



Legislation Text

File #: Res 0458-2018, **Version:** *

Res. No. 458

Resolution calling upon the United States Senate to oppose the confirmation of President Donald Trump's nominee, Judge Brett Kavanaugh, to the United States Supreme Court.

By Council Members Levine, Ayala, Rosenthal, Brannan, Powers, Kallos, Levin, Constantinides, Richards, Koslowitz, Reynoso, the Public Advocate (Mr. Williams), Rivera and Rodriguez

Whereas, On June 27, 2018, Justice Anthony Kennedy announced his decision to retire from the United States (U.S.) Supreme Court, creating a vacancy on the country's highest court; and

Whereas, President Donald Trump has the power to nominate judges to the U.S. Supreme Court with advice and consent of the U.S. Senate under the Constitution; and

Whereas, On July 9, 2018, President Donald Trump nominated Brett Kavanaugh, a federal appeals court judge for the District of Columbia Circuit, to the U.S. Supreme Court to replace the retiring Justice Anthony Kennedy; and

Whereas, Brett Kavanaugh's decisions on the bench and writings off the bench offer insights into how he might make decisions on the highest court; and

Whereas, In *Garza v. Hargan (2017)*, Brett Kavanaugh sought to undercut women's reproductive rights, contending that an undocumented 17-year-old in immigration detention should not be allowed to seek an abortion unless she has a sponsor, but the full appeals court overturned his decision; and

Whereas, In *Priest of Life v. United States Department of Health and Human Services (2015)*, Brett Kavanaugh undermined women's health in the name of extreme religious ideology, arguing in his dissent that the Affordable Care Act's contraception coverage mandate infringes on religious liberty; and

Whereas, In a 2009 law review article, Brett Kavanaugh proposed that a sitting president should be

exempt from criminal prosecution and investigation, which professes a dangerous level of unchecked executive authority; and

Whereas, In *PHH Corporation et al. v. Consumer Financial Prosecution Bureau (2016)*, Brett Kavanaugh expressed unfettered presidential control of an independent agency, arguing in his dissent that it is unconstitutional to give the director of the Consumer Financial Protection Bureau fixed 5 years term where s/he can only be removed for good cause since this gives the bureau too much independence from the president; and

Whereas, In *Heller v. District of Columbia (2011)*, Brett Kavanaugh held hostile views against gun control, claiming in his dissent that the Second Amendment included the right to own semi-automatic rifles, and the government cannot ban semi-automatic rifles since they “have not traditionally been banned and are in common use by law-abiding citizens”; and

Whereas, Brett Kavanaugh frequently sided with corporations at the detriment of worker’s rights in his dissents, including *National Labor Relation Board v. CNN America, Inc. (2017)*, in which he claimed that CNN did not violate labor law since its hiring decision to replace union workers with non-union workers was not based on anti-union amicus, and *AGRI Processor Co Inc. v. National Labor Relation Board (2008)*, in which he argued that undocumented immigrants are not covered by the National Labor Relation Act since it is illegal to employ them, and therefore undocumented immigrants have little collective bargaining and unionization rights; and

Whereas, Brett Kavanaugh’s confirmation to the U.S. Supreme Court threatens to erode progress on women’s reproductive rights and healthcare protections, and undermine labor rights and gun control laws given his views on these critical issues; and

Whereas, The City of New York is a bastion of progressive causes, including healthcare protections, gun control, reproductive rights and labor rights; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Senate to oppose the confirmation of President Donald Trump’s nominee, Judge Brett Kavanaugh, to the United States Supreme

Court.

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7/12/18
KMD