



October 8, 2020

The Honorable Lindsey Graham
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Diane Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Graham and Ranking Member Feinstein:

I write in support of the nomination of Judge Amy Coney Barrett to be confirmed Justice on the Supreme Court of the United States. Judge Barrett is a Constitutionalist and will execute the duties of Justice faithfully and to the best of her ability. Club for Growth often focuses on economic policy and advancing liberty in America. Having reviewed Judge Barrett's jurisprudence, I believe she will adhere to the rule of law and will not legislate from the bench.

The Supreme Court often hears cases that impact the economy and the way business is conducted in America. The attached in-depth review of Judge Barrett's jurisprudence indicates she will defend the Constitution, protect against trial lawyer abuses, rein in excessive and abusive regulatory actions, and protect property rights.

The policy implications of Judge Barrett's jurisprudence result in a stronger U.S. economy, filled with more prosperity for all Americans than ever before.

- **Protect Against Abusive Lawsuits.** Over recent decades frivolous lawsuits have tremendously hindered US competitiveness. Especially hard hit are small businesses who cannot afford to have a large legal department to defend their business from trial lawyer abuses. Judge Barrett's jurisprudence will enforce arbitration and other contracts that prevent abusive litigation.
- **Reducing Regulatory Burdens.** Regulations impose over \$2 trillion of costs on American businesses and consumers. They are the largest impediment to robust economic growth. Overregulation has caused many job creators and entrepreneurs to limit investment, end risk-taking, slow job creation, and slow economic growth. But under the leadership of President Trump investment in business has been incentivized through removing regulatory barriers. Each of those has been challenged in court by environmental and consumer special interests. As a result, the Supreme Court will hear more cases and make more landmark decisions on cases that determine the strength of the economy. By showing that she will enforce the law about jurisdiction, Judge Barrett's jurisprudence indicates she will resist the effort to have the Supreme Court overrule deregulatory efforts and other crucial policy questions.
- **Property Rights.** Perhaps the strongest indicator of Judge Barrett's economic jurisprudence is the Clean Water Act case, *Orchard Hill Building Co. v. United States Army Corps of Engineers*. This case involved the Army Corps of Engineers designating a body on a wetland as waters of the United States and as protected under federal law, so a real estate firm was prevented from developing the land. The Majority wrote that the Army Corp of Engineers failed to provide sufficient evidence that the designation was in fact protected under federal law, which requires a nexus to a navigable water. But the wetland was not within the nexus and was 11 miles away from the nearest navigable body of water. The Court refused to

give the Army Corp and Environmental Protection Agency deference on the designation because it was not made on reasonable grounds.

Barrett is a Constitutionalist and the U.S. Constitution is the foundation for a strong economy. The Founding Fathers knew that is was important to have a government that fundamentally protected against tyranny, while protecting unalienable rights and ensuring the safety and security of the People. This includes economic security. Through this idea, the United States has built the greatest economy in the history of mankind.

I believe Judge Barrett will be a practical, pro-growth Justice that is willing to discard administrative action when necessary. She will interpret the law through the Constitution, and she will not legislate from the bench. The result of Justice Barrett's approach to applying the law will be to protect businesses and the economy from ideological lower-court judges that simply wish to enact a progressive agenda, to prevent the Left from using the courts to create a larger federal government which would reduce the freedoms embedded in America's founding documents.

Sincerely,

A handwritten signature in blue ink that reads "David M. McIntosh". The signature is written in a cursive, flowing style.

David M. McIntosh
President, Club for Growth

cc: Senate Majority Mitch McConnell
Senate Minority Leader Chuck Schumer
Members of the Senate Judiciary Committee