



# Judicial Watch

*Because no one is above the law!*

March 24, 2010

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

The Honorable Jeff Sessions  
Ranking Member  
United States Senate  
Committee on the Judiciary  
152 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Senator Sessions:

Judicial Watch is a non-partisan, educational foundation that advocates for transparency and accountability in government, politics, and the law. Judicial Watch is America's largest and most effective government watchdog, with nearly 200,000 active supporters who are committed to the rule of law.

We have grave concerns about the pending nomination of Goodwin Liu to be United States Circuit Judge for the Ninth Circuit.

In a book he co-authored, *Keeping Faith with the Constitution*, Mr. Liu suggests that the Constitution should be interpreted using the "evolving norms and traditions of our society." This activist theory for interpreting the Constitution would substitute the whims of individual judges over the text and original meaning of the U.S. Constitution. A copy of this book is available [here](http://www.acslaw.org/keepingfaith) (<http://www.acslaw.org/keepingfaith>).

Mr. Liu joined an amicus brief that suggests that the Constitution's equal protection clause requires allowing same-sex couples to marry. (Brief of Amici Curiae Professors of Constitutional Law In Support of Respondents Challenging the Marriage Exclusion, *In Re Marriage Cases*, Case No. S147999 (CA Supreme Court))<sup>1</sup> Mr. Liu has

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<sup>1</sup> See *In Re Marriage Cases*, Case No. S147999 (CA Supreme Court)  
<[http://data.lambdalegal.org/pdf/legal/inre\\_ca\\_ba\\_20070928\\_supreme\\_professors-sullivan-and-karlan.pdf](http://data.lambdalegal.org/pdf/legal/inre_ca_ba_20070928_supreme_professors-sullivan-and-karlan.pdf)> accessed March 23, 2010.

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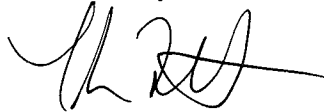
a radical and expansive view of judicially-enforceable rights to “welfare,” and seems to oppose the notion that the Constitution is colorblind.<sup>2,3</sup>

Also of concern is Mr. Liu’s lack of practical legal experience. Mr. Liu has practiced law for just a little over ten years. Judicial nominees ought to have significant practical experience as a lawyer or a judge, especially nominees for appellate seats.

Judicial Watch requests that the Committee thoroughly examine Mr. Liu’s record and judicial philosophy. The rule of law is harmed when activist judges substitute their own will for the plain text and meaning of the U.S. Constitution. The Committee should be prepared to oppose his nomination if such an examination confirms that he embraces an activist judicial philosophy.

Thank you.

Sincerely,



Thomas Fitton  
President

cc: Senate Judiciary Committee Members  
By: Fax and Mail

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<sup>2</sup> See Liu Goodwin, “Rethinking Constitutional Welfare Rights,” *Stanford Law Review*, November 2008 <[http://findarticles.com/p/articles/mi\\_hb3435/is\\_200811/ai\\_n32305705/](http://findarticles.com/p/articles/mi_hb3435/is_200811/ai_n32305705/)> accessed March 23, 2010.

<sup>3</sup> See Liu Goodwin, “The meaning of Brown vs. the Board,” *Los Angeles Times*, December 25, 2006 <<http://www.latimes.com/news/opinion/la-oe-liu25dec25,0,382863.story?coll=la-opinion-center>> accessed March 23, 2010.