

BAKER ARENA

The Honorable Charles E. Grassley, Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein, Ranking Member
Committee on the Judiciary
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

My name is Baker Arena. I am an attorney in Denver, Colorado and a University of Colorado Law School graduate from the class of 2016. I am a former student of Judge Gorsuch's and I was present in the Legal Ethics class during which Judge Gorsuch allegedly made sexist comments. I write to you not to undermine the credibility or malign the reputation of the accusing student, of whom I have and will continue to have a tremendous amount of personal and professional respect for, but rather to bring clarity to the misunderstanding at issue.

In the Legal Ethics class I took from Judge Gorsuch, the textbook we used contained numerous hypothetical ethical dilemmas that attorneys could potentially face in their practice. Judge Gorsuch would use these dilemmas in the textbook in his lectures to illustrate the fact that there are few black and white solutions to the ethical issues attorneys face daily. Adept at challenging the views of students (and sometimes frustratingly so), Judge Gorsuch would use the Socratic method and play devils advocate in his lectures as the class debated the appropriate course of action to confront the ethical issues at hand. If a valid point was made in favor of one course of action, he would present counterfactual points to illustrate the compelling arguments in favor of another course of action. Through the constant debate of ethical dilemmas that semester, we left with a greater appreciation of the nuances attorneys must account for in making ethical decisions consistent with our code of professional responsibility.

I was present in the class at issue and sat directly in front of the accusing student. I recall the hypothetical ethical dilemma discussed in the lecture that day. In that hypothetical ethical dilemma, a female law student, suffering financial hardship, is asked at an interview if she planned on having children and using the firm's maternity leave policies. The female student in the hypothetical was planning on having children but nervous to tell the potential employer, for fear she might not get the position. Judge Gorsuch began to lead the class in debate as to what the appropriate course of action should be for the female law student. Judge Gorsuch made compelling points about the numerous issues and subtle discrimination women face in the workplace that many men are oblivious to. In fact, as a man, I had never really considered the extent of pregnancy related discrimination that women face in the workplace until this very class. True to form (and

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the Socratic teaching style), Judge Gorsuch also presented counterarguments presenting the hardships employers face due to paid maternity leave policies, which I, as a liberal feminist Democrat, as well as the majority of my colleagues rejected.

During Judge Gorsuch's presentation of such counterarguments, I do not recall him accusing women of taking advantage of paid maternity leave policies, much less espousing such accusations as his personal beliefs. In class and in our conversations outside of class, Judge Gorsuch was always extremely respectful, inclusive, tolerant and open-minded. Additionally, Judge Gorsuch's never shared his personal views on legal or ethical matters in class and was somewhat of an enigma. Had he made the statements he is accused of making, I would have surely noticed as they would be out of his character and had he said such things, I potentially would have even said something to him concerning these statements. That is not the Judge Gorsuch I know.

The Judge Gorsuch I know is supportive and accommodating. As a student who suffers from learning disabilities, I reached out to Judge Gorsuch in the beginning of the semester to ask permission to use my laptop for word-processing in class (the use of which was against his class policies). He replied that he was happy to accommodate any disabilities, and I was free to use my laptop. From our first interaction, I felt welcome and accepted for who I was in his class. His respectful embrace of his students fostered a collegial atmosphere that promoted the sharing of ideas. Moreover, Judge Gorsuch never shared his personal beliefs for fear of advocating instead of teaching. In fact, only time I was able to get Judge Gorsuch to share his personal views was when he chided me for not de-barbing my hooks while fly fishing.

As I stated earlier, I write you not to undermine the credibility or the reputation of the accusing student. Rather, I believe these accusations are a result of a simple classroom misunderstanding that occurred during an engaging and important debate about discrimination women face, and continue to face, in the legal profession. Although I may disagree with some of Judge Gorsuch's rulings and positions, I have a tremendous amount of both personal and professional respect for him. Based on my experience in that class and my first hand interactions with Judge Gorsuch, I believe that these accusations are a result of a misunderstanding and nothing more. I am happy to answer additional questions about the events in issue.

Respectfully,

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