



**ORGANIZATION OF CHINESE AMERICANS<sup>®</sup>, INC.**

EMBRACING THE HOPES AND ASPIRATIONS OF CHINESE IN THE UNITED STATES  
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**TESTIMONY OF**

**THE ORGANIZATION OF CHINESE AMERICANS**

**BEFORE THE**

**UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY**

**CONCERNING THE NOMINATION OF  
CLARENCE THOMAS TO THE U.S. SUPREME COURT**

**SUBMITTED SEPTEMBER 19, 1991**

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**INTRODUCTION**

The Organization of Chinese Americans, Inc. (OCA) welcomes the opportunity to submit the following testimony before this Committee on the nomination hearing of Judge Clarence Thomas to the United States Supreme Court.

Founded in 1973, OCA is a national, non-profit, non-partisan network of concerned Chinese Americans. Since its formation, OCA has been dedicated to promoting the active participation of Chinese Americans in civic affairs at all levels and securing justice, equal treatment and equal opportunities for Chinese Americans and Asian Americans. With 41 chapters throughout the country and one chapter in Hong Kong, OCA is the only national Chinese American civic organization with headquarters in Washington, D.C.

**STATEMENT**

OCA and two of its affiliates - the Chinese American Forum and the Chinese American Alliance - express grave concerns about the nomination of Judge Thomas to the highest bench. We base our decision on Judge Thomas' record as chairman of the Equal

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Employment Opportunity Commission (EEOC) for eight years, his limited tenure as a Federal District Court judge and his extrajudicial writings.

Because Mr. Thomas' tenure at EEOC represents approximately one-half of his professional career and was more than twice as long as his next longest position, great weight should be given to his performance and accomplishments at EEOC.

OCA is concerned that under Mr. Thomas' leadership, the EEOC appears to have attempted to unilaterally change federal rules based on existing case law and federal law, failed to follow Supreme Court precedent, and failed to perform statutorily mandated responsibilities.

Of particular concern is Judge Thomas' views on employment discrimination and the use of goals and timetables. Notwithstanding the stereotype that Asian Americans excel academically and have above average incomes, not all Chinese Americans and Asian Americans are succeeding. We must ensure that everyone receives an equal opportunity through the proper use of goals and timetables. Employment discrimination still abounds and OCA receives a steady stream of calls from Chinese Americans throughout the country who seek advice and assistance on their employment discrimination complaints.

Shattering the glass ceiling for all levels of employment opportunities is a priority issue for Chinese Americans and Asian Americans. Judge Thomas' opposition to affirmative action in any

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form, including affirmative action ordered by the courts to remedy past discrimination, would leave Chinese Americans and Asian Americans, confronted by the societal problems of the "glass ceiling", with few, if any, effective means of redressing employment-related grievances.

In explaining his steadfast opposition to affirmative action and the concept of a "colorblind Constitution", Judge Thomas cites Justice Harlan's dissenting opinion in Plessy v. Ferguson as "one of our best examples of natural rights or higher law jurisprudence." It is distressing to note Judge Thomas' failure to confront the clear racial bias evident in such dissent, specifically, the attitude expressed by Justice Harlan:

there is a race so different from our own that we do not permit those belonging to it to become citizens of the United States. Persons belonging to it are, with a few exceptions absolutely excluded from our country. I allude to the Chinese race.

The attitude was and is deeply held and manifesting itself by the reluctance of this nation not to lift the bar on Asian immigration until 1965 and today, is typified by the marked increase in anti-Asian violence.

While it is clear that this country cannot now deny Chinese Americans equal rights under the law, it may still deny us equal justice under the law. Thus, while no immigration ban bars us from this country because we are an economic threat, the more subtle barrier, the glass ceiling, now replaces the ban.

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**CONCLUSION**

While OCA is heartened that President Bush would nominate a person of color to diversify the bench, we must ensure that the next U.S. Supreme Court justice is sensitive to the concerns of all Americans including the Chinese American and Asian American communities. For the foregoing reasons, the Organization of Chinese Americans, the Chinese American Forum and the Chinese American Alliance urge the United States Senate not to confirm Clarence Thomas to the United States Supreme Court.