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**From:** "Adam.Charnes@usdoj.gov" <Adam.Charnes@usdoj.gov> ( "Adam.Charnes@usdoj.gov" <Adam.Charnes@usdoj.gov> [ UNKNOWN ] )

**To:** "Kristi.L.Remington@usdoj.gov" <Kristi.L.Remington@usdoj.gov> ( "Kristi.L.Remington@usdoj.gov" <Kristi.L.Remington@usdoj.gov> [ UNKNOWN ] ), Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] ), "Brian.A.Benczkowski@usdoj.gov" <Brian.A.Benczkowski@usdoj.gov> ( "Brian.A.Benczkowski@usdoj.gov" <Brian.A.Benczkowski@usdoj.gov> [ UNKNOWN ] )

**Cc:** "Dan.Bryant@usdoj.gov" <Dan.Bryant@usdoj.gov> ( "Dan.Bryant@usdoj.gov" <Dan.Bryant@usdoj.gov> [ UNKNOWN ] )

**Subject:** : NYT: Leonard's meeting leaked

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READ:UNKNOWN

TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO:"Brian.A.Benczkowski@usdoj.gov" <Brian.A.Benczkowski@usdoj.gov> (

"Brian.A.Benczkowski@usdoj.gov" <Brian.A.Benczkowski@usdoj.gov> [ UNKNOWN ] )

READ:UNKNOWN

CC:"Dan.Bryant@usdoj.gov" <Dan.Bryant@usdoj.gov> ( "Dan.Bryant@usdoj.gov"

<Dan.Bryant@usdoj.gov> [ UNKNOWN ] )

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From: (b)(6)

To: Charnes, Adam <Adam.Charnes@USDOJ.gov>

Sent: Sat Jun 07 22:40:21 2003

Subject: (no subject)

June 8, 2003

Lobbying Starts as Groups Foresee Supreme Court Vacancy

By ROBIN TONER and NEIL A. LEWIS

ASHINGTON, June 7 ??? Interest groups on the left and the right are beginning full-scale political campaigns ??? including fund-raising, advertising and major research ??? to prepare for what many expect to be a Supreme Court vacancy in the next several weeks.

While none of the justices have said they plan to retire, any decision would traditionally be announced at the end of the court's term in late June.

Both conservatives and liberals say the time is right for a change in at least one and perhaps two seats, given the age of several justices and the general recognition that this is President Bush's last chance to name a justice before the presidential campaign begins in earnest.

Neither side wants to be caught off guard in what is expected to be a fast-moving battle for public opinion, set off by the naming of a nominee. The Naral Pro-Choice America Foundation is making a pre-emptive strike with a television campaign beginning on Sunday that highlights the importance of the court to abortion rights. The commercial shows a woman gasping as she reads the newspaper headline "Abortion Outlawed ??? Court Overturns Right to Choose."

Republicans have been raising money and planning strategy under the guidance of the former White House counsel C. Boyden Gray, who was a principal strategist in the bitter struggle over Justice Clarence Thomas's nomination in 1991.

Two weeks ago, White House and Justice Department officials met in a Washington law office with several Republican veterans of confirmation battles, including Mr. Gray, to discuss how to deal with liberal attacks on a Bush nominee.

The meeting opened with the veterans recalling the failed effort to put Robert H. Bork on the Supreme Court in 1987 and the successful campaign to confirm Mr. Thomas in 1991, after he was confronted with reports that he had sexually harassed Anita Hill, his former employee.

"The purpose was to see what lessons we had learned from those two battles," said a lawyer at the meeting, which included Leonard Leo, a top official of the Federalist Society, a conservative lawyers' group.

On the other side, a coalition of liberal and progressive groups ??? including Naral, People for the American Way, the Leadership Conference on Civil Rights and the Alliance for Justice ??? has been meeting weekly, usually on Fridays, to discuss judicial strategy for nominations to lower federal courts and the Supreme Court.

"If history is any guide, it is quite likely, given the president's stated preference for justices like Thomas and Scalia, that the next Supreme Court nominee is likely to be an ideological extremist," Wade Henderson, executive director of the leadership conference, said. "In that case, we would hope to generate a debate in the Senate and the country at large over what it



means to  
appoint another justice in that mold."

The groups are compiling research on potential nominees. Nan Aron, director of the Alliance for Justice, a Washington liberal group that scrutinizes judicial nominees, said she had added several staff members for the expected confirmation battle and had compiled dossiers on about eight people she said she thought could be named by the White House.

Liberals acknowledge, though, that the White House has the advantage of surprise. Kate Michelman, president of Naral Pro-Choice America, said her group planned a rapid-response research operation.

On Capitol Hill, the parties are already engaged in legislative trench warfare over several lower court nominations that are considered dress rehearsals for a Supreme Court battle. While Republicans control the Senate with 51 seats compared with 48 Democrats and one independent, Democrats have staged filibusters to block votes on two of Mr. Bush's nominees they say are right-wing ideologues.

As a result, Republicans are trying to change the rules on filibusters, asserting that Democrats are thwarting the will of the president and have unfairly created the need for a 60-vote majority (enough to break a filibuster) to confirm judges.

Mr. Gray's group, the Committee for Justice, has bought television commercials in some states, supporting those appeals court nominees who have been blocked by Democratic filibusters. "If it becomes accepted lore that you now have to have 60 votes, then we've got a real problem," Mr. Gray said.

Liberals counter that Mr. Bush is engaged in ideological court-packing. Senator Charles E. Schumer, the New York Democrat who has led the effort to oppose several appeals court nominees, met last week with Alberto R. Gonzales, the White House counsel, and urged him to ensure that any Supreme Court selections were moderate enough to win substantial Democratic support.

Mr. Schumer said he told Mr. Gonzales that he should try to "find someone who 100 of us can support," not just the 51 Republicans.

Each party is stoking emotions among its core supporters. A fund-raising appeal from the Democratic Senatorial Campaign Committee declares: "The Bush administration would like nothing more than to pack the courts with right-wing

ideologues like Antonin Scalia. Now that they control all branches of the federal government, they are trying to push their choices through the Senate with no debate, no questions asked."

The expectation of change on the court is based, in part, on its record-breaking stability in recent years; no one has stepped down since President Bill Clinton appointed Stephen G. Breyer in 1994, providing for the longest period without a turnover since the 1820's.

The three oldest judges are Republicans, and White House officials say that two of them ??? Chief Justice William H. Rehnquist, who is 78, and Justice Sandra Day O'Connor, who is 73 ??? would be the most likely to retire, given the knowledge that a Republican president would pick their replacements. More than one vacancy this summer would add even more urgency to the campaigns, and Justice O'Connor's frequent position as a swing vote could intensify a battle over her successor.

Abortion rights advocates have been particularly energized, asserting that Roe v. Wade, the 1973 decision recognizing a constitutional right to abortion, could be overturned by a substantially refashioned court.

Ms. Michelman has already called on senators who support abortion rights to filibuster any nominee who does not commit to Roe.

"The nominee must commit to upholding Roe," she said in an interview. "We have every right, given what's at stake for American women, to expect the nominee to answer the question."

The issue of how nominees respond to such questions has always produced a rich debate. Republican nominees have generally brushed aside those inquiries by saying it would be inappropriate to say how they would rule on specific cases.

However, Ruth Bader Ginsburg, named to the court by President Clinton in 1993, said flatly that she supported Roe.

James Bopp Jr., general counsel for the National Right to Life Committee, countered: "Pro-choice groups want to change the rules of the game. They want to politicize the judiciary by seeking to require pledges by nominees that they would vote a certain way. This is not just politicizing the judiciary, it's the destruction of an independent judiciary."

Administration officials say that the White House has compiled dossiers on dozens of potential nominees, but that the list of genuine candidates is far

smaller, fewer than 10. So far, the discussions have focused on providing possible nominees for different circumstances, depending on who resigns.

In almost all the possibilities, officials said, Mr. Gonzales, the White House counsel and a longtime legal adviser to Mr. Bush, would be a candidate. Mr.

Gonzales would be the first Hispanic member of the Supreme Court.

Mr. Bush's top aides, notably Karl Rove, his chief political adviser, are described as well aware that this would provide a political advantage for both

him and the Republican Party, which has been aggressively courting Hispanic voters.

But social conservatives, an important component of Mr. Bush's political coalition, have expressed increasing wariness about Mr. Gonzales.

Many say he reminds them of Justice David H. Souter, who was named to the court by President Bush's father, and who they say had been sold to them as a solid conservative vote but turned out otherwise.

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