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## FACT SHEET ON THE OPPOSITION OF THE DISABILITY COMMUNITY TO THE NOMINATION OF JEFFREY SUTTON FOR A FEDERAL JUDGESHIP

Mr. Sutton has made it clear that he is not supportive of the rights granted to people with disabilities by Congress through the passage of the Americans with Disabilities Act (ADA). Despite extensive documentation of state government discrimination against people with disabilities, Mr. Sutton enthusiastically supported the position that Congress did not have the authority to create the important civil rights protections afforded by the ADA. Mr. Sutton told the Supreme Court last fall when he argued the *Garrett* case for Alabama that the ADA "exaggerated discrimination problems by states." He told the court that the ADA was "not needed" and used similar arguments to weaken civil rights laws in the *Kimel* and *Sandoval* cases. His belief that laws of the various states provides adequate protections ignores the hundreds of pages of testimony before Congress that detailed the discrimination faced by people with disabilities across the country at the hands of state government agencies.

During an interview on National Public Radio, Mr. Sutton, in noting that the Supreme Court has only required rational basis review for discrimination against people with disabilities, stated "there are legitimate reasons for treating the competent differently than the incompetent".

Also during the Garrett hearing, Mr. Sutton stated, "The text of the ADA, to begin with, makes no mention of any pattern of State violations of the equal protection rights of the disabled. Not one instance of such conduct is identified, whether in the findings and purpose section of the law or in any other Title of the Act. The legislative record is no different. Far from reflecting State insensitivity to the equal-protection rights of their citizens, the legislative record of the ADA 'acknowledg[es] that States are willing and able to respect [the employment and public access] rights' of the disabled."

(Citing Florida Prepaid).

Mr. Sutton's statements clearly indicate that he did not believe that Congress had the authority to pass the ADA, and his actions further show that he will work to undermine the intent of Congress in protecting the civil rights of all Americans.

We call on the Senate to deny confirmation of Jeffrey Sutton.

NOT JUST RESPONDING TO CHANGE, BUT LEADING IT.

