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## Sotomayor hearings: Legal analysts weigh in on the 'political theater'

Senate Judiciary Committee members have set the stage for a contentious confirmation debate but seem ultimately sure to endorse President Obama's choice of Sonia Sotomayor as the next justice on the U.S. Supreme Court, legal analysts said of today's opening salvos.

"This is an exercise in political theater," said UC Irvine law school dean Erwin Chemerinsky. "Listening to the senators today has made that even clearer. Every one of them knows she's going to be confirmed, but this is a chance to appeal to their base."

Alabama Republican Sen. Jeff Sessions' repeated references to Sotomayor's comment about a "wise Latina" being better informed by her experience to make a good judge was a double-edged sword, as many of his fellow Republicans on the committee have to be alert to the sensitivities of the minorities in their own political districts.

Ilya Shapiro, editor of the Cato Supreme Court Review for the conservative-libertarian Cato Institute, also saw the senators' views as teeing up the political back and forth that will be played out this week.

"I don't know if there are any points to be scored with these set pieces, but I thought Sen. Sessions was tremendously well prepared, that he hit all the high notes and set the right tone, saying they were going to be fair and judicious about things but that they were going to ask the right questions," Shapiro said.

He noted that Sen. Lindsey Graham (R-S.C.) "seemed to be leaning toward voting for her, saying that elections have consequences. But then he went on to make the most negative speech about her."

"I don't know if he was signaling to others" that they should respect Obama's choice for the high court, Shapiro said of the South Carolina senator's comments that the Democrats won the White House. "He marches to the beat of his own drummer. If he does end up voting for her, that would provide cover to Republicans wary of voting against a Hispanic woman nominee."

Shapiro praised Sotomayor's "poker face," how she kept her emotions in check whether being praised or criticized. Whether she can maintain that calm, he said, "We'll see late tomorrow, after she's being questioned the whole day and has to be poised."

Loyola Law School constitutional law professor Kimberly West-Faulcon found the most compelling issue of the opening session to be the recurring debate over whether a judge's views should be informed by empathy and experience or strictly formed by the law.

"For average Americans watching, it was an opportunity to engage the question of, 'What does a judge do?' 'What is the essence of judging?'" said the professor. "The dialogue has been about what it means to be a judge and whether it's possible to be fully objective."

Two strong bodies of opinion have been brought into the debate that will compel Sotomayor to "really defend the comments she's made so far."

-- Carol J. Williams

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**Andrew Malcolm's** immigrant parents repeatedly stressed the importance of active participation in a democracy. Early lessons included learning the alphabetical list of states by watching televised roll calls of national political conventions. That childhood exposure led to a lifelong fascination with politics, including 40-plus years of covering them and a brief stint practicing them as press secretary to Laura Bush in 1999-2000. A veteran foreign and national correspondent, Malcolm served on the Times Editorial Board and was a Pulitzer finalist in 2004. He is the author of 10 nonfiction books and father of four.



**Johanna Neuman** is a veteran Washington correspondent for both The Los Angeles Times and USA Today, having covered presidents and politics as far back as Ronald Reagan. A former president of the White House Correspondents Assn., she authored a book on media and foreign policy, "Lights, Camera, Wars." Most recently she was co-author of the [Countdown to Crawford](#) blog here at The Times.



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