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The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Lindsey O. Graham
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Nomination of Ryan Park

Dear Senators Durbin and Graham:

I write in enthusiastic support of the nomination of Ryan Park to serve on the United States Court of Appeals for the Fourth Circuit. Ryan would make an exceptional appellate judge.

By way of background, I came to know Ryan during our work together representing the University of North Carolina at Chapel Hill (“UNC”) in the litigation concerning its consideration of race as part of the admissions process. I was part of the trial team that represented UNC in the district court proceedings; Ryan represented UNC before the Supreme Court.

With regard to the UNC litigation, it is often overlooked that there were two distinct sets of claims made by the plaintiff against UNC. The first claim alleged that UNC was engaged in an admissions process that concealed that it did not comply with then-controlling precedent, *Grutter v. Bollinger*. The second claim alleged that even if UNC was faithfully complying with the current law, the *Grutter* decision should be overruled. As to the first claim, after an extensive trial, the district court found UNC to be in good faith compliance with *Grutter*, and found the plaintiff’s claim to be without a factual basis. (That finding was not disturbed by the later Supreme Court ruling.) The district court did not rule on the second claim. Instead, both parties and the court acknowledged that *Grutter* was the law and that the Supreme Court was the only appropriate forum to consider whether *Grutter* should remain good law.

As the litigation transitioned from the district court to the Supreme Court,¹ the client wisely decided that UNC’s representation should be led by Ryan in his capacity as the Solicitor General of North Carolina. The trial team was in full agreement with that decision at the time.

¹ The Fourth Circuit did not address the merits of this matter because the Supreme Court granted plaintiff’s motion to bypass the appellate court and consolidate the UNC matter with the litigation involving Harvard College’s admissions process.

Now, having seen how Ryan conducted himself in preparation for and during the oral argument, I am even more convinced that Ryan was the best choice for that important role.

For obvious reasons, the trial team and the appellate team coordinated closely as the litigation advanced through the Supreme Court. I was thus fortunate enough to have had the experience of watching Ryan draft and revise the briefs for the Supreme Court and prepare for, and deliver, his oral argument. He is exceptionally smart, something already apparent from his resume. But what struck me from watching and working with Ryan during this time was how exceptionally balanced and thoughtful he is. Ryan always sees the other side of an argument with an appreciation for its merit and its nuance. Ryan frames his arguments with a calibration for what a fair reading of what the law currently is rather than seeking to make bold arguments or rhetorical flourishes or advancing his own views of what he thinks the law should be. In a matter with many important but subtle nuances, Ryan considered many different approaches, and in the process actively sought input from other members of the team including those (like myself) less versed in the appellate world. It was clear to me that he did so in part because he is extraordinarily collegial. But it was also clear that Ryan is extremely humble and thus very open to the idea that someone else might have a different way of seeing things that he should consider. Ryan was always cognizant that he represented the positions of a client and not his own personal views. He was vigilant in making sure that his arguments were consistent with the directions of the client. I came to realize quickly that Ryan is the antithesis of an ideologue. To the contrary, he is a “lawyer’s lawyer”: careful, thoughtful, dispassionate and focused always on doing the best work possible in a straightforward manner.

For these reasons, I am entirely convinced that Ryan would make an excellent judge on the Fourth Circuit. He would work hard, without a personal or ideological agenda, and listen carefully to all points of view – but especially to the points of view that might run counter to his own. Ryan would strive to make sure that his rulings were consistent with the law as it stands and not with any notion of how he might prefer the law to be. He would treat advocates before him with utmost civility and respect. And I cannot imagine that his fellow judges could have a better colleague as they worked through difficult issues.

In short, I unequivocally support Ryan’s nomination.

Respectfully submitted,

s/ Patrick J. Fitzgerald

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