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**Prepared Statement of  
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Members of the Senate:

I am honored to have this opportunity to appear before you today to comment on the nomination of Chief Judge Merrick B. Garland to be an Associate Justice of the Supreme Court of the United States.

My name is Justin Driver. I am currently a professor at the University of Chicago Law School, where my teaching and research focus on constitutional law. Prior to joining the University of Chicago in 2014, I was a faculty member at the University of Texas School of Law for five years, and I have also been a visiting professor at Harvard, Stanford, and the University of Virginia. Before entering legal academia, I worked both in private legal practice and as a law clerk at the Supreme Court of the United States to Justice Sandra Day O'Connor (Ret.) and Justice Stephen Breyer. Most relevant to today's matter, however, I had the great privilege of serving as a law clerk to Judge Garland at the United States Court of Appeals for the District of Columbia Circuit from 2005 to 2006.

Clerking for Judge Garland was an invaluable experience – it was without question the most formative single year of my entire career. As has been well chronicled by now, Judge Garland possesses an extraordinarily sharp, analytical mind. But Judge Garland also demonstrated by his own fine example that possessing a strong mind does not excuse a judge from logging the long hours necessary to arrive at the correct legal conclusions, and to write opinions that resolve even the most complicated legal questions in an accessible fashion. In deciding the cases that arrived before him, Judge Garland took pains to dispose of the issues in a narrow way that honored existing precedents and avoided grand proclamations that redefined large bodies of law. Judge Garland is a judicial craftsman of the highest order, one who never loses sight of the fact that the legal opinions he and his colleagues send out into the world influence the lives of ordinary citizens. Each case that arrived on Judge Garland's desk received the same meticulous care, regardless of whether the decision appeared destined to be forgotten by everyone but the parties or to be splashed across front-page headlines. Judge Garland's commitment to getting everything right is exemplified by the fact that – immediately before the opinions would be sent to his colleagues, after multiple drafts had already been circulated throughout his chambers – he would read every word in the opinion aloud, with two law clerks literally standing by his side, fielding any last-minute suggestions.

Judge Garland's consistently evenhanded, measured temperament would also, I believe, make him a first-rate addition to the Supreme Court. During his eighteen years on the D.C. Circuit, Judge Garland has demonstrated an uncommon ability to identify common ground among his colleagues, allowing him to write only about one dissenting opinion per year. His penchant for resolving legal questions in a narrow fashion that fosters consensus, without in any way sacrificing his core judicial principles, would benefit the Supreme Court immeasurably. Judge Garland's deep philosophical commitment to ensuring that everyone's views receive careful consideration means that, even in the event that he feels compelled to dissent, he is unwilling

either to demonize the opposition or to hurl *ad hominem* invective. During my clerkship with Judge Garland, and during many subsequent visits over the years, I have never heard him utter even a remotely disparaging remark about a colleague on the D.C. Circuit or a lawyer who has appeared before him. To the contrary, Judge Garland makes a concerted effort to treat everyone who crosses his path with the genuine respect that he believes is owed to people who participate in maintaining our shared legal enterprise. On oral argument days at the D.C. Circuit, I vividly recall that one of the very first questions that he would ask his law clerks upon returning to chambers to discuss the cases regarded his demeanor on the bench. Invariably, the assessment held that Judge Garland posed tough, probing questions of counsel, but that he did so in a way that evinced no disrespect to the attorneys appearing before him and his colleagues. This trait appears to stretch back several decades, even preceding his ascension to the bench, and has garnered him the support and admiration of an astonishingly large number of the leading lights in the Republican legal firmament, including: former-Solicitor General Paul Clement, former-Assistant Attorney General for the Office of Legal Counsel Charles Cooper, former-Assistant to the Solicitor General Miguel Estrada, Judge Brett Kavanaugh, former-Solicitor General Theodore Olson, and former-Judge Kenneth Starr, among many, many others. These conservative legal luminaries have, I am confident, disagreed with Judge Garland on particular issues over the years, but they also know him to be exceptionally intelligent, committed to the legal craft, and anything but disagreeable.

Before closing, I would like to address some of Judge Garland's personal characteristics that inspire such intense loyalty among his family of law clerks. Long after a clerkship in his chambers formally concludes, Judge Garland plays an active role in mentoring his former employees about matters professional and beyond. Indeed, although my own time as his clerk concluded one decade ago, I have yet to make a major employment decision without first receiving the Judge's advice and consultation. Two of my relatively recent interactions with Judge Garland encapsulate how he steadfastly stands by his former law clerks – through times difficult and joyous alike. When my mother died a little more than two years ago, Judge Garland wrote an incredibly warm note offering me condolences for my loss. When I received an endowed chair at the University of Chicago a few months ago, Judge Garland was among the very first people to reach out and congratulate me on the honor. That he thought to contact me on the happy occasion – at a time when he was under active consideration for this nomination to the Supreme Court of the United States, no less – provides testament to Judge Garland's high character. While these two moments – and many others besides – have meant more to me than I can adequately convey in this setting, they are by no means unusual acts of kindness from the Judge. I have it on good authority that any of his seventy-odd former law clerks could occupy this seat and offer you similar tales of Judge Garland dispensing sage advice and words of encouragement during critical moments. Judge Garland asks his clerks for one year, and then he remains dedicated to them for many years down the road.

The examples that Judge Garland set as a dedicated husband and as an engaged father have also shaped my own attitudes toward those important roles. One of the indelible images that springs to mind from my clerkship year is the sight of Judge Garland, right around 6:00 p.m., ferociously packing cases and binders into his briefcase before rushing out of the door with a quick, "Good night!" While Judge Garland, being Judge Garland, of course wanted to have materials to continue working apace after his change of venue for the evening, it was clear that nothing was more important to him than making it home to enjoy dinner with his wife, Lynn, and their daughters, Becky and Jessie. Early in my clerkship with Judge Garland, I can remember walking away from a casual conversation with him, absolutely mystified as to why this seemingly staid federal judge in his early 50s had compelling insights into Adam Levine's vocal ability and the relative merits of various Maroon 5 songs. Only later did I learn that Judge Garland was not

actually a pop music devotee, or at least not one independently. Instead, he acquired his extensive Maroon 5 knowledge by driving his daughters to school and allowing them to commandeer the car's sound system. The parenting lesson that Judge Garland implicitly taught here seemed unmistakable: engage with your children on their own terms – at least sometimes – and throw yourself into that endeavor.

By dint of his intellect, experience, temperament, and character, I am confident that Chief Judge Merrick B. Garland would make an Associate Justice of the very first rank. Conversely, failure to confirm Chief Judge Garland's nomination to the Supreme Court would represent not only a grave injustice for this particular nominee, but may also – I fear – portend catastrophic consequences for our constitutional order. Accordingly, I urge the Senate to confirm Chief Judge Garland without further delay.

I will of course be delighted to entertain any questions that members of the committee may have at this time. Thank you.