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June 15, 2016

The Honorable Mitch McConnell
The Honorable Harry Reid
The Honorable Charles Grassley
The Honorable Patrick Leahy
The Honorable Patty Murray
The Honorable Maria Cantwell
United States Senate
Washington, DC 20510

Dear Senators McConnell, Reid, Grassley, Leahy, Murray, and Cantwell:

President Obama has fulfilled his constitutional duty by nominating Chief Judge Merrick Garland of the D.C. Circuit Court of Appeals to the vacancy on the U.S. Supreme Court. We respectfully urge you to carry out the Senate's constitutional responsibility to hold a hearing and a vote on Judge Garland's nomination.

Founded in 1886, the King County Bar Association represents over 14,400 attorneys, judges, law professors and law students in King County (Seattle), Washington. Our mission is to support our diverse membership by promoting a just, collegial, and accessible legal system and profession; to work with the judiciary to achieve excellence in the administration of justice; and to serve our local community through organized pro bono legal services. Members of the bar have sworn an oath to uphold our laws and protect the justice system. We represent members of diverse ideologies, backgrounds, and viewpoints, but all share a deep interest in protecting the integrity of our Constitution and our courts.

Under Article II, Section 2, of the Constitution, the President is charged with nominating Article III judges "by and with the Advice and Consent of the Senate." This includes appointing justices to the U.S. Supreme Court; there is no exception for election years. The President fulfilled that obligation when he nominated Judge Garland to the Supreme Court on March 16, 2016.

The Senate must fulfill its constitutional responsibility to ensure the effective functioning of our courts by giving Judge Garland fair consideration and a timely up-or-down vote on the merits of his nomination. With only one exception during the Civil War, the Senate has never refused to hold a hearing or a vote on a Supreme Court nominee. Refusing to act is not the same as withholding consent through a public vote. Since 1975, on average, the Senate has held a hearing for a Supreme Court nominee 42 days—and held a vote 70 days—from when the nomination was announced. Those dates have come and gone.

June 15, 2016

Page 2

The constitutional obligations of the president and the Senate hold true irrespective of the identity of the individual nominee or institutional partisan makeup. The Constitution does not limit these obligations in the final year of a president's term or in an election year. In fact, seventeen Supreme Court justices have been confirmed in a presidential election year, including Justice Anthony Kennedy, who was confirmed by a Democratic Senate during the final year of President Reagan's administration.

Regardless of the qualifications of an individual nominee, it is the Senate's duty to hold a timely hearing and vote on the nomination of Judge Garland. Failing to hold a vote would undermine the intent of the Constitution and be a disservice to the American people, who overwhelmingly oppose obstruction of this nominee.

There are many important cases before the Supreme Court this year that go to the very heart of rights and duties enshrined in our Constitution. The American people deserve a fully-functional Supreme Court to consider those issues, as it is the American people whose lives are directly affected by the high court's decisions. There is strong evidence that the absence of a ninth justice on the Supreme Court is already hampering the Court. As but one example, in *Friedrichs v. California Teachers Association*, the Supreme Court granted certiorari to address the important Constitutional question of whether it violates the First Amendment to require that public employees affirmatively object to subsidizing nonchargeable speech by public-sector unions. Irrespective of one's views on this issue, the Supreme Court's four-four split on this question (which led to a one-sentence affirmance of the lower court opinion) deprived people throughout this country guidance and clarity on a critical issue. *Friedrichs* is just one of many cases in which the Supreme Court has recognized the existence of an important legal or social issue by granting certiorari, but then been unable to provide clarity because it is not functioning at full strength.

Because the Senate's failure to hold a timely hearing and vote on Judge Garland's nomination is depriving the American people of a fully-functional Supreme Court, with due respect, we urge the Senate to carry out its responsibility to hold a hearing and a vote on Judge Garland's nomination.

Sincerely,



Kim M. Tran, President

cc: The Honorable Barack Obama