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From the Los Angeles Times

REACTIONS

Day One of the Sotomayor hearings: a legal perspective

Legal analysts weigh in on how the Supreme Court nominee fared during a day of political theater, and what to expect in the next few days.

July 14, 2009

Monday's opening salvos over Sonia Sotomayor's nomination to the U.S. Supreme Court involved more grandstanding than examination of her outlook and record, legal analysts said, predicting the real debate will unfold today when senators begin grilling the nominee who is poised to become the nation's first Latino justice.

Erwin Chemerinsky

Constitutional law scholar and dean of the UC Irvine School of Law

"This is an exercise in political theater. 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.

"They go on about how judges shouldn't make law and policy but, of course, judges make law and policy all the time.

"I thought it was interesting that [Alabama Republican Sen. Jeff] Sessions focused so much on her comment about a 'wise Latina' versus a 'white male.' It was a statement that expresses the importance of diversity on the Supreme Court. While I don't think the Republican senators are going to embrace that, I don't think they are going to go after her very aggressively because they don't want to alienate important constituencies.

"This isn't the fight. For Republicans, this is a losing battle, and fighting too hard could have long-term political consequences."

Ilya Shapiro

Senior fellow at the conservative- libertarian Cato Institute and editor of Cato Supreme Court Review

"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.

"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 [to respect Obama's choice]. 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."

Kimberly West-Faulcon

Constitutional law professor

"For average Americans watching, it was an opportunity to engage the question of 'What does a judge do? What is the essence of judging?'"

"The dialogue has been about what it means to be a judge and whether it's possible to be fully objective.

"There are definitely two different ideologies put forth. There's a very strong position on one side that justice must be blind, and that anyone who suggests otherwise is problematic and of concern. On the other side -- and I do think they are a defensible set of comments -- there is this discourse on whether it is truly possible to be completely objective, to get outside of who you are as an individual.

"What she hasn't said yet is whether she is going to take on the analogy of the judge as an umpire, where all we do is mediate, or is there this notion of there being a strike zone? That's really where she'll have to be more nuanced.

"It struck a nerve, her 'Latina woman' comment. But if you follow the discourse of her speeches, what she says is that you have to get beyond personal biases. . . . She was most successful in being explicit in that she understands the people coming before her but that doesn't affect her decision."

-- Carol J. Williams

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