

VIA EMAIL

March 31, 2022

United States Senate
Washington, DC 20510

Re: Letter in Support of Judge Ketanji Brown Jackson for the United States Supreme Court

Dear Senator:

On behalf of the National Women’s Law Center (the “Law Center”), I write to express our strong support for the swift confirmation of Judge Ketanji Brown Jackson to the United States Supreme Court. The Law Center fights for gender justice – in the courts, in public policy and in society – working across the issues that are central to the lives of women and girls. The Law Center uses the law in all its forms to change culture and drive solutions to the gender inequity that shapes society and to break down the barriers that harm women and girls – especially those who face multiple forms of discrimination, including women of color, LGBTQ people, and low-income women and families. For 50 years, the Law Center has been on the leading edge of every major legal and policy victory for women.

Judge Ketanji Brown Jackson is one of our nation’s brightest legal minds, a dedicated public servant, and seasoned legal practitioner with extensive experience across the legal profession as a federal appellate judge, federal district court judge, a member of the U.S. Sentencing Commission, in private practice and as a federal public defender protecting equal justice for all and constitutional rights. She will make an extraordinary addition to the Supreme Court.¹ Throughout her career, Judge Jackson has evinced a deep understanding of the laws of our country, particularly their impact on the lives of women, girls, people of color, and LGBTQ+ people. With her credentials and commitment to the rule of law, it is no surprise that the United States Senate confirmed her with bipartisan support on three prior occasions, including two judgeships. Furthermore, her nomination is an important step in addressing the generations of bias, racism, and under-representation that have kept Black women jurists from interpreting the laws that often impact them the most.

It is impossible to overstate how eminently qualified Judge Jackson is to serve on the Supreme Court. Currently serving with distinction on the United States Court of Appeals for the District of Columbia, Judge Jackson has nearly ten years of federal judicial experience. Judge Jackson is a highly respected jurist who ruled on over 550 cases during her 8-year tenure on the District Court for the District of Columbia² and her rulings demonstrates a careful consideration of the law and the facts of each case, including ones that touched on issues relating to

¹ Ketanji Brown Jackson, Senate Judiciary Committee Questionnaire, [Jackson Public SJQ.pdf \(senate.gov\)](#)

² Ketanji Brown Jackson, Senate Judiciary Committee Questionnaire, [Jackson Public SJQ.pdf \(senate.gov\)](#)

reproductive health care and education, labor rights, and disability rights. For example, in *Healthy Futures of Texas v. HHS* and *Policy and Research v. HHS*, Judge Jackson blocked the federal government’s unlawful attempts to terminate teen pregnancy prevention funding for non-profits providing essential health education.³ Judge Jackson also protected the rights of people with disabilities, including people who were systematically discriminated against by the ride-sharing company Uber, as well as an incarcerated deaf person who was denied necessary accommodations by the D.C. Department of Corrections.⁴ In addition, while serving as a district court judge she protected federal employees’ right to collective bargaining in *American Federation of Government Employees v. Trump*,⁵ and as a D.C. Circuit judge she has protected collective bargaining for unions in *American Federation of Government Employees v. Federal Labor Relations Authority*.⁶ Given her record safeguarding civil rights, it is unsurprising that Judge Jackson has a reputation as a fair and impartial judge who is committed to equal justice for all and the rule of law.

Judge Jackson’s extensive experience as a practicing attorney before serving as a judge also evinces a deep understanding of the impact of laws and the Constitution on women, girls, and people of color. As an associate at Goodwin Procter, she helped draft an amicus brief on behalf of a range of Massachusetts-based groups, including religious organizations, health care provider associations, the Women’s Bar Association of Massachusetts, YWCA of Cambridge, and Big Sister Association of Greater Boston, among others. The brief defended the constitutionality of a state law aimed at protecting health care providers and people who seek abortion care from harassment, violence, and unwanted contact from anti-abortion demonstrators.⁷ The amicus brief carefully and thoroughly applied existing Supreme Court precedent to the Massachusetts law, demonstrating that the law was constitutional. In a

³ *Healthy Futures of Texas v. Dep’t of Health & Hum. Servs.*, 315 F.Supp.3d 339 (D.D.C. 2018); *Pol’y & Rsch., LLC v. United States Dep’t of Health & Hum. Servs.*, 313 F.Supp.3d 62 (D.D.C. 2018).

⁴ *Equal Rts. Ctr. v. Uber Techs., Inc.*, No. 17-CV-1272 (KBJ), 2021 WL 981011 (D.D.C. Mar. 15, 2021); *Pierce v. D.C.*, 128 F.Supp.3d 250 (D.D.C. 2015).

⁵ *Am. Fed’n of Gov’t Emps., AFL-CIO v. Trump*, 318 F.Supp.3d 370 (D.D.C. 2018), *rev’d and vacated*, 929 F.3d 748 (D.C. Cir. 2019). Judge Jackson found that certain provisions of the contested executive orders conflicted with the Federal Service Labor- Management Relations Statute (“FSLMRS”). The D.C. Circuit reversed on the threshold issue of subject-matter jurisdiction, without reaching the merits of Judge Jackson’s decision.

⁶ 25 F.4th 1 (D.C. Cir. 2022). The Federal Labor Relations Authority (“FLRA”) under former Pres. Trump sought to require collective bargaining only for workplace changes that have a substantial impact on employment, instead of the previous standard which required that all changes, except those considered de minimis, required collective bargaining. Judge Jackson held that the FLRA’s actions were arbitrary and capricious, and that it could not change its collective bargaining standards to decrease the types of workplace changes which would trigger collective bargaining.

⁷ Brief in Support of Defendant-Appellant Women’s Bar Ass’n of Mass., Abortion Access Project of Mass., AIDS Project of Worcester, Alternative Medical Care of Mass., American Ass’n of Univ. Women–Mass., Big Sister Ass’n of Greater Boston, Boston Women’s Health Book Collective, Everywoman’s Center, Four Women, Inc., League of Women Voters of Mass., Mass. NARAL, Mass. Chapter of NOW, Mass. Public Health Ass’n, National Council of Jewish Women–Mass., Religious Coalition for Reproductive Choice, Tapestry Health Systems, Union of American Hebrew Congregations–Northeast Council, Womancare/Repro Associates, and YWCA of Cambridge, amici curiae, *McGuire, et al. v. Reilly, et al.*, 260 F.3d 36 (1st Cir. 2001); *McGuire v. Reilly*, 386 F.3d 45 (1st Cir. 2004), cert. denied, 544 U.S. 974 (2005).

unanimous opinion the First Circuit upheld the law, agreeing with the arguments in the *amicus* brief.⁸ The Supreme Court ultimately declined review in the case.⁹ As Assistant Special Counsel and later in her career as Vice Chair of the U.S. Sentencing Commission, Judge Jackson worked on bipartisan reforms to the federal sentencing guidelines to remedy disproportionately harsh sentences against Black and brown people. Following her time as Assistant Special Counsel on the U.S. Sentencing Commission, Judge Jackson spent two years working as an Assistant Federal Defender, where she represented indigent criminal appellants before the D.C. Circuit.¹⁰ Judge Jackson follows in the footsteps of Justice Thurgood Marshall, who also had extensive criminal defense experience. Since Justice Marshall's retirement 30 years ago, the Court has lacked this vital criminal defense perspective and, as a Justice, Judge Jackson will bring the invaluable first-hand knowledge of how the law impacts those who have the least resources among us.

Importantly, Judge Jackson's personal and professional background would bring much needed diversity to this nation's highest court, which has historically failed to reflect the rich diversity of the United States. If confirmed, Judge Jackson would be the first Supreme Court Justice to have served as a federal public defender and the first Black woman to serve on the Court. A 2020 report found that women make up only 34 percent of the federal judiciary, and women of color a mere 7 percent.¹¹ We cannot overlook the fact that since the Supreme Court's first meeting in 1789, only 5 of the 115 Justices to serve on the Court have been women and only 1 has been a woman of color. The Supreme Court needs a thoughtful, dedicated, and experienced jurist like Judge Jackson who will protect the rights of everyone while also bringing much needed personal and professional diversity to the bench. The American people deserve a Supreme Court that reflects the rich diversity which makes this nation so great.

Judge Ketanji Brown Jackson's most recent bipartisan confirmation to the D.C. Circuit last year and two prior bipartisan confirmations indicate the Senate trusts and respects her extensive experience and commitment to equal justice under law. The Law Center respectfully urges the Senate to swiftly confirm Judge Ketanji Brown Jackson to the Supreme Court. Please feel free to contact Erinn Martin, Director of Nominations and Cross-Cutting Policies, at erinnmartin@nwlc.org should you have any questions.

⁸ *McGuire v. Reilly*, 260 F.3d 36 (1st Cir. 2001).

⁹ The First Circuit's decision reversed and remanded the case back to the lower court. After further proceedings at the district court level, the case again reached the First Circuit, in 2004. The First Circuit allowed the law to remain in effect, reiterating the same holding from the prior First Circuit decision. After the plaintiffs appealed to the Supreme Court, in 2005, the Supreme Court denied review. *McGuire v. Reilly*, 544 U.S. 974 (2005). Years later, the Massachusetts legislature changed the law to include the "public way or sidewalk" within 35 feet of an entrance or driveway to a reproductive health care facility. That version of the MA Act eventually went to the Supreme Court, which struck it down because of its "extreme step of closing a substantial portion of a traditional public forum to all speakers." *McCullen v. Coakley*, 573 U.S. 464, 496-97 (2014).

¹⁰ Ketanji Brown Jackson, Senate Judiciary Committee Questionnaire, [Jackson Public SJO.pdf \(senate.gov\)](#)

¹¹ CENTER FOR AMERICAN PROGRESS, *Examining the Demographic Compositions of U.S. Circuit and District Courts*, (Feb. 13, 2020), <https://www.americanprogress.org/issues/courts/reports/2020/02/13/480112/examining-demographic-compositions-u-s-circuit-district-courts/>

Sincerely,

A handwritten signature in blue ink that reads "Fatima Goss Graves". The signature is written in a cursive, flowing style.

Fatima Goss Graves
President and CEO