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1-1-2009

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Recommended Citation
Knuppe, Austin, "President Obama's Short List for the Supreme Court" (2009). *Features.* Paper 83.
http://scholarworks.gvsu.edu/features/83

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President Obama's Short List for the Supreme Court

A Reference Guide

By Austin Knuppe

With the retirement announcement of Supreme Court Justice David Souter on May 1st, conversation is already stirring over who will replace Souter on the Court. Despite the gossip in op-ed columns and in the blogosphere, there appears to be no "A list" of potential appointees. However, a conversation between Senator Orrin Hatch, the ranking Republican member on the Senate Judiciary Committee, and the president, reveals that the Obama administration may announce a candidate for the position by the end of the week. Sources close to the White House say that Vice President Joe Biden will be in charge of drawing up a list of potential nominees because of his past tenure as the ranking Democrat on the Senate Judiciary Committee. We have provided a reference guide to the three most popular candidates whose names have been floated as potential appointees:

- **Sonia Sotomayor—federal judge on the 2nd Court of Appeals**
  She was nominated to the bench by President George H.W. Bush and was elevated to the appeals court under the Clinton administration. Prior to her appointment to the federal bench, Sotomayor worked as an assistant district attorney in the New York County District Attorney's Office. She was also involved in private practice law, working on intellectual property rights cases. Sotomayor received her A.B. from Princeton University summa cum laude, and earned her J.D. from Yale Law School in 1979, where she was an editor of the Yale Law Journal. One benefit of a Sotomayor appointment is that she could become the first person of Hispanic decent to serve on the Court. She is controversial among conservatives for upholding the New Haven, Connecticut decision to eliminate a firefighter promotion test because no African Americans qualified.

- **Diane Pamela Wood—federal judge on the 7th Court of Appeals**
  The 7th Court of Appeals is notable because it encompasses the president's home turf of Chicago. She is also a senior lecturer at the University of Chicago School of Law. Prior to her service on the Appeals Court, Judge Wood served as Deputy Assistant Attorney General for international, appellate, and policy in the Justice Department's Antitrust Division under President Bill Clinton. Ms. Woods earned her J.D. from the University of Texas School of Law in 1975 with the Order of the Coif. Most notably, she was a clerk for Supreme Court Associate Justice Harry Blackmun from 1976 to 1977. Wood is a likely candidate because of her personal contact with Barack Obama when he was teaching constitutional law at Chicago. Judge Wood will turn 60 next year, and if appointed would change the trend of presidents appointing younger justices to the Court.

- **Elena Kagan—United States Solicitor General**
  Ms. Kagan is the Solicitor General for the Obama administration, where she serves as the lead attorney representing the federal government before the Supreme Court. She is the first woman in U.S. history to hold this post. Prior to her service in the current administration, Kagan was the dean of Harvard Law School and Charles Hamilton Houston Professor of Law at Harvard University. During President Clinton's second term she served as associate White House counsel and deputy assistant to the president for domestic policy. Ms. Kagan also had some limited contact with the president through her tenure at the University of Chicago. She received her JD magna cum laude from Harvard, and did undergraduate work at Princeton. One downside to a Kagan appointment would be stiff opposition in the Senate. During her confirmation last March, many Republican senators accused Kagan of dodging difficult questions.

Justice Souter's vacancy leaves many questions unanswered as to how the demographics of the Court may change. As it stands now, there is only one African American and one woman on the bench. Many are hoping to see Obama embrace the mantle of change and appoint an additional woman or someone of a different ethnic background. There is also debate as to whether or not the president will appoint a justice with experience in elected office—a merit that no current justice holds. A surprise pick of Michigan governor Jennifer Granholm or Massachusetts Governor Deval Patrick would achieve this end. Aside from speculation, we can reflect on President Obama's statement about the possible appointment. "I will look for those judges who have an outstanding judicial record, who have the intellect and who hopefully have a sense of what real-world folks are going through," the president said while on the campaign trail. Time will only tell how the new administration proceeds with its chance to place a new justice on America's highest court in the land.