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Dear Senator Whitehouse:

I write in response to your questions for the record regarding my June 3, 2025 testimony before the Senate Judiciary Committee's Subcommittee on the Constitution and Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights.

1. **During your time with the Center for the Constitution and the Catholic Intellectual Tradition, has the Center:**
 - a. **Paid for or otherwise provided any things of value—including transportation—to any member of the Supreme Court? If so, please describe such things, their approximate value, the date on which such thing was given, and the justice to whom it was provided.**

The Center for the Constitution and the Catholic Intellectual Tradition (CIT) promotes scholarship that explores the relevance of the Catholic intellectual tradition for American constitutionalism. Although CIT's primary focus is on theories of constitutional law, such as originalism, its ambit is broad and covers the relevance of the Catholic intellectual tradition for constitutional history, doctrine, and other fields of study. CIT carries out its mission through such activities as guest lectures, conferences, courses offered through the Columbus School of Law, a program on the Catholic intellectual tradition for young lawyers in the D.C. area, and a program of special events and offerings for students at The Catholic University of America (CUA).

CIT has completed three full years of programming since its founding under another name (the Project on Constitutional Originalism and the Catholic Intellectual Tradition). During that time, we have hosted four events featuring members of the Supreme Court:

September 27, 2022: Justice Samuel A. Alito, Jr., delivered the inaugural lecture for CIT.

September 21, 2023: Justice Amy Coney Barrett sat for an interview with Professor Kevin C. Walsh, who at the time served as co-director of CIT and now serves as a Senior Fellow.

December 1, 2023: Justice Samuel A. Alito, Jr., delivered the keynote address on the second day of CIT's "*Making Men Moral* 30th Anniversary Conference."

September 26, 2024: Justice Brett M. Kavanaugh sat for an interview with me.

At each of those events, CIT paid the cost (or, in the case of the December 1, 2023 dinner, contributed towards the cost) of a reception and dinner at which the respective justice was present. Food and refreshments were offered to the justices at the receptions and the dinners. These are the only things of value that CIT has provided to any member of the Supreme Court.

I am grateful to Justices Alito, Kavanaugh, and Barrett for being so generous with their time, especially in spending time with Catholic Law's students. The visits by these justices to CUA's campus were invaluable educational opportunities for our students and contributed significantly to furthering scholarly discourse.

2. During the hearing, you said that it is "in general" not appropriate to call judges "USA-hating monsters who want our country to go to hell."

a. In what specific circumstances would it be appropriate to call judges "USA-hating monsters who want our country to go to hell"?

I cannot think of any circumstances in which it would be appropriate. I would note, however, that over the course of our nation's history judges have been criticized justly in harsh terms over their decisions.

b. Yes or No: Do you believe that a President's decision to call judges "USA-hating monsters who want our country to go to hell" makes judges and their families less safe?

I condemn any statements by public officials that would make judges or their families less safe, and I certainly hope that the quoted statement does not do so.

3. Some government officials have recently commented on federal judges and their decisions.

a. Should federal judges or Supreme Court justices be impeached for ruling against the executive branch?

No federal judge or Supreme Court justice should be impeached based on the mere fact of having ruled against the executive branch. I am unaware of anyone who holds the contrary view.

b. Do you think it is appropriate for Members of Congress to display "Wanted" posters with the names and faces of federal judges who rule against the executive branch?

No.

c. Do you think it is appropriate to refer to federal judges who issue nationwide injunctions or similar relief as judicial insurrectionists?

No.

- d. Do you think, as President Trump has asserted, that federal judges who have ruled against the Trump Administration are doing so because of their hatred of him?

I do not know the motives of federal judges, and I will not speculate on them.

4. President Trump recently commented on Leonard Leo's role in the appointment of judges and justices during the first Trump Administration.

- a. Yes or No: Do you agree with President Trump that Leonard Leo is a "sleazebag"?

No.

- b. Yes or No: Do you agree with President Trump that Leonard Leo is a "bad person who, in his own way, probably hates America"?

No.

- c. Yes or No: Do you agree with President Trump that Leonard Leo is a "backroom 'hustler'"?

No.

- d. Yes or No: Have you heard Leonard Leo brag about controlling judges or justices? If yes, please describe what you've heard with specificity.

No.

5. Yes or No: Do you think that any of this Administration's actions have violated the law? If yes, which actions?

I was invited to testify about universal injunctions, not to analyze the legality of all of the Administration's actions. Each of those actions would require an extensive, individualized legal analysis. Because such an analysis would be outside the scope of what I was invited to testify about, I decline to provide it here.

6. Do you believe the large number of district court rulings against this Administration is in any part due to the large number of executive actions taken by this Administration?

The large number of executive actions taken by this Administration does not explain the unprecedented number of *universal injunctions* issued against this Administration, the subject about which I was invited to testify. Few, if any, Presidents in our history have used executive power more aggressively than FDR, yet there were *no* universal injunctions entered against FDR's policies. Presidents Biden and Obama were also quite aggressive in their use of executive power domestically, yet the number of universal injunctions entered against them pales in comparison to the number of universal injunctions issued over the last few months.

7. Do you believe the large number of district court rulings against this Administration is in any part due to the unlawfulness of executive actions taken by this Administration?

Please see my response to Question 5 above.

8. During the hearing, Senator Schmitt said the assignment of four of the D.C. District Court's over one hundred cases involving the Trump Administration to Judge James Boasberg was a "statistical impossibility." Senator Schmitt said that "as chief judge, [Judge Boasberg] has play and he wants to be able to grab cases for himself."
- a. Given that Judge Boasberg, as one of 25 participating judges in D.C. District Court, has been assigned just 4 of the more than 100 cases filed against the Administration in that Court, do you agree with Senator Schmitt that Judge Boasberg's assignments are a "statistical impossibility"?

This question, too, is outside the scope of the issues on which I was invited to testify. In any event, I have not studied the case-assignment practices of the U.S. District Court for the District of Columbia or the facts surrounding the assignment of cases to Judge Boasberg. I cannot, therefore, assess any claims about those specific practices.

Thank you for your questions. It was an honor to testify before the subcommittees.

Sincerely,



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