**

M. Elizabeth Medaglia  
Retired from Government Service and Private Practice  
Arlington, Virginia

**FEDERAL CIRCUIT**

Ralph A. Taylor, Jr.  
Arent Fox LLP  
Washington, DC

\* \* \*

**ABA Counsel to Standing Committee**

Denise A. Cardman  
Washington, DC

## EXHIBIT B

### ABA Standing Committee on the Federal Judiciary Academic Reading Group

#### University of Pennsylvania Law School Reading Team

##### **Chair**

Theodore W. Ruger Dean and Bernard G. Segal Professor of Law

##### **Members**

Eleanor Barrett Denise A. Rotko Associate Dean for Legal Practice Skills: Criminal, Commercial, Employment, Constitutional, Administrative, Labor Law

Stephen B. Burbank David B. Berger Professor for the Administration of Justice: Procedure, Administrative Law

Jacques deLisle Stephen A. Cozen Professor of Law & Professor of Political Science: Torts

Ryan David Doerfler Assistant Professor of Law: Statutory Interpretation

Jill E. Fisch Perry Golkin Professor of Law: Corporate and Securities Law

Jean Galbraith Assistant Professor of Law: Constitutional Law, Criminal Law, Civil Rights

Jonathan Klick Professor of Law: Administrative Procedure Law, Labor Law; Intellectual Property Law

Michael Knoll Theodore K. Warner Professor of Law & Professor of Real Estate: Tax, Arbitration, Business Law, Bankruptcy

Seth Kreimer Kenneth W. Gemmill Professor of Law: Civil Rights, Statutory Interpretation, Constitutional Law

Sarah Paoletti Practice Professor of Law: Immigration Law, Criminal Law

Kermit Roosevelt Professor of Law: Criminal Law, Civil Fraud, Constitutional Law

##### **Assisted By**

Paul M. George Associate Dean and Director, Biddle Law Library

## EXHIBIT C

### ABA Standing Committee on the Federal Judiciary Academic Reading Group

#### Loyola College of Law Reading Team

##### Chair

Lawrence Moore, S. J. Interim Dean and Officio Philip and Eugenie Brooks Distinguished Professor of Law: Civil Procedure, Constitution Law, Civil Rights

##### Members

Mary Garvey Algero Associate Dean of Faculty Development and Academic Affairs and Warren E. Mouldoux Distinguished Professor of Law: Civil Procedure, Federal Courts

John F. Blevins Professor of Law: Intellectual Property, Administrative Law, Criminal Law

Dane S. Ciolino Alvin R. Christovich Distinguished Professor of Law: Criminal Law

Nikolas A. Davrados, Ph.D Visiting Assistant Professor of Law: Property Law, Contract Law, International Law

Lloyd "Trey" Drury, III McGlinchey Stafford Distinguished Professor of Law: Business Organizations, Federal Securities Law

Robert A. Garda, Jr. Fanny Edith Winn Distinguished Professor of Law: Contracts, Educational Law, Disability Law

Johanna Kalb Associate Professor of Law: Constitutional Law, International Law, Federal Courts

James Marshall Klebba Emeritus Professor of Law: Environmental Law

Hiroko Kusuda Clinic Professor: Immigration Law

Chunlin Leonhard Professor of Law: Evidence, Uniform Commercial Code, Pretrial and Trial Practice

Craig Senn Janet Mary Riley Distinguished Professor of Law: Contracts, Employment/Discrimination Law, Labor Law

Leslie Shoebottom Victor H. Schiro Distinguished Professor of Law: Torts, Criminal Procedure, Environmental Law



Monica Hof Wallace

Dean Marcel Garsaud, Jr. Distinguished Professor of Law:  
Family Law, Trusts & Estates

**Assisted By**

Brian Huddleston

Senior Reference Librarian and Professor

## EXHIBIT D

### ABA Standing Committee on the Federal Judiciary

#### Practitioners' Reading Group

##### Chairs

Donald B. Ayer Of Counsel, Jones Day, Former Principal Deputy Solicitor General

Judith Miller Former Senior Vice President and General Counsel, Bechtel Group Inc., Former Partner, Williams & Connolly, LLP, Former General Counsel, United States Department of Defense

##### Members

Charles A. Bird Partner, Dentons

Peter Buscemi Retired Partner, Morgan Lewis

Susan Freeman Partner, Lewis Roca

Allyson N. Ho Partner, Morgan Lewis

Alan I. Horowitz Member, Miller & Chavalier

Wallace B. Jefferson Partner, Alexander Dubose Jefferson Townsend

Kenneth Polite Attorney at Law

J. P. Schnapper-Casteras Special Counsel for Appellate and Supreme Court Advocacy, NAACP Legal Defense and Educational Fund

Paul M. Smith Vice President of Litigation and Strategy, The Campaign Legal Center

Danielle Spinelli Partner, Wilmer Hale

Richard K. Willard Partner, Steptoe & Johnson, LLP

Nancy Winkelman Partner, Schnader Harrison Segal & Lewis, LLP