

Testimony of

# **The Honorable Orrin Hatch**

April 25, 2002

I am pleased that the Judiciary Committee is considering the nominations of six exceedingly well-qualified candidates for the federal bench, and I would like to welcome each of them to the Committee. I especially welcome Andrew Hanen and Leonard Davis who have been waiting ten years for this hearing. They were first nominated for the same position in 1992 but did not get a hearing.

Before we discuss the excellent credentials of today's nominees, however, I must take just a minute to make an observation about how this hearing fits into the bigger picture of the Committee's work on judicial nominations.

As we all know, there is a severe circuit court vacancy crisis. Nearly one in five circuit court seats is vacant all across America. I am afraid that at our current rate of confirmations it will be several years before we meet America's need, unless something changes.

I am glad that we will consider a circuit court nominee today, but I will point out, as a Wall Street Journal editorial did yesterday, that in years past, under Republican leadership, we regularly considered two or more circuit nominees at a time. In fact, we did so on ten different occasions.

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I am also pleased that today we will hear from a nominee for the 6th Circuit, Judge Gibbons. The 6th Circuit, which includes Michigan, Ohio, Kentucky and Tennessee, is 50% vacant; only 8 of 16 seats are filled. Judge Gibbons will be the first confirmation to the 6th Circuit in 5 years, since 1997. Notably, under recent Republican leadership we confirmed 4 judges to the 6th Circuit Court, all of them President Clinton's nominees.

I must also commend President Bush. He has responded to the circuit court vacancy crisis by rapidly nominating top-notch men and women. The President has nominated superbly qualified nominees who are supported not only by both Democrats and Republicans in their states and cities, but also overwhelmingly by the people that matter most to me, the people who know them. This includes lawyers who practice with them or who appear before them, in the case of the nominees on the bench, whether these attorneys have won or lost their cases.

This is certainly true of the nominees before us today who will have my fullest support.

Judge Julia Smith Gibbons, our nominee to the Sixth Circuit Court of Appeals, is, frankly, an extraordinary nominee. I have reviewed few records of public service and personal accomplishment more outstanding than hers. It seems to me that it was for good reason that in 2000 she received a recognition called "Heroine for Women in the Law Award." It seems a fitting appellation for that award if she received it. Not least of that is the comment made by one attorney who wrote to recommend her, and after praising her accomplishments commented: "I

can assure you that she is an equally committed parent." But that is just one of her accomplishments.

Judge Gibbons graduated magna cum laude and Phi Beta Kappa from Vanderbilt University and then Order of the Coif from the University of Virginia, where she was an editor for the Law Review. She went to clerk for the late Honorable William E. Miller on the Sixth Circuit Court of Appeals, where we now hope she will soon return after a distinguished career, including as deputy counsel for Governor Lamar Alexander and almost 20 years on the federal District Court bench, where she has been Chief Judge and an active national judicial leader. She exemplifies the nominees the President has sent us, superbly accomplished, and she enjoys the support of Democrats and Republicans and everyone who knows her work.

Judge Leonard Davis, who has been nominated to the U.S. District Court for the Eastern District of Texas, graduated first in his class from Baylor University School of Law. While in private practice he litigated civil, commercial, and business cases, and several times he was appointed to defend indigent defendants in criminal cases. He has served on the State Ethics Advisory Commission and the State Judicial Districts Board, and he currently serves as Chief Justice of the Texas Twelfth Court of Appeals. As was the case ten years ago, Judge Davis' combination of excellent private and public service promise to make him a highly respected and successful federal judge in Texas.

Judge David Godbey, our nominee to the U.S. District Court for the Northern District of Texas, brings terrific credentials to the bench. A cum laude graduate of Southern Methodist University in mathematics and electrical engineering, and a cum graduate of Harvard Law School, Judge Godbey joined Hughes & Luce, a Dallas firm, handling civil and commercial litigation in federal trial and appellate courts. In 1994, Judge Godbey was elected to a judgeship on the 160th Judicial District Court in Dallas, where he currently serves. I fully support Judge Godbey and believe he will make an excellent federal judge.

Andrew Hanen, our nominee to the U.S. District Court for the Southern District of Texas, is a model of an attorney committed both to the legal profession and to the betterment of society. A graduate of Baylor University School of Law, where he finished first in his class, Mr. Hanen has extensive experience in handling, among other matters, legal and medical malpractice, mass and toxic tort, commercial litigation, and products liability cases. Mr. Hanen is one to be admired for his pro bono work, both in leadership and personal roles. As was the case ten years ago when he was first nominated, Mr. Hanen will make an excellent federal judge.

Samuel H. Mays, our nominee to the U.S. District Court for the Western District of Ohio, has had a long and distinguished career in private practice and an even more distinguished life of public service. Mr. Mays served first as Legal Counsel, then Chief of Staff to Tennessee Governor Sunquist. In this latter capacity, he was the "chief operating officer" for a state with \$19 billion in revenue. He was also responsible for overseeing the Governor's cabinet and entire staff. Mr. May has also served on the Boards of the Memphis Opera, Ballet Society of Memphis, Memphis Brooks Museum of Art Foundation and the Decorative Arts Trust. He will bring to the federal bench not only a rich breadth of experience, a keen and respected legal mind, but also a tirelessly displayed love for his community that we need on the federal bench.

Thomas Rose, our nominee to the U.S. District Court for the Southern District of Ohio, has been a Judge on Ohio's Greene County Court of Common Pleas for the past 11 years. Before becoming a member of the bench, Judge Rose was a prosecutor with responsibilities ranging from juvenile matters to successfully prosecuting a capital murder case. Judge Rose has also proven that he is a man of integrity. When Senator DeWine, then a prosecutor in Greene County, discovered that his office was being bugged by his superiors, he quit. Judge Rose, a prosecutor in the same office, resigned as well believing that the integrity of the office had been violated. The nominee is also well known throughout Ohio for his support of many charities. He is the kind of jurist and the kind of citizen who will make a great federal judge.

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