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U.S. MERIT SYSTEMS PROTECTION BOARD
Washington, D.C. 20419

April 17, 2013

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

I write in support of the nomination and confirmation of Elaine D. Kaplan to the U.S. Court of Federal Claims. Her professional experience, qualifications and demeanor make her an excellent choice for this appointment. I have known Elaine over 12 years, during which time our careers have dovetailed in the field of Federal civil service law and human resources management.

We met in early 2001 while she was serving as Special Counsel at the U.S. Office of Special Counsel (OSC). I had just recently been appointed General Counsel at the U.S. Office of Personnel Management (OPM) in the George W. Bush administration. We worked closely on drafting and promulgating the initial regulations implementing the *No Fear Act of 2002* (P.L. 107-174). Following her term at OSC, Elaine practiced law in the private sector and then rejoined the National Treasury Employees Union (NTEU) as Senior Deputy General Counsel. During this time we both worked on personnel issues and legal arguments dealing with the standup of the Department of Homeland Security, the National Security Personnel System, and various other legal issues reaching the Supreme Court for resolution. While not always in agreement, I was extremely pleased that our professional respect, personal friendship, and ability to maintain open and productive lines of communication did not waiver.

In 2009, Elaine was named by the Obama Administration to my former position as General Counsel at OPM. Several years later, the Senate Republican leadership recommended me to President Obama for nomination to a seven year term on the U.S. Merit Systems Protection Board (MSPB). I was confirmed in April, 2012. So once again we find ourselves working on common issues relevant to the Federal civil service. It should be noted that OSC, OPM and the MSPB are all successor agencies to the former U.S. Civil Service Commission (1883-1979).

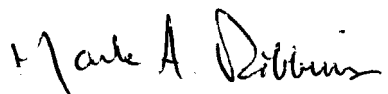
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As is clear from our backgrounds, Elaine and I do not always agree on public policy matters or legal strategies related to the management of the Federal civil service. But throughout our professional discourse she has shown the deference and respect for many sides of an argument, an attribute that would serve her well on the bench. Her dedication and intelligence have resulted in her reputation in the Federal human resources community as both a good lawyer and a good manager. And as I mentioned above, she always keeps lines of communication open with those who find themselves on the opposite side of a given issue from her.

Her experience makes her an ideal candidate for the Court of Federal Claims. Her tenure as Special Counsel developed skills as an investigator and prosecutor. Her time at NTEU firmly established her impressive legal credentials and interpersonal skills of communication and respect for individuals. And I can personally attest, having held the position myself, that her service as General Counsel at OPM has given her ample experience with Federal contracting and procurement issues. I believe all this adds up to an excellent level of judicial temperament necessary to be successful in the position to which she has been nominated. In addition, the U.S. Court of Appeals for the Federal Circuit is the reviewing court for both the Court of Federal Claims and on many issues of importance to the Federal workforce. Her familiarity with that court and its workings and precedents will be beneficial in her new position.

I am proud of my twelve year association with Elaine and know that she will make an excellent judge. I stand ready to assist the Senate in any way possible and appropriate in the confirmation process. I can be reached directly at (202) 254-4402 or mark.robbins@mspb.gov.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Robbins". The signature is written in a cursive, slightly stylized font.

Mark A. Robbins
Member

MAR/cjn