



May 22, 2001

By Facsimile 202 224-9102; 202 224-9516

The Honorable Orrin G. Hatch  
Chairman  
United States Senate Judiciary Committee  
Dirksen Senate Office Building, Room 224  
Washington, DC 20510

Re: Nomination of Jeffrey Sutton for U.S. Court of Appeals for the Sixth Circuit

Dear Chairman Hatch:

On behalf of the American Association of People with Disabilities (AAPD), I write in regard to President Bush's nomination of Jeffrey Sutton for the U.S. Court of Appeals for the Sixth Circuit. I have been informed by your staff that your committee is holding a hearing to consider Mr. Sutton's nomination tomorrow morning, and I am writing to request an opportunity to testify against Mr. Sutton's nomination on behalf of AAPD and a broad coalition of disability rights supporters called ADA Watch.

AAPD is a membership organization working to promote political and economic empowerment for the more than 56 million children and adults with disabilities in the U.S. We were proud to host the Spirit of ADA Torch Relay commemorating the 10th anniversary of the Americans with Disabilities Act (ADA) last summer, and very much appreciated your personal participation in our torch event in Salt Lake City. We also are very grateful for your support for the bipartisan Congressional brief that was filed in the Garrett v. University of Alabama case before the Supreme Court this term. Needless to say, we see you as one of our strongest champions on the Hill with a long record of standing up for disability rights.

Senator Hatch, please give me or another representative from the ADA Watch coalition an opportunity to testify at tomorrow's hearing regarding Mr. Sutton's track record in the area of disability rights. The AAPD board voted Friday to oppose Mr. Sutton's nomination, an unprecedented step in the six year history of our organization. Put simply, we are concerned that Mr. Sutton would interpret the Constitution in a manner that leaves very little room for Congress to protect individuals who experience disability discrimination.

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In the Garrett case, when Mr. Sutton was asked whether the University of Alabama's challenge was limited to the employment provisions of the ADA, he replied that his client was challenging the ADA "across the board." Mr. Sutton also argued in that case that the "ADA was not needed" because there was insufficient record of unconstitutional discrimination by the States on the basis of disability at the time ADA was enacted. As a Senator who helped establish the voluminous record of discrimination that was compiled in the years before ADA became law, you know how incorrect Mr. Sutton's representation to the Supreme Court was.

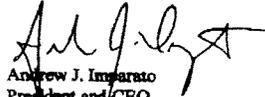
One could argue that Mr. Sutton has simply been a lawyer representing a client, and should not be penalized for statements that he needed to make to win a case. If Mr. Sutton had been representing the University of Alabama for years in a variety of matters, that argument would be persuasive. Unfortunately, that is not the situation. Mr. Sutton has been aggressively pursuing cases across the country that present an opportunity for him to expand the scope of the Eleventh Amendment to the Constitution and narrow the authority inherent in the Fourteenth Amendment's Equal Protection Clause.

Given his prominent role attacking the ADA in the courts, Mr. Sutton should never have been nominated by President Bush. President Bush has repeatedly assured the disability community that he is proud of his father's role in signing the ADA and that he is a strong supporter of disability rights. In fact, on February 1, he invited many disability leaders, Congressional leaders, Administration officials and reporters to the White House for an event to announce his New Freedom Initiative for people with disabilities.

On behalf of AAPD, I respectfully request the opportunity to testify tomorrow so that you and your colleagues on the committee have a complete picture of Mr. Sutton's track record in the area of disability rights. As a champion for our cause, you are uniquely well positioned to seize this opportunity to make this important record known before Mr. Sutton's nomination is acted upon. I can be reached at 202 457-0046 if you or your staff would like to discuss this matter with me.

Thank you for your steadfast leadership in the area of disability rights.

Sincerely yours,



Andrew J. Imperato  
 President and CEO  
 American Association of People with Disabilities

cc: The Honorable Patrick J. Leahy, Ranking Member (attention Helaine Greenfield)