

Sonia Sotomayor: Good for Business?

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Supreme Court Justice Nominee Sonia Sotomayor with President Barack Obama

By now, everyone has heard about President Obama's selection for the Supreme Court Justice who will replace Justice David Souter upon his retirement at the end of this session. Her name is Sonia Sotomayor, the first Hispanic nomination for the Supreme Court. She is a self-proclaimed 'newyorkrican' and described best as a 'reasonable liberal' who seems to be the kind of person that does not like to legislate from the bench. As expected, she seems to like to decide toward minorities. That is all well and good, but if you are anything like me, you will want to know what she is going to do for or to your wallet.

The best legal experts have basically said that she is very hard to pin down on business issues, is very diverse, and can best be described as 'balanced'. As Americans have grown to expect from David Souter, the justice she would replace if approved by the Senate, Sotomayor's stances are unpredictable and sometimes defy expectations of both supporters and critics. "She has not been consistently ... on one side of the spectrum or the other," said Evan Tager, a partner at the law firm Mayer Brown, who has reviewed her decisions as a judge on the 2nd U.S. Circuit Court of Appeals. Some conservative critics argue that her opinions and decisions in high-profile affirmative action and securities litigation cases show she will 'bend' the law to favor employees and consumers over businesses. Sotomayor has, however, supported limiting damages in lawsuits against companies and will dismiss discrimination claims if she finds they aren't supported by the law.

Carl Hittinger, a lawyer with DLA Piper based in Philadelphia, has said she reminds him of Justice Samuel Alito, he said. Justice Alito, appointed by the second President Bush in 2006, is considered one of the more pro-business members of the court so far. If this is the case, businesses and investors have little to fear with her. The U.S. Chamber of Commerce, however, refused to take a position on Sotomayor's nomination so far, just simply saying it looks forward to "closely examining" her credentials.

The minority aspect mentioned earlier may be bigger than we realize though. She tends to set aside her business mind when discrimination is involved. There was a decision on whether New Haven, Conn. officials should dismiss the results of a promotional exam for firefighters due to low minority scores. In its decision, the three judge panel, of which Sotomayor was one, found that too few minorities had scored high enough and that the results should be dismissed. Roger Pilon, vice president for legal affairs at the libertarian Cato Institute, said that ruling "speaks volumes about her mindset," concerning minority conflicts as far as business is concerned

is concerned.

“There’s nothing in her record that suggests she’s ... hostile to business,” said Tom Goldstein, a veteran Supreme Court analyst who has also argued before the court 21 times. “She’ll fit comfortably in (Souter’s) seat.” Most people ‘in the know’ expect Sotomayor will be similarly unpredictable.