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U.S. Senate
317 Russell Senate Office Building
Washington, D.C. 20510

Hon. Charles Schumer, Min. Leader
U.S. Senate
322 Hart Senate Office Building
Washington, D.C. 20510

Hon. Charles Grassley, Chairman
U.S. Senate Committee on the Judiciary
135 Hart Senate Office Building
Washington, D.C. 20510

Hon. Dianne Feinstein, Ranking Member
U.S. Senate Committee on the Judiciary
331 Hart Senate Office Building
Washington, D.C. 20510

August 29, 2018

Dear Leader McConnell, Leader Schumer, Chairman Grassley, and Ranking Member Feinstein:

We, the undersigned members of the Board of Directors and Honorary Lifetime Trustees of the Lawyers' Committee for Civil Rights Under Law, write to express our opposition to the nomination of Judge Brett Kavanaugh to serve as an Associate Justice of the United States Supreme Court. Since its creation in 1963 at the urging of President John F. Kennedy, the Lawyers' Committee for Civil Rights Under Law has been devoted to the recognition and enforcement of civil rights in the United States.

Recognizing the Supreme Court's critical role in civil rights enforcement and the central role that the Court plays in our democracy, the Lawyers' Committee has long reviewed the record of nominees to the Court to determine whether the nominee demonstrates views that are consistent with the core civil rights principles for which we have long advocated. As part of the Lawyers' Committee's evaluation of the nominee, we reviewed the following areas: voting rights; criminal justice; fair housing; employment discrimination; economic justice; reproductive rights; and environmental justice. In addition, in order to assess how Judge Kavanaugh's approach might impact his analysis of civil rights claims, the Lawyers' Committee reviewed Judge Kavanaugh's cases, speeches, and scholarly articles that, while not directly addressing core civil rights claims, deal with issues that often are implicated in civil rights cases. That said, our review and analysis of Judge Kavanaugh's record focuses, in large part, on his record developed during his tenure on the U.S. Court of Appeals for the District of Columbia.

During every term, critical cases come before the Supreme Court of great public importance, including cases concerning the interpretation and application of the Constitution and civil rights laws. In evaluating nominees to the Court, the Lawyers' Committee has employed a rigorous

standard with two distinct components: (1) exceptional competence to serve on the Court, and (2) profound respect for the importance of protecting the civil rights afforded by the Constitution and the nation's civil rights laws. After reviewing the currently available record of Judge Kavanaugh, we have concluded that there is sufficient cause in the record to oppose Judge Kavanaugh's confirmation to our nation's highest court. The Lawyers' Committee has compiled its *Report on the Nomination of Judge Brett Kavanaugh as an Associate Justice of the United States Supreme Court*, which details the organization's findings. Below is a summary of those findings that reflects the views of the signatories to this letter.

In the 12 years since Judge Kavanaugh's confirmation to the D.C. Circuit, he has authored approximately 300 opinions on a wide range of issues. During his time on the bench, Judge Kavanaugh has consistently ruled against workers in favor of employers and has demonstrated a particularly narrow understanding of anti-discrimination protections. Judge Kavanaugh has shown a tendency to side with law enforcement officers and has minimized the Fourth Amendment rights of individuals in our most vulnerable communities. Judge Kavanaugh's opinions and other writings with respect to reproductive rights have raised substantial concerns about whether he would vote to overturn *Roe v. Wade*. This is of particular concern for our organization as many of the restrictions that have been imposed on access to reproductive health services burden the rights of low-income minority women and poor women generally.

Judge Kavanaugh has overturned regulations issued by the Environmental Protection Agency that would otherwise protect the air we breathe and water we drink, because he deemed them too expensive for corporations. Again, these regulations have particular benefits for communities of color.

Judge Kavanaugh's public comments and an amicus brief issued on behalf of the Center for Equal Opportunity raise concerns that he will oppose affirmative action programs in government and education. Given our central role defending affirmative action in current cases involving both Harvard University and the University of North Carolina, Judge Kavanaugh's record on these issues has particular importance for our organization and our clients.

In addition, his opinions and other writings raise concern about his willingness both to defend individual privacy rights against encroachment by the Government and to ensure that the Judicial Branch serves as an effective check and balance against overreaching and abuses of power by the Executive Branch. Therefore, Judge Kavanaugh's failure to satisfy the second prong of our evaluation requires the Lawyers' Committee to oppose this nomination.

The Lawyers' Committee will continue its research into Judge Kavanaugh's record, recognizing that a critical amount of material remains unavailable at this time. We believe it is of the utmost importance that all documents pertaining to Judge Kavanaugh's service in the White House during the tenure of President George W. Bush and in the Office of Independent Counsel be released and examined before the Senate Judiciary Committee completes its review of the nominee. Furthermore, the Senate Judiciary Committee must thoroughly examine the nominee's judicial philosophy – particularly on issues relating to civil rights, including voting

rights, racial and economic justice, reproductive rights, fair housing, affirmative action, environmental justice, and criminal justice. We look forward to working with the Committee to ensure that a full examination takes place and, based upon the record, we may supplement the information shared in this report at a later date.

Respectfully, *

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