

Wednesday, January 31, 2024

Dear Leader Schumer and Chair Durbin,

We write to express our grave concern regarding the revelations and allegations surrounding special interest judicial influence, corruption, lack of ethical standards, and apparent lawbreaking by justices on the Supreme Court. These revelations have severe and far-reaching consequences on the integrity and independence of our judiciary, as well as the very fabric of our democracy. While we applaud the steps you have already taken to bring public attention and accountability to this situation, we write today to urge a bold escalation from the Senate in confronting this urgent and unprecedented threat to Americans' freedoms and prosperity.

The American people rely on the Supreme Court and lower federal courts to make impartial decisions based on the law and Constitution, free from external influences and biases. Recent reporting, however, has raised serious questions about the ethical and legal conduct of some justices. These revelations include conflicts of interest, inappropriate financial ties, concealed acceptance of gifts and travel in violation of federal law, and systemic failures of accountability within the judicial branch that undermine the credibility and legitimacy of the Court.

Late last year, ProPublica reported that the flurry of extravagant, billionaire-funded gifts, loans, and spousal compensation accepted and concealed by Clarence Thomas came after he told Republican politicians that he might resign his seat on the Court if his financial situation did not improve, raising the specter of quid pro quo corruption. ProPublica's recent reporting has also exposed how, for decades, the Judicial Conference, which is overseen by the Chief Justice, "has spent decades preserving perks, defending judges and thwarting outside oversight," and has "protected, not policed, the judiciary." It also appears that Thomas has failed to recuse himself from the case concerning the January 6 insurrection and Trump's "Stop the Steal" scheme, which directly implicates his wife, Ginni Thomas. This is a clear violation of federal law, 28 U.S.C. 455, which requires recusal whenever a justice's "impartiality may reasonably be questioned."

These disturbing revelations come just as the Court—packed with Federalist Society judicial extremists during the Trump era—undertakes an unprecedented assault on the rights and freedoms of everyday Americans while delivering rulings that reliably favor the interests of the wealthy and powerful. The Trump Court majority's unprincipled, agenda-driven rulings have already eviscerated a woman's fundamental right to choose, undermined our government's ability to defend against escalating climate threats, unleashed a scourge of gun violence in our communities, and significantly eroded Americans' voting rights. By all appearances, this devastation will continue this term—one in which the Court is again poised to play a decisive role in deciding a presidential election.

In the face of well-predicated Senate oversight by Chair Durbin, Senator Whitehouse, and Chair Wyden, the compromised justices and their dark money backers have stonewalled Congress, preposterously arguing that the separation of powers prevents Congress from conducting oversight into or passing laws affecting the Supreme Court. Justice Alito has gone further still,

arguing that “no provision in the Constitution gives [Congress] the authority to regulate the Supreme Court—period.” Now that the Senate Judiciary Committee has authorized subpoenas against Federalist Society court fixer Leonard Leo and GOP megadonor Harlan Crow—a courageous step we wholeheartedly commend—these targets have promised defiance and continued obstruction.

This represents a striking and unacceptable affront to Congress’s authority—one that flies in the face of Supreme Court precedent and constitutional norms, and one Americans reject. Consistent with other recent surveys, recent polling from Hart Research shows that fully 78% of voters say it is very or fairly important for Congress to take action to raise the Supreme Court’s ethical standards, including 50% saying it is very important. This sentiment crosses partisan lines – including 65% of Republicans and 63% of conservatives – and is embraced by at least three-fourths of voters in every region of the country. More than three in four voters favor each of these congressional actions:

- Establishing a binding code of ethics for the Supreme Court;
- Requiring justices to disclose any gifts, travel, or outside income they receive;
- Impeaching justices when there is sufficient evidence of ethical violations;
- Conducting an investigation into allegations of ethical violations by justices.

We are in a judicial crisis and need to act like it. The time is now for the Senate to seize this unprecedented opportunity to deliver real accountability and check judicial corruption and abuse of power. We urge the Senate to take immediate and bold action along two strategic lanes:

- 1. Launch a Full-Scale Investigation:** First and foremost, the Senate Judiciary Committee should promptly issue the subpoenas it authorized and pursue their enforcement, including through criminal contempt referrals if necessary. Further, Senate committees should organize a strategically coordinated set of hearings and investigative steps to shine a public light and inform its legislative agenda. These investigative actions and hearings, held in a sequenced and coordinated way across relevant committees of jurisdiction, would investigate and uncover the full extent of corrupt influences on the Court, the effect that corruption has on the work of the Court, and its increasingly devastating impact on the lives of everyday Americans.

A rogue and unaccountable Supreme Court that is beholden only to billionaires prevents Congress from doing its work on behalf of the American people and subverts our democracy. The American people are seeking answers from trusted messengers and their representatives in Congress. Much like the House January 6 committee helped Americans understand and internalize the threat to democracy posed by Trump’s insurrection, strategic Senate oversight into the special-interest corruption of the Supreme Court would educate the public, shape public narratives, and reach a broad and diverse voter base that may not yet fully appreciate the extent to which their lives are being harmed by the Supreme Court’s relentless abuse of power. Building from the strong foundation laid by the Democratic Policy and Communications Committee’s *Captured Courts* reports, the Senate should

communicate their work to confront judicial corruption with the seriousness and dedicated effort they would for any nomination fight or the passage of vital legislation. We know how to do this—coordinated messaging and rapid response efforts to make sure the public understands what is at stake, why it matters, and the all-hands-on-deck work Senators are doing to put an end to corruption and protect our freedoms.

- 2. Advance a Comprehensive Anti-corruption Bill as a Down Payment:** The Constitution gives Congress expansive authority to structure and regulate the federal courts, and Congress has used that power throughout U.S. history in any number of ways. A Supreme Court anti-corruption and accountability bill is an important legislative starting point, because the corruption is out of control, the public is demanding action, and Senators have already identified strong and effective legislative measures. This is just the first step in a long list of legislative actions and structural reforms that Congress must take to protect our freedoms and restore democracy.

As Leader Schumer recently put it in a letter to colleagues: “Congress has clear authority to oversee the federal judiciary, and we must explore every option for restoring faith in our courts.” We could not agree more.

Sincerely,

Accountable.US

Action Together NEPA

Advance Carolina

Alliance for Justice

American Federation of Teachers

American Humanist Association

Asian American Women's Political Initiative

Avondale ACTION: An Indivisible Group

Bend the Arc: Jewish Action

Black Voters Matter Fund

Blue Future

Center for Common Ground

Center for Freethought Equality

Center for Media and Democracy

Center for Popular Democracy

Chop Wood, Carry Water Daily Actions

Clearinghouse on Women's Issues

Climate Hawks Vote

Common Cause

Courage California

Court Accountability Action

DC Vote

DemCast USA

Democratic Messaging Project

Dēmos

East Area Progressive Democrats (EAPD)

Emancipate NC

End Citizens United // Let America Vote Action Fund

Enough of Gun Violence

Equal Ground Action Fund

Equal Justice Society

Equality California

Faithful America

Free Speech For People

Freedom From Religion Foundation

Friends of the Earth

Get Free

Get Money Out -- Maryland

Greenpeace USA

Guns Down America

Indivisible

Indivisible Chicago Alliance

Indivisible Metro East

Indivisible Rural Illinois

Indivisible Santa Fe

KY Alliance Against Racist And Political Repression

Local Majority

Long Live GoGo

Mid-Ohio Valley Climate Action

Missouri Voter Protection Coalition

National Education Association

Native Organizers Alliance

New Disabled South

Newtown Action Alliance

NextGen America

Ohio Environmental Council Action Fund

Patriotic Millionaires

People Power United

People's Parity Project

Progress Arizona

Progressives For Democracy in America Florida

ProgressNow Colorado

Protect Borrowers Action

Represent Justice

Reproductive Freedom For All (formerly NARAL Pro-Choice America)

Revolving Door Project

Secure Elections Network

Side with Love

Silver State Equality - Nevada
Southwestern Illinois Democratic Women
Stand Up America
Stark Law Office
Supermajority
Systemic Justice Project at Harvard Law School
Take Back the Court Action Fund
The Media and Democracy Project
The Workers Circle
True North Research
UltraViolet
Un-PAC
Unitarian Universalist Association
Voices for Progress
Voter Choice Connecticut
Voters of Tomorrow
We Testify
Wisconsin Faith Voices for Justice
Young Black Lawyers' Organizing Coalition (YBLOC)