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March 6, 2017

Eugene Meyer

President

The Federalist Society for Law & Public Policy Studies

1776 I Street NW

Washington, DC 20006

Jim DeMint

President

The Heritage Foundation

214 Massachusetts Avenue NE

Washington, DC 20002

Dear Mr. Meyer and Senator DeMint:

I write as a member of the Senate Judiciary Committee, which is currently considering the nomination of Judge Neil Gorsuch to be Associate Justice of the Supreme Court. During his presidential campaign, then-candidate Donald J. Trump took the unprecedented step of publicly announcing that he would be relying on your organizations to develop a shortlist of candidates to be nominated to the Supreme Court. I therefore ask you to provide to the Committee any emails, documents, or other materials related to your communications with Judge Gorsuch, as well as with President Trump's presidential campaign, transition team, and presidential administration about the development of his shortlist and the eventual selection of Judge Gorsuch.

As a candidate, Mr. Trump was explicit that he would rely on the Federalist Society and Heritage Foundation to pick someone to fill the vacancy on the Supreme Court. For example, on May 11, 2016, Mr. Trump told certain members of Congress that he would publicly release a list of potential Supreme Court nominees, substantially assisted by the Heritage Foundation and the Federalist Society.¹ On June 13, 2016, Mr. Trump stated, "We're going to have great judges, conservative, all picked by the Federalist Society."² On September 23, 2016, in announcing a second list of possible nominees, Mr. Trump stated, "I would like to thank the Federalist Society, the Heritage Foundation, and the many other individuals who helped in composing this list."³ A

¹ Manu Raju & Jeremy Diamond, *Trump, Ryan, tout unity in wake of meeting*, CNN, May 12, 2016, <http://www.cnn.com/2016/05/11/politics/paul-ryan-donald-trump-meeting/index.html>.

² Melissa Maleske, *Trump says Federalist Society will pick his judges for him*, Law 360, June 14, 2016, <https://www.law360.com/articles/806797/trump-says-federalist-society-will-pick-his-judges-for-him>.

³ Press Release, *Donald J. Trump finalizes list of potential Supreme Court Justice picks*, Donald J. Trump, Sept. 23, 2016, <https://www.donaldjtrump.com/press-releases/donald-j.-trump-adds-to-list-of-potential-supreme-court-justice-picks>.

recent Wall Street Journal article profiling Federalist Society Executive Vice President Leonard Leo stated, “As the campaign wore on, the net was widened—eventually to include 21 names—and the extra time for vetting revealed Judge Gorsuch’s stalwart record.”⁴

President Trump and his team continued to rely on your organizations in the selection and vetting of nominees during the transition and upon assuming office. The outsized role of your organizations was further highlighted in a recent profile of Judge Gorsuch in the Washington Post: “Gorsuch has been aggressively vetted for the court by conservative groups such as the Heritage Foundation, and they have backed him enthusiastically. These groups even scrutinized his attendance at St. John’s Episcopal Church—which draws from the largely liberal population in Boulder, Colo., calls itself a largely liberal congregation and advertised on its website for the Women’s March in Washington last month—and concluded it was not a strike against him.”⁵ Judge Gorsuch himself admitted in his Senate Judiciary Questionnaire that his first contact in the “entire judicial selection process” was with the Federalist Society’s Leonard Leo on December 2, 2016.

The production of documents by outside groups in connection with a nomination to the Supreme Court is supported by precedent. In 2009, when then-Judge Sotomayor was nominated to the Supreme Court, then-Chairman Patrick Leahy and then-Ranking Member Jeff Sessions sent a letter to the Puerto Rican Legal Defense and Education Fund asking for material related to her time on their board.

However, the wholesale outsourcing of nominee selection to interest groups is without known precedent, especially for a position as important as Associate Justice of the Supreme Court. Because of the role you appear to have played in the vetting and selection of Judge Gorsuch, it is imperative that the Committee better understand the nature and content of the communications you had with the nominee, the campaign, the transition team, and the administration.

Thank you for your prompt attention to this matter.

Sincerely,



Richard Blumenthal
United States Senate

⁴ Kyle Peterson, *Trump’s Supreme Court Whisperer*, Wall Street Journal, Feb. 3, 2017, <https://www.wsj.com/articles/trumps-supreme-court-whisperer-1486165573>.

⁵ Kimberly Kindy, Sari Horwitz, & William Wan, *Simply stated, Gorsuch is steadfast and surprising*, Washington Post, Feb. 18, 2017, <https://www.washingtonpost.com/graphics/politics/gorsuch-profile/>.