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The Honorable Merrick B. Garland
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Dear Attorney General Garland:

As our country continues to struggle with centuries of institutional, systemic, and societal racism, the US Supreme Court has the opportunity to decide to hear a case that could right a wrong that has plagued the United States for over one hundred years.

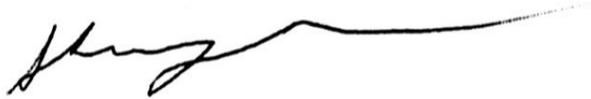
On behalf of the New York State Bar Association, I urge the Department of Justice to take a position on the Insular Cases when it files its response to petitioners in *Fitisemanu v. United States*. The *Fitisemanu* case asks whether individuals who were born in the territories are entitled to birthright citizenship under the Citizenship Clause of the 14th Amendment. This case expressly asks the Supreme Court to answer "whether the Insular Cases should be overruled."

The Insular Cases initially addressed the status of those living in countries acquired by the United States after the Spanish-American War, determining that they were not worthy of equal treatment because they were members of so-called "savage tribes" and "alien races." Though they have been widely criticized and are clearly racist, the Insular Cases still stand and have served as the basis for court decisions that continue to mistreat residents of the territories and deny them rights. They are a glaring example of how a significant portion of our population is discriminated against based on race and ethnicity, improperly overlooked, and disenfranchised.

The Insular Cases affirm a second-class status for a population based on race and ethnicity. Two sitting Justices have already expressed their abhorrence of the underlying racism enshrined in the current law. Justice Sonia Sotomayor recently called the Insular Cases "both odious and wrong" and Justice Neil Gorsuch stated that they "rest on a rotten foundation." They both agree it is time to finally overrule the Insular Cases.

As president of the New York State Bar Association, I proudly represent the largest voluntary state bar association in the nation. We have advocated since 1876 to promote equal access to justice for all. The prejudicial practices endorsed by the Insular Cases are an anathema to the rule of law that our Association, and our nation, hold dear. The Insular cases and the colonial framework they established are simply un-American and cannot be squared with core values of racial justice and equity. We respectfully urge the Justice Department to support efforts to overrule the Insular Cases.

Respectfully,

A handwritten signature in black ink, appearing to read 'Sherry Wallach', with a long horizontal flourish extending to the right.

Sherry Levin Wallach, Esq.