

## Testimony of Rebecca Taibleson

### Before the United States Senate Committee on the Judiciary

#### On the Nomination of Judge Brett Kavanaugh to the United States Supreme Court

September 7, 2018

Mr. Chairman, Senator Feinstein and Members of the Committee: I am honored to be testifying before you today. My name is Rebecca Taibleson. I'm here from Milwaukee, Wisconsin.

I clerked for Brett Kavanaugh in 2010 and 2011, and I enthusiastically support his nomination to be an Associate Justice of the United States Supreme Court.

I'd like to talk about two things today: *First*, what Brett Kavanaugh is like as a judge. And *second*, what Brett Kavanaugh is like as a person.

At work in his chambers, Judge Kavanaugh has a motto of sorts: "Process protects us." I'll admit, it is not very catchy. But it's true to the judge and to his core judicial philosophy. What it means is that Judge Kavanaugh goes through an intense, step-by-step process in order to decide each and every case. That process starts with an open mind and a foundational commitment to the belief that either side might be right. Judge Kavanaugh then reads and analyzes every brief and re-reads every relevant precedent. And he insists that his clerks find the best version of every argument in the case, even when the lawyers themselves failed to do so.

In addition to the parties' arguments, Judge Kavanaugh also takes very seriously the views of his colleagues, the other judges, especially when they differ from his own. I can remember, too clearly, being corrected by Judge Kavanaugh once when I, fresh out of law school, spoke dismissively about a different judge's opinion on a case. I learned from that. Understanding Judge Kavanaugh's humility and respect for his colleagues is essential to understanding his identity as a judge.

Judge Kavanaugh completes his entire process from scratch, for every issue, in every case. It's no coincidence he's often the last person at work in the courthouse each day. But it's worth it. This process, as he says, *protects* us. It protects against snap decisions, shortcuts, and prejudgments. By never skipping a step – never giving short shrift to an argument or ignoring a precedent – Judge Kavanaugh ensures that his decisions are based on the law and the facts of each case and only on those things. That process also protects us, American citizens, from having unelected judges ruling based on their own predispositions or preferences.

Only after completing that process does the Judge decide what he thinks. And once he's decided, he is difficult to budge. He is independent, and stubbornly so. He cannot be pressured by his law clerks or colleagues, and he cannot be intimidated by other actors in Government. It's simply not part of his process.

Politics also have no place in Judge Kavanaugh's process. Having known the Judge for almost ten years, and having worked closely with him, I myself do not know what his views are on the political issues of the day. And as a law clerk, it would have been unthinkable to even mention the political implications of a case. In fact, had we known in advance how to decide a

case based on the parties or some policy goal, we might have skipped a few steps in the process and left the office a little earlier each day. But he never did, and so we never did.

For those reasons, if you want to know what Judge Kavanaugh is like as a *person*, his cases are not the best place to look – because he keeps his preferences out of them. His *process* reflects his fairness, work ethic, and judicial temperament – but the *outcomes* are based on the law, not his personal views.

But I can tell you that as a person, Brett Kavanaugh stands out. He has testified extensively this week, so I don't need to tell you how smart, thoughtful, and unflappable he is. When his guard is down – when he's not before this Committee or on television – he is the same way.

But in my view, those are not his most remarkable qualities. Instead, it's his every-day, universal, disarming kindness. I sometimes find myself saying that Judge Kavanaugh is “normal” or “approachable” – but those clichés are not quite right; instead, those are compliments designed for federal judges, who no one expects to be normal or approachable. Judge Kavanaugh is far, far nicer than normal, and far more approachable than almost anyone you will ever approach. He has an easy laugh and a great sense of humor. I myself am rarely funny, but he laughs at all of my jokes, including the ones at his expense. Although his credentials are elite, you would never know it to talk to him. The Judge is a regular at his neighborhood bar, for example, where he's partial to a Budweiser and a hamburger, and where the long-time bartender did not even know Brett Kavanaugh was a lawyer until he saw his nomination to the United States Supreme Court.

If he is confirmed, Judge Kavanaugh's humility, collegiality, and kindness will stand out on the Supreme Court.

Judge Kavanaugh is going to stand out on the Supreme Court for another reason as well, which is his support for women in the legal profession. Elite legal circles are predominantly male. The year I clerked on the Supreme Court, for example, 26 of the 39 law clerks were men. That is typical. Judge Kavanaugh, by contrast, has hired *more* women than men as law clerks. One year, all four of his clerks were women, which was a first for the D.C. Circuit Court of Appeals. That's something no Supreme Court Justice has ever done.

After hiring us, Judge Kavanaugh goes to bat for us. As the members of this Committee know, hard work and smarts are not always enough to reach the highest levels of your profession. Instead, it takes guidance from people who have been there and advocates willing to fight for you. Studies have shown that women often are at a disadvantage on those fronts. But Judge Kavanaugh is a force of nature. Thanks to his sponsorship, about 85% of Judge Kavanaugh's female clerks have obtained Supreme Court clerkships after working for him. We have clerked for Justices across the Court, including Justices Kagan, Breyer, and Sotomayor. We have served in all three branches of state and federal governments. We are professors, prosecutors, and non-profit attorneys. One of us is now even a judge herself. I know of no federal judge who has more effectively supported women in this profession than Brett Kavanaugh.

Ten years after I first met Judge Kavanaugh, I'm now figuring out how to be lawyer *and* a mom to three children aged three and under. I know firsthand how important it is to have an advocate like Brett Kavanaugh, and I attribute my still-vibrant legal career in large part to him.

I am only one of many. A significant number of Judge Kavanaugh's former clerks have been here for these hearings. We have uniformly recommended him for his character, his work ethic, and his kindness. The United States, and the American people, would be well served with Judge Kavanaugh on the Supreme Court.

Thank you.