

**Senator Dianne Feinstein
Statement in Introduction of Professor Goodwin Liu**

**Hearing on Judicial Nominations
U.S. Senate Judiciary Committee**

March 2, 2011

I would like to take this opportunity to introduce the nominee for the Ninth Circuit. I must tell you I don't think he has gotten a fair shake. This is the second time he has been nominated. On the Republican side, I regret to say that only one member has sat down with him. I have the privilege of spending several hours with him. My daughter is the presiding judge of the Superior Court in San Francisco, so I invited him to join us for a family dinner so I could get to know him. There was substantial legal discussion. And what I found was very interesting and very talented young man.

Liu's Background

Professor Liu is the Associate Dean of the University of California, Berkeley, Boalt Hall School of Law. He is a highly regarded expert in the fields of constitutional law and education law and policy, and a well-regarded teacher of law at the University of California.

He is a proud husband and father. He is a scholar of formidable intellect who cares deeply about the law and takes great care in formulating his thoughts and ideas. And he is a person with an abiding commitment to public service.

What also comes through in talking with Professor Liu is his deep appreciation for the opportunities our country affords.

Professor Liu is the child of Taiwanese immigrants. His parents came to this country as part of a program that recruited primary care physicians to work in rural areas throughout America. He spent his childhood in Augusta, Georgia; Clewiston, Florida; and Sacramento, California. He attended public schools, where far from having an easy time, he struggled first to read and later to master the English vocabulary.

He went on, however, to become co-valedictorian of Rio Americano High School in Sacramento and to attend Stanford University, my alma mater, where he graduated *Phi Beta Kappa* and was elected co-president of the undergraduate student body. I only made vice president.

He was a Rhodes Scholar at Oxford University, and he graduated from Yale Law School, where he was an editor of the Yale Law Journal.

He served as a law clerk on the U.S. Supreme Court to Justice Ruth Bader Ginsburg, and on the U.S. Court of Appeals to Judge David Tatel.

Professor Liu served as a legal and policy advisor in the Department of Education.

He also has private practice experience at the prestigious law firm of O'Melveny & Myers.

And he is now a tenured constitutional law professor and the Associate Dean at the Boalt Hall School of Law.

Among other accolades, he has received the University of California at Berkeley's highest award for teaching; he has been a legal consultant to the San Francisco Unified School District; he is the recipient of the Education Law Association's Award for Distinguished Scholarship; he is an elected member of the American Law Institute; and he is on the Board of Trustees of Stanford University.

As a professor, he has written extensively. His work has been published in prestigious journals such as the *Stanford Law Review*, the *California Law Review*, and the *Iowa Law Review*.

There is no question that some of this written work is thought provoking. As Professor Liu himself said at his last hearing, "The job of law scholars, when they write--largely, I think--is to probe, criticize, invent, be creative." (Hearing p. 91).

Nor is there any question that the role of a judge is quite different from that. Again, in Liu's own words, and I quote, "The role of a judge is to be an impartial, objective, and neutral arbiter of specific cases and controversies that come before him or her, and the way that process works is through absolute fidelity to the applicable precedents and the language of the laws, statutes, [and] regulations that are at issue in the case." (Hearing p. 91).

He clearly recognizes that these are very different roles. The question is, can he make the transition? And I have every confidence that he can.

I would also point out that the Committee has previously confirmed Republican appointees such as Michael McConnell for the Tenth Circuit, Harvie Wilkinson for the Fourth Circuit, Frank Easterbrook on the Seventh Circuit, and Kimberly Ann Moore on the Federal Circuit.

Moore and Wilkinson were younger at their confirmation than Liu is now and had quite comparable experience. And Michael McConnell's writings were at least equally provocative – but from a conservative viewpoint.

But all of these nominees were confirmed, as I believe Professor Liu deserves to be.

I had one situation and I'm going to relay it here. We had a nominee for the Fifth Circuit by the name of Southwick. Democrats were not going to vote for him. I was implored not to vote for him.

Senator Trent Lott came to me on the floor of the Senate and said would you at the very least sit down with him and listen to him. I did for a long time; more than once. I reviewed what the allegations were and I talked with him about them.

I decided that I was going to vote for him. And I did vote for him. And he is now sitting on the Fifth Circuit. As a matter of fact I received a letter from him not too long ago saying how much he appreciated that vote and what it meant to him.

Since those days, we've become very polarized – and it is a tragedy. Because if this kind of thing continues, nobody can break away from the party and vote to approve another party's nominee. That would be a real tragedy for this Committee.

For those who would question Liu's ability to make the transition, I would refer you to any one of the conservatives who has written to the Committee in support of his confirmation. And I'd like to call special attention to a letter submitted by Kenneth Starr.

As many here will know, Kenneth Starr is currently the President of Baylor University and has served in the past as a D.C. Circuit Judge and as Solicitor General of the United States. He was appointed to both positions by Republican Presidents. Here is what he and Professor Akhil Amar wrote about Professor Liu, and I quote:

"We recognize that commentators on all sides will be drawn to debate the views that Goodwin has expressed in his writings and speeches. In the end, however, a judge takes an oath to uphold and defend the Constitution.

Thus, in our view, the traits that should weigh most heavily in the evaluation of an extraordinarily qualified nominee such as Goodwin are professional integrity and the ability to discharge faithfully an abiding duty to uphold the law. Because Goodwin possesses those qualities to the highest degree, we are confident that he will serve on the court of appeals not only fairly and confidently, but with great distinction. We support and urge his speedy confirmation."

Now, Professor Liu is a great asset to the faculty of the University of California and I really believe he will be a superb judge on the Ninth Circuit.

It is my hope that for those on the Committee who don't know him that you will take the time to get to know him. Sit down with him. Ask him questions. But please don't turn your backs on a brilliant young man.

Now I'd like to ask the nominee to come forward, and we will begin the hearing.