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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
KRISTINE J. LUCIUS, *Democratic Chief Counsel and Staff Director*

March 28, 2016

The Honorable Mitch McConnell
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Charles E. Grassley
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Majority Leader McConnell and Chairman Grassley:

On March 16, the President nominated Chief Judge Merrick Garland to fill the Supreme Court vacancy following the untimely passing of Justice Antonin Scalia. All Senators must now follow their sworn oaths to uphold the Constitution by fulfilling our duty to provide advice and consent on Chief Judge Garland's nomination. In order to allow all Senators to fulfill their duty, you should reconsider your unilateral decision with Republican members of the Judiciary Committee to deny Chief Judge Garland any process. Your refusal to consider his nomination would be an unprecedented break from the Senate's history and would harm our constitutional democracy and undermine the Supreme Court's ability to be our Nation's final arbiter of the law.

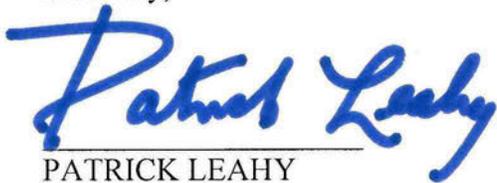
Since Committee hearings began in 1916, every pending Supreme Court nominee has received a hearing, except 9 nominees who were all confirmed within 11 days. In addition to holding hearings on Supreme Court nominees, the Senate Judiciary Committee has a long-standing bipartisan tradition of sending to the full Senate all pending nominees to a Supreme Court vacancy. According to the Congressional Research Service, "since its creation in 1816, the Judiciary Committee's typical practice has been to report even those Supreme Court nominations that were opposed by a Committee majority." This treatment was made explicit in 2001 in a bipartisan letter sent by then-Chairman Leahy and then-Ranking Member Hatch ("The Judiciary Committee's traditional practice has been to report Supreme Court nominees to the Senate once the Committee has completed its considerations. This has been true even in cases where Supreme Court nominees were opposed by a majority of the Judiciary Committee."). Chief Judge Garland should receive the same treatment.

We urge you to reconsider your position and allow Senators to fulfill their constitutional duty to provide advice and consent on Chief Judge Garland's nomination. Timely and expeditious consideration of his nomination should be conducted within the same time frame below, which reflects the average confirmation schedule for Supreme Court nominees since 1975 based on data from the Congressional Research Service. Following this precedent, the Senate should hold a confirmation vote for Chief Judge Garland before Memorial Day.

- *First Day of Judiciary Committee Hearing:* April 27
- *Judiciary Committee Vote:* May 12
- *Senate Floor Vote on Confirmation:* May 25

Our independent judicial system is at the heart of our constitutional democracy. And at the top of our judiciary stands our Nation's Supreme Court and its nine justices. This venerated institution will not fully operate as the final arbiter of the law, however, unless we fulfill our obligation as Senators and act to fill the current vacancy. Our constitutional role in providing advice and consent on the President's nominees is no different in our first year or sixth year as Senators. And it is no different in an election year. Doing the work of the American people is our job; it is our duty. We hope and expect the pending nominee will receive the same timely consideration that Supreme Court nominees have received for the last 40 years.

Sincerely,



PATRICK LEAHY
Ranking Member



DIANNE FEINSTEIN
United States Senator



CHARLES E. SCHUMER
United States Senator



RICHARD J. DURBIN
United States Senator



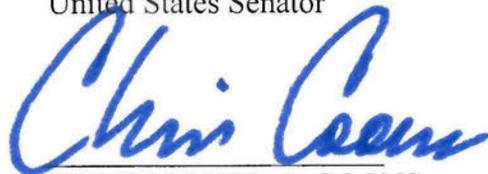
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