January 9, 2009

Gregory Craig, Esquire
c/o Obama Transition Team
1401 H Street, NW
Washington, D.C. 20005

Dear Mr. Craig:

The Women's Bar Association of the District of Columbia (WBA) wishes to congratulate President-Elect Obama on his historic election as President of the United States and to express our support for the goals and aspirations this election represents. We look forward, as citizens and fellow members of the bar, to supporting your efforts to lead our country in these challenging times.

As one of the oldest bar associations in Washington, DC, we are gratified to see President-Elect and Ms. Obama publicly express interest in the issues that affect the greater Washington, DC community; and also seek to support the incoming Administration as it works to follow through on that commitment to the District of Columbia community. Our nation's Capital, Washington, DC, is an important symbol of our country and its founding ideals. As a result, we begin with two issues that are of fundamental interest to the citizens and members of the bar in Washington, DC. Both relate to the lack of voting representation for District of Columbia residents in the United States Congress and the resulting lack of political power that afflicts those who reside in our nation's Capital.

1. DC Voting Representation in Congress: Congress and the incoming Obama Administration have an unprecedented, historic opportunity to right a two-hundred-year-old wrong: providing voting representation in the United States House of Representatives for the more than 580,000 residents of DC. The District of Columbia has more residents than the state of Wyoming and has as many residents as several other states. In the November 4, 2008 election, more people voted in DC than voted in the entire state of Wyoming. It is a great historical irony that more than half a million citizens of the world's oldest representative democracy have no voice in the momentous decisions of war and federal taxation made by the

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national legislature. Indeed, the United States of America is the only country in the world that denies voting representation in the national legislature to citizens of its nation's capital.

In 2007, the United States House of Representatives passed H.R. 1905, the DC Voting Rights Act, designed to increase the number of representatives in the House of Representatives to 437 and give a full voting representative to the District of Columbia and a fourth representative to the state of Utah, a state that narrowly lost a chance to increase its number of representatives to four in the last decennial census, taken in 2000. With Senator Obama's support, the companion Senate bill, S. 1257, garnered 57 votes in the United States Senate in 2007, but failed to obtain the three additional votes necessary to cut off debate. Supporters of DC voting rights have reintroduced these bills, styled the DC Voting Rights Act of 2009, during the very first day of the new Congress. President-Elect Obama has vowed to sign such historic legislation into law. It would in our view be especially fitting and noteworthy to have our country's first African-American President sign this legislation into law in the year in which we celebrate the 200th anniversary of Abraham Lincoln's birth. Doing so on April 16, DC Emancipation Day, would also have huge symbolic importance.

As citizens of the District of Columbia, lawyers, bar leaders and supporters of DC voting rights, we in the WBA applaud the President-Elect's commitment to this important issue. Since its founding in 1917, the WBA, the fourth oldest women's bar association in the United States, has championed voting rights for District of Columbia residents. From our founders forward, the WBA has testified in Congress and issued public statements in support of DC voting rights. As shown in testimony in Congress in support of the DC voting rights legislation,[1] Congress's power is at its zenith when it exercises its plenary power under the District Clause (Article I, Section VII, Clause 17 of the Constitution) to enact legislation affecting the District of Columbia. Supreme Court precedents have concluded that the District of Columbia is to be considered a state for many purposes, including the exercise of federal diversity court jurisdiction over DC residents and the power to impose federal income taxes on DC residents. In addition, the District of Columbia did not come into existence until 1801, ten years after the ratification of the Constitution, when the Congress finally exerted federal control over what is now called the District of Columbia. Arguments that our Founders -- who fought a war to gain the right to self-determination and freedom from taxation without representation -- intended to disenfranchise residents of the District fail to take this history into consideration.

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[1] *E.g.*, testimony of Hon. Kenneth W. Starr, House Government Reform Committee, June 23, 2004; Viet D. Dinh & Adam H. Charnes, *The Authority of Congress to Enact Legislation to Provide the District of Columbia with Voting Representation in the House of Representatives* (2004) (available at http://www.dcvote.org/pdfs/congress/vietdinh112004.pdf).

We urge the Obama Administration to encourage prompt passage of the DC Voting Rights Act of 2009 in both houses of Congress and to sign that legislation into law on April 16, 2009, the 147th anniversary of President Lincoln's emancipation of African American slaves in the District of Columbia. We also urge the Obama Administration thereafter to vigorously oppose the expected challenges to the constitutionality of the legislation once enacted.

2. Judges Appointed to the United States Court of Appeals for the District of Columbia Circuit: The DC Bar is the second largest bar association in the country and is home to many accomplished jurists and lawyers who would make fine candidates for the open vacancies on the United States Court of Appeals for the District of Columbia Circuit. However, presidential administrations and Senators in Congress have long overlooked deserving candidates in the DC Bar for those prestigious appellate court openings in favor of judges and lawyers from across the country, judges who, while they may be fine jurists, have no connection to the many issues of local and regional interest that come before the DC Circuit.

Once again, this anomaly arises because of DC's lack of political power and voting representation in Congress. It is not sufficient to say, as many do in seeking to justify this assault on local autonomy and self-determination, that the DC Circuit addresses administrative law and other issues of national import. The same can be said for many, and perhaps all, other federal circuit courts of appeal. It is also true that many issues of local and regional concern come to the DC Circuit; like citizens in other federal appeals circuits, citizens here are entitled to have judges that understand and hail from the local bar and surrounding community. As members of the DC legal community and residents of DC and the surrounding metropolitan area, we urge the Obama Administration to appoint judges to this very important court from the DC Bar and our courts in the District of Columbia.

In addition, the WBA supports other issues of importance both to women lawyers and to women and girls generally. Foremost among those issues today is the following, which the WBA supported in amicus briefing:

3. Lilly Ledbetter Fair Pay Act of 2009: The WBA recognizes and lauds the support that President-Elect Obama has shown in striving to achieve pay equity between men and women. As a cosponsor of the Fair Pay Restoration Act, Senator Obama acknowledged that women currently make just 77 cents for every dollar a man earns. Women of color earn even less. The WBA now urges the incoming Obama Administration to encourage prompt passage of the Lilly Ledbetter Fair Pay Act in the Senate and to sign the legislation as soon as it is enacted. This legislation is intended to overturn the decision by the United States Supreme Court in *Ledbetter v. Goodyear Tire & Rubber Co. Inc.*, 127 S. Ct. 2162 (2007). The WBA, among other groups, submitted an amicus brief supporting Ms. Ledbetter's position before the United States Supreme Court that a strict

> six-month statute of limitations should not apply to litigation challenging discriminatory pay practices that disadvantage women. It is unrealistic to assume that victims of illegal pay discrimination due to gender or other condition will have the facts necessary to bring such a claim within six months of receiving the first paycheck reflecting such discrimination. This decision is not only inequitable, but condemns women, who are traditional victims of such pay discrimination, not only to lower wages, but to lower pensions, health-care, and other benefits whose value is pegged to the amount of a worker's wages. This narrow, inequitable decision by the United States Supreme Court should be overturned as quickly as possible.

We would appreciate an opportunity to express these opinions to you or a member of your transition staff and to express our support for the incoming Obama Administration's efforts to support issues important to the DC community. We are available to meet with you, along with other representatives of District of Columbia-based bar associations who agree with views expressed in this letter, to discuss these issues and to discuss ways in which our bar associations may support the legislative and other initiatives of the incoming Obama Administration.

We look forward to hearing from you.

Very truly yours,

Jennifer Maree
President, Women's Bar Association of DC

cc: WBA Board of Directors