



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

September 20, 2022

Dear Mr. Chief Justice and Members of the Judicial Conference:

I write to you on behalf of my organization, Citizens for Responsibility and Ethics in Washington (“CREW”). CREW is a non-partisan non-profit organization committed to ensuring the integrity of our government institutions and promoting ethical governance and the rule of law. It is with that purpose in mind that we call on you today, as the U.S. Judicial Conference meets for its annual meeting, to implement a comprehensive prohibition on all federal judges and Supreme Court Justices owning or trading individual securities, and expeditiously develop a strong code of conduct for the Supreme Court.

The widespread perception of an ethical crisis in the federal judiciary threatens the credibility of the judicial branch and, in so doing, threatens the foundations of the rule of law in the United States. We have repeatedly explained to Congress and the public in testimony and public commentary that this crisis is the result of a number of overlapping failures which we will briefly address.¹ First, and chief among them, is the failure of the judiciary, under current rules and procedures, to comprehensively abide by the rules of ethical conduct this high office requires. Last fall, a sweeping *Wall Street Journal* investigation found that at least 131 federal judges violated the law by hearing cases in which they had a financial interest in one of the parties, and 61 judges actively traded shares related to a party to an ongoing case.² The Supreme Court itself is also not immune from these financial conflicts of

¹ House Committee on the Judiciary, Subcommittee on the Courts, Intellectual Property, and the Internet, Hearing on “Judicial Ethics and Transparency: The Limits of Existing Statutes and Rules,” Oct. 26, 2021, Statement for the Record of Noah Bookbinder, President, Citizens for Responsibility and Ethics in Washington,

<https://www.citizensforethics.org/wp-content/uploads/2021/11/CREW-Statement-for-the-Record.pdf>;

House Committee on the Judiciary, Subcommittee on the Courts, Intellectual Property, and the Internet, Hearing on “Building Confidence in the Supreme Court Through Ethics and Recusal Reforms,” Apr. 27, 2022, Testimony of Donald Sherman, Senior Vice President and Chief Counsel, Citizens for Responsibility and Ethics in Washington,

<https://www.citizensforethics.org/wp-content/uploads/2022/04/Sherman-HJC-Oral-Testimony-Draft.pdf>; Gabe

Lezra, “Justice Roberts gets it wrong: federal judges’ conflicts of interest threaten the entire judiciary,” *CREW*, Jan. 13, 2022,

<https://www.citizensforethics.org/news/analysis/justice-roberts-gets-it-wrong-federal-judges-conflicts-of-interest-thr-eaten-the-entire-judiciary/>.

² James V. Grimaldi, Coulter Jones and Joe Palazzolo, “131 Judges Broke the Law by Hearing Cases Where They Had A Financial Interest,” *Wall St. Journal*, Sep. 28, 2021,

<https://www.wsj.com/articles/131-federal-judges-broke-the-law-by-hearing-cases-where-they-had-a-financial-interes-t-11632834421>;

Coulter Jones, Joe Palazzolo and James V. Grimaldi, “Federal Judges or Their Brokers Traded Stocks of Litigants During Cases,” *Wall St. Journal*, Oct. 15, 2021,

<https://www.wsj.com/articles/federal-judges-brokers-traded-stocks-of-litigants-during-cases-walmart-pfizer-11634306192>.

interest. Two currently-serving Justices own individual stocks,³ and since 2015, each of those two individuals has participated in at least one case in which they have a material financial interest.⁴ And second, the country has been subjected to repeated reports that raise questions about Supreme Court Justices' impartiality and recusal obligations with respect to cases that relate to their spouse, either through the spouse's political interests, business clients, or advocacy work.⁵

The judiciary's inaction on these pressing issues has led Congress to step in, passing a law this past spring, the Courthouse Ethics and Transparency Act, that will bring some additional transparency and accountability to the current judicial ethics regime.⁶ Meanwhile, Congress is considering far more drastic measures, including legislation imposing a code of conduct on the Supreme Court⁷ and term limits for its justices.⁸ We strongly believe that if the judiciary wants to continue playing a primary role in regulating the conduct of its own members, now might be its last chance to take meaningful action. As the policy-making body of the federal courts, we believe that you have a singular insight into how the courts operate and how the judiciary can best improve and regulate itself, insight that can make any meaningful ethics reform both effective and durable.

We write today to encourage you to act quickly to design and implement bold but necessary policies to address financial conflicts of interest and adopt a Supreme Court code of conduct before Congress steps in and does it by fiat.

Financial Conflicts of Interest

As mentioned above, the stunning results of last fall's *Wall Street Journal* investigation into financial conflicts of interest in the judiciary caused an immediate crisis of public confidence in the judiciary.⁹ They were also a practical disaster: they have caused a wave of

³ Those Justices are Chief Justice Roberts, Justice Samuel Alito, and retired Justice Stephen Breyer. See Fix The Court, "Recent Times in Which a Justice Failed to Recuse Despite a Conflict of Interest," (sic) Jan. 18, 2022, <https://fixthecourt.com/2022/01/recent-times-justice-failed-recuse-despite-clear-conflict-interest/>.

⁴ *Id.*

⁵ Jane Mayer, "Is Ginni Thomas a Threat to the Supreme Court," *New Yorker*, Jan. 31, 2022, <https://www.newyorker.com/magazine/2022/01/31/is-ginni-thomas-a-threat-to-the-supreme-court>; Ed Pilkington, "Who has more influence on supreme court: Clarence Thomas or his activist wife?," *Guardian*, Jan. 6, 2022, <https://www.theguardian.com/law/2022/jan/28/clarence-thomas-supreme-court-affirmative-action-case-ginni-thomas>

⁶ Courthouse Ethics and Transparency Act, Public Law 117-125, May 13, 2022.

⁷ See, e.g., S. 4177, "Judicial Ethics and Anti-Corruption Act of 2022," 117th Congress (2021-2022), May 10, 2022, <https://www.congress.gov/117/bills/s4177/BILLS-117s4177is.pdf>.

⁸ See, e.g., H.R. 8500, "Supreme Court Tenure Establishment and Retirement Modernization (TERM) Act of 2022," 117th Congress (2021-2022), Jul. 26, 2022, <https://www.congress.gov/117/bills/hr8500/BILLS-117hr8500ih.pdf>.

⁹ James V. Grimaldi, Coulter Jones and Joe Palazzolo, "131 Judges Broke the Law by Hearing Cases Where They Had A Financial Interest," *Wall St. Journal*, Sep. 28, 2021,



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appeals, some of which threaten to overturn verdicts that could reach into the billions of dollars.¹⁰ And we have also seen that the Supreme Court itself is not immune from financial conflicts of interest. Two currently-serving Justices own individual stocks,¹¹ and since 2015, each of those two individuals has participated in at least one case in which they have a material financial interest.¹² That unacceptably harms the public's faith in the judiciary's impartiality--and as long as federal judges and Supreme Court Justices own individual securities, these conflicts will continue to occur, and the public's faith in our courts will continue to deteriorate.

Thankfully, there is an easy way to end this element of the crisis. You can add to the judicial code of conduct a blanket prohibition on all federal judges, their spouses, and their dependent children owning or trading any individual stocks or other financial instruments. As we have repeatedly told Congress, this is the best and only comprehensive way to ensure that federal judges are not violating their duty to preside over cases as disinterested arbiters of law and fact.

This requirement would not force judges to take a vow of poverty to serve. There are many ways to invest money that don't come with similar conflict of interest concerns. Diversified mutual or index funds, which do not create such a risk, are actually Americans' most common investment, whereas only 14% of Americans own individual stocks.¹³ Should judges wish to continue to have investments in individual securities, the Conference could allow judges to place their assets in a qualified blind trust¹⁴ and direct the trustee to divest from their current holdings and then reinvest the proceeds in individual stocks as the trustee sees fit.

It is also crucial that this requirement apply to the Supreme Court in full.

<https://www.wsj.com/articles/131-federal-judges-broke-the-law-by-hearing-cases-where-they-had-a-financial-interest-11632834421>; Coulter Jones, Joe Palazzolo and James V. Grimaldi, "Federal Judges or Their Brokers Traded Stocks of Litigants During Cases," *Wall St. Journal*, Oct. 15, 2021, <https://www.wsj.com/articles/federal-judges-brokers-traded-stocks-of-litigants-during-cases-walmart-pfizer-11634306192>.

¹⁰ James V. Grimaldi, Joe Palazzolo, and Coulter Jones, "Fallout From Judge's Financial Conflicts Spreads to Appeals Courts," *Wall St. Journal*, Mar. 1, 2022,

<https://www.wsj.com/articles/fallout-from-judges-financial-conflicts-spreads-to-appeals-courts-11646155384>.

¹¹ Those Justices are Chief Justice Roberts, Justice Samuel Alito, and retiring Justice Stephen Breyer. *See* Fix The Court, "Recent Times in Which a Justice Failed to Recuse Despite a Conflict of Interest," (sic) Jan. 18, 2022, <https://fixthecourt.com/2022/01/recent-times-justice-failed-recuse-despite-clear-conflict-interest/>.

¹² *Id.*

¹³ Kim Parker and Richard Fry, "More than half of U.S. households have some investment in the stock market," *Pew Research*, Mar. 25, 2020,

<https://www.pewresearch.org/fact-tank/2020/03/25/more-than-half-of-u-s-households-have-some-investment-in-the-stock-market/>.

¹⁴ A "qualified blind trust" as generally defined in 5 C.F.R. § 2634.402(e).



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Supreme Court Code of Conduct

The weighty questions of public confidence that should inform any ethics regime applicable to federal judges are doubly important for the Supreme Court. Because the Court does not have the power of the purse or the authority to enforce the laws, its entire foundation rests on public trust and belief in its legitimacy. The framers of our constitution were so acutely aware of the necessity of public trust in our judiciary that they granted Supreme Court Justices lifetime tenure--a privilege that the Constitution grants exclusively to the judiciary.¹⁵ As a result, Supreme Court Justices must be held to the highest of ethical standards by a strong code of conduct. In addition to ending ownership of individual stocks, such a Code must also address recusal transparency, spousal conflicts of interest, outside speaking engagements, and gifts. We will address each in more detail here.

1. Recusal Transparency

A Supreme Court Code of Conduct should address the public's right to know when and why a justice chooses to recuse or not to recuse from a case. Justices will often recuse from a case without any explanation--these nonpublic recusals reportedly occur in approximately 200 matters each year.¹⁶ This lack of transparency harms individual litigants who expect their cases to have a fair hearing before the full court, and it harms the public's perception of the high court. Moreover, these nonpublic decisions don't just impact a single case; they leave the public to wonder whether there are other similar cases where the justice should have recused--but chose not to.

A Supreme Court Code of Conduct needs to ensure that recusal decisions are made in writing and on the record, even if a Justice considers recusal but ultimately participates in the matter.

2. Spousal Conflicts of Interest

The public has recently been forced to question Supreme Court Justices' impartiality with respect to cases that affect their spouse's political interests or business clients, or relate to their advocacy work.¹⁷ For example, Justice Clarence Thomas failed to recuse from Supreme

¹⁵ See Federalist 78 (Hamilton), "nothing will contribute so much as [lifetime tenure] to that independent spirit in the judges which must be essential to the faithful performance of so arduous a duty."

¹⁶ <https://fixthecourt.com/wp-content/uploads/2018/05/Recusal-report-2018-updated.pdf>

¹⁷ Jane Mayer, "Is Ginni Thomas a Threat to the Supreme Court," *New Yorker*, Jan. 31, 2022, <https://www.newyorker.com/magazine/2022/01/31/is-ginni-thomas-a-threat-to-the-supreme-court>; Ed Pilkington,

Court cases relating to the 2020 election, including in *Trump v. Thompson*, where Justice Thomas was the lone dissent from the Court's decision to reject President Trump's attempt to block the release of documents requested by the House Select Committee to Investigate the January 6th Attack on the United States Capitol, despite his spouse's active support of and communications with Trump administration officials about President Donald J. Trump's unprecedented efforts to overturn the 2020 election.¹⁸ By deciding to hear these cases, Justice Thomas compromised the Court's independence and impartiality and contributed to the Court's current crisis of public confidence. Justice Thomas is not the first member of the Court to navigate the existence of spousal conflicts. During her time on the bench Justice Ruth Bader Ginsburg was also rightly criticized for hearing cases where her husband, a well-known tax lawyer, had a direct or indirect tie to a case before the Supreme Court.¹⁹ For this reason, it is critical that any Supreme Court Code of Conduct fully address recusal requirements that stem from spousal business activities and political advocacy work.

It is also important that the Code of Conduct enhance disclosure requirements so that conflicts of interest stemming from spousal activities can be more readily discerned. For example, these measures should require Justices to annually disclose on their public financial disclosure report their spouse's board and consulting positions and identify any clients from whom their spouse received compensation that exceeded \$1,000. The reporting requirement should cover clients that make payments to the spouse's employer, LLC, or other business entity in return for personal services. We also believe that it's critical that these reporting requirements take seriously the safety and security of judges in our current climate. For that reason we recommend that disclosures not include any personal identifiable information outside of the name of the Justice involved.

And third, a Supreme Court Code of Conduct should also address these issues in the context of the rising use of amicus briefs, particularly from groups connected to a Justice's spouse. In more and more cases before the Court, third parties submit and Justices refer to amicus briefs that weigh in on controversial issues under consideration.²⁰ When the views expressed in an amicus brief or by a party cite to public statements or advocacy positions by a Justice's spouse, or when a spouse has ties to an entity that files an amicus brief, obvious questions arise about whether a Justice has the requisite impartiality or appearance of

"Who has more influence on supreme court: Clarence Thomas or his activist wife?," *Guardian*, Jan. 6, 2022, <https://www.theguardian.com/law/2022/jan/28/clarence-thomas-supreme-court-affirmative-action-case-ginni-thomas>

¹⁸ See Letter to Chief Justice John G. Roberts, Jr. from Noah Bookbinder, Apr. 1, 2022, <https://www.citizensforethics.org/legal-action/legal-complaints/thomas-must-recuse-supreme-court-needs-code-of-conduct/>.

¹⁹ Aaron Blake, "How Clarence Thomas's Recusal Controversy Compares to Others," *Washington Post* Mar. 28, 2022, <https://www.washingtonpost.com/politics/2022/03/28/thomas-ginsburg-past-recusals/>.

²⁰ Mayer, *New Yorker*, Jan. 31, 2022.

impartiality to participate in that case. For this reason, some spouses have chosen to step back from pursuing legal or advocacy work on controversial issues that will likely end up being decided in cases brought before the Court.²¹ However, the decision by a spouse to step back may come at a personal cost, and for that reason may not be the right choice for every individual. In every circumstance, the Justice, not their spouse, must assume primary responsibility for protecting the Court's impartiality and take appropriate measures to recuse from cases in which their impartiality could reasonably be questioned due to their spouse's advocacy work and affiliations. When questions about the Court's impartiality are at issue, the Code of Conduct should ensure that recusal is the Justices' default position rather than the exception.

3. Outside Speaking Engagements

A Supreme Court Code of Conduct is also necessary to help address the potential ethical concerns that arise from Justices' participation in certain outside speaking engagements.²² For example, recent reports have been critical of Justices who speak at conferences that bar news media from covering their speeches.²³ When these events are sponsored by organizations whose members are strongly associated with a particular ideology or prominently feature politicians of a particular political party rather than a spectrum of views,²⁴ they give rise to questions about preferential treatment, loss of impartiality, partisanship, and undue influence. Concerns about undue influence are further magnified when the organization is viewed as having close ties to and extraordinary influence over several members of the Supreme Court, including by getting them to "accept legal arguments that were previously outside the mainstream."²⁵

²¹ *Id.* Jane Roberts, Chief Justice Roberts' wife, for example, left her lucrative career as a partner at an international law firm to join a legal recruiting business in order to avoid conflicts of interest when her husband was appointed to the Supreme Court. See Debra Cassen Weiss, "Meet Jane Roberts, Chief Justice's Spouse," *ABA Journal*, Aug. 10, 2012, https://www.abajournal.com/news/article/meet_jane_roberts_chief_justices_spouse.

²² In 2020, the Judicial Conference proposed, and ultimately failed to adopt, an ethics opinion that would have told federal judges that they could not be members of American Constitution Society, the Federalist Society, or the American Bar Association, because membership in those organizations would, for example, "frustrate the public's trust in the integrity and independence of the judiciary." See <https://eppc.org/wp-content/uploads/2020/01/Guide-Vol02B-Ch02-AdvOp11720OGC-ETH-2020-01-20-EXP-1.pdf>; see also,

<https://www.abajournal.com/news/article/us-judiciary-drops-draft-opinion-telling-judges-they-cant-be-federalist-society-members>.

²³ Nathan T. Carrington and Logan Strother, "Gorsuch is scheduled to speak to the right-wing Federalist Society. Americans find such speeches inappropriate," *Washington Post*, Feb. 4, 2022, <https://www.washingtonpost.com/politics/2022/02/04/gorsuch-federalist-society-republicans/>.

²⁴ *Id.* See also, Andrew Hamm, "Justice Sotomayor speaks at ACS convention," *SCOTUSBlog*, Jun. 24, 2014, <https://www.scotusblog.com/2014/06/justice-sotomayor-speaks-at-ac-s-convention/>.

²⁵ *Id.*

Thankfully, the policies outlined in the *Code of Conduct for United States Judges* could address this situation if they were applied to the Supreme Court. For instance, in the case of an outside speaking engagement, a lower court federal judge would need to consider whether their attendance would create the appearance of impropriety.²⁶ Relevant provisions of the Judicial Code of Conduct include:

- Canon 2 requires judges to refrain from lending the “prestige of the judicial office to advance the private interests of the judge or others” or to “convey or permit others to convey the impression that they are in a special position to influence the judge.”²⁷
- Canon 4 mandates that judges refrain from extrajudicial activities that interfere with the performance of the judge's official duties or reflect adversely on the judge's impartiality.²⁸
- Canon 5 mandates that judges refrain from political activity.²⁹

While we understand that Justices sometimes consult the *Code of Conduct for United States Judges*,³⁰ because they are not explicitly subject to it they are seemingly less constrained in terms of their outside speaking engagements and commitments. A Supreme Court Code of Conduct is therefore necessary to restore public confidence in the independence of the judiciary, and should establish common sense guidelines for minimizing appearance issues arising from outside speaking engagements. For example, Justices should be prohibited from being members of organizations with clear partisan political or judicial biases and should be advised to avoid allegations of preferential treatment by making their speeches publicly available, by speaking at widely-attended events only when they are open to the press, and by accepting speaking invitations from a variety of similarly-situated organizations to ensure balanced exposure to different legal issues and judicial philosophies. But, under no circumstances should a Justice accept speaking invitations from current litigants or those with a history of practicing before the Court. Justices should also avoid perceptions of partisan political endorsements by eschewing participation in conferences or other public events that prominently feature politicians from a particular political party in favor of events that include persons who represent a variety of political views.

4. Gifts

²⁶ Code of Conduct for United States Judges (“Code of Conduct”), March 12, 2019, <https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges#b>.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Code of Conduct.

Conflict of interest concerns can also arise from the acceptance of gifts.³¹ The absence of clear standards governing the solicitation or acceptance of gifts makes Justices particularly susceptible to conflicts of interest when they or their spouses accept expensive gifts. These concerns are pronounced when the gifts are coming from donors whose interests are publicly aligned with certain political or ideological causes.³² Under these circumstances, a reasonable person would question whether a Justice who is the recipient of expensive gifts has the requisite impartiality to hear cases that would impact the political or ideological causes supported by the donor.

Like lower court judges, Justices are barred by 5 U.S.C. § 7353 from soliciting or accepting gifts from anyone who is seeking official action from, or doing business before, their court, or from any other person whose interests may be substantially affected by the performance or nonperformance of the judicial officer's official duties.³³ However, Justices, unlike other federal judges, are not technically subject to the *Judicial Conference Regulations on Gifts*, which implement Section 7535.³⁴ Instead, members of the Court have agreed to follow the Judicial Conference gift regulations as a matter of internal practice,³⁵ with the Chief Justice being delegated administrative and enforcement authority under 5 U.S.C. § 7353 for officers and employees of the Supreme Court.³⁶ The Justices, like other federal judges, also consult a wide variety of other authorities to help them resolve specific ethical issues, such as judicial opinions, treatises, scholarly articles, and disciplinary decisions, and seek advice from the

³¹ For this reason, executive branch officials are cautioned by the *Standards for Ethical Conduct for Employees of the Executive Branch* to decline otherwise permissible gifts when a reasonable person would question their integrity or impartiality as a result of accepting the gift. 5 C.F.R. § 2635.201(b). For example, when considering whether to accept an otherwise permissible gift, executive branch officials are instructed to consider whether: the gift has a high market value; the timing of the gift creates the appearance that the donor is seeking to influence an official action; acceptance of the gift would provide the donor with significantly disproportionate access; and the gift was provided by a person who has interests that may be substantially affected by the performance or nonperformance of the employee's official duties. *Id.*

³² See Mike McIntire, "Friendship of Justice and Magnate Puts Focus on Ethics," *New York Times*, June 18, 2011, <https://www.nytimes.com/2011/06/19/us/politics/19thomas.html>. For example, one donor reportedly helped finance a library project dedicated to a Justice, presented him with a \$19,000 Bible that belonged to Frederick Douglass, gave him a \$6,484 bronze bust of Frederick Douglass, and reportedly provided \$500,000 for his spouse to start a Tea Party-related group and also spent time together at gatherings of prominent Republicans and businesspeople at the donor's Adirondacks estate and his camp in East Texas. *Id.*; Richard A. Serrano and David G. Savage, "Justice Thomas Reports Wealth of Gifts," *Los Angeles Times*, Dec. 31, 2004, <https://www.latimes.com/archives/la-xpm-2004-dec-31-na-gifts31-story.html>; Justice Clarence Thomas, Public Financial Disclosure Report, part V, item 1, May 15, 2016, https://pfds.opensecrets.org/N99999918_2015.pdf.

³³ 5 U.S.C. § 7353 similarly applies to executive branch officials and members of Congress.

³⁴ Judicial Conference Regulations on Gifts, § 620.20.

³⁵ Joanna R. Lampe, "A Code of Conduct for the Supreme Court? Legal Questions and Considerations," Congressional Research Service, Apr. 6, 2022, <https://sgp.fas.org/crs/misc/LSB10255.pdf>.

³⁶ Judicial Conference Regulations on Gifts, § 620.65.

Court's Legal Office, from the Judicial Conference's Committee on Codes of Conduct, and from their colleagues.³⁷

While most judges would be expected to recuse when an expensive gift would cause a reasonable person to question their impartiality in a case, Chief Justice John Roberts noted in his *2011 Annual Report on the Federal Judiciary* that some of the general principles for recusals that apply to lower court federal judges differ due to the unique circumstances of the Supreme Court.³⁸

Lower court judges can freely substitute for one another. If an appeals court or district court judge withdraws from a case, there is another federal judge who can serve in that recused judge's place. But the Supreme Court consists of nine Members who always sit together, and if a Justice withdraws from a case, the Court must sit without its full membership. A Justice accordingly cannot withdraw from a case as a matter of convenience or simply to avoid controversy. Rather, each Justice has an obligation to the Court to be sure of the need to recuse before deciding to withdraw from a case.³⁹

Because of these heightened recusal concerns, the Supreme Court's current ethical framework does not adequately address conflicts of interest that arise from expensive gifts and must be made more rigorous. A Supreme Court Code of Conduct is necessary to clarify and make publicly available the standards for soliciting and accepting gifts, including those based on *bona fide* personal friendships. In the absence of evidence that a Justice has a pre-existing personal friendship with a donor where they would exchange gifts of comparable value, a Supreme Court Code of Conduct should require the Justice to decline expensive gifts.

Specifically, the Code of Conduct should contain a clear ban on accepting expensive gifts to avoid any impression that a member of the Court could be unduly influenced in their decision making by donors motivated by a particular political or ideological cause. In the absence of a clear prohibition, the Supreme Court must mandate a broad standard of recusal to avoid compromising public trust in the integrity of the Court's decision-making process. Relatedly, the Code of Conduct should also enhance the Justices' public financial disclosure requirements, so that donations in support of a spouse's or dependent child's non-profit endeavors that give rise to similar potential conflicts of interest can be

³⁷ Chief Justice John G. Roberts, "2011 Year-End Report on the Federal Judiciary," Dec. 31, 2011, <https://www.supremecourt.gov/publicinfo/year-end/2011year-endreport.pdf>.

³⁸ 2011 Year-End Report on the Federal Judiciary.

³⁹ *Id.*



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appropriately identified and addressed through recusal.⁴⁰ We also recognize that such disclosures could give rise to reasonable concerns about judges' safety and security. For that reason, we recommend that disclosures not include any personally identifiable information outside of the name of the Justice involved.

Conclusion

Public service is a public trust. This is more than a maxim; it is the standard to which the American people hold all public servants. The judiciary is tasked with upholding and executing fundamental principles of justice in our country. Even more than Congress or the executive, the judiciary is the guardian of the rule of law--it is, as Alexander Hamilton explained, "the best expedient which can be devised in any government, to secure a steady, upright, and impartial administration of the laws."

CREW stands ready and willing to collaborate with you as you undertake this monumental task of ensuring that our judicial system has the legal framework to live up to its high standards of ethical conduct. As members of the Judicial Conference, you know better than anyone how the judiciary functions and what changes need to be made. We encourage you to take on this task yourself, before Congress grows frustrated and imposes it by fiat.

Kind regards,

A handwritten signature in blue ink, appearing to read "Noah Bookbinder".

Noah Bookbinder
President
Citizens for Responsibility and
Ethics in Washington

⁴⁰ Danny Hakim and Jo Becker, "The Long Crusade of Clarence and Ginni Thomas," *New York Times*, Feb. 22, 2022, <https://www.nytimes.com/2022/02/22/magazine/clarence-thomas-ginni-thomas.html>.