



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

October 24, 2022

The Honorable Dick Durbin  
Chair, Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Chuck Grassley  
Ranking Member, Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Jerrold Nadler  
Chair, House Committee on the Judiciary  
2138 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Jim Jordan  
Ranking Member, House Committee on the Judiciary  
2138 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chair Durbin, Ranking Member Grassley, Chair Nadler, and Ranking Member Jordan,

Citizens for Responsibility and Ethics in Washington (“CREW”) respectfully requests that the House and Senate Committees on the Judiciary investigate the conduct of Library of Congress Trust Fund Board Member Virginia (“Ginni”) Thomas to determine the extent of her involvement in the January 6 attacks and related efforts to set aside the results of the 2020 presidential election, as well as the failure of her spouse, Supreme Court Justice Clarence Thomas, to recuse from cases relevant to this conduct. While the House Select Committee to Investigate the January 6 Attack on the United States Capitol has reportedly interviewed Ms. Thomas, there is an ongoing need for a full inquiry into the nature of Ms. Thomas’ involvement in that insurrection and Justice Thomas’ work on related cases. CREW respectfully requests that you continue this investigation so that you can assess each individual’s continued fitness for federal office and consider legislation to establish binding ethics rules for Justices on the United States Supreme Court.

In the wake of President Donald Trump's electoral defeat in November 2020, Ginni Thomas took several steps to overturn the results of the election. In text messages to White House Chief of Staff Mark Meadows, Ms. Thomas embraced a range of debunked conspiracy theories and advocated that Trump not concede.<sup>1</sup> Thomas also advocated that discredited attorney Sidney Powell be "the lead and the face" of the Trump legal team.<sup>2</sup> Thomas further threatened to pull her political support if they were to "cave to the elites" by not working to overturn the election results.<sup>3</sup> On Nov. 6, the day that the first media organizations called the election for Joe Biden,<sup>4</sup> Thomas told Meadows, "Do not concede. It takes time for the army who is gathering for [Trump's] back."<sup>5</sup>

Ms. Thomas also contacted state officials in key states to encourage them to set aside the results of statewide elections and thereby alter the results of the presidential election. Soon after the 2020 election, Ginni Thomas emailed legislators in Arizona asking them to appoint a so-called "clean slate of electors" rather than those legitimately chosen by the people of Arizona.<sup>6</sup> She also contacted legislators in Wisconsin urging them to appoint their own set of electors rather than those chosen by the people of Wisconsin.<sup>7</sup>

According to Rep. Pete Aguilar, a member of the Select Committee, Ms. Thomas also had conversations with and was messaging John Eastman, the author of a memo that laid out extralegal steps that Vice President Mike Pence could take to keep Trump in office despite the results of the election.<sup>8</sup> Although Vice President Pence ultimately declined to take those steps, Eastman's thinking was at the center of the effort to come up with a legal

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<sup>1</sup> Bob Woodward and Robert Costa, Virginia Thomas urged White House chief to pursue unrelenting efforts to overturn the 2020 election, texts show, *The Washington Post*, Mar. 24, 2022, available at <https://www.washingtonpost.com/politics/2022/03/24/virginia-thomas-mark-meadows-texts/>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Ren LaForme and Mel Grau, Vox.com, working with Decision Desk HQ, was one of the first news outlets to call the election, *Poynter*, Nov. 6, 2020, available at <https://www.poynter.org/reporting-editing/2020/vox-com-working-with-decision-desk-hq-was-one-of-the-first-news-outlets-to-call-the-election/>.

<sup>5</sup> Woodward and Costa, *supra*.

<sup>6</sup> Emma Brown, Ginni Thomas, wife of Supreme Court justice, pressed Ariz. lawmakers to help reverse Trump's loss, emails show, *The Washington Post*, May 5, 2022, available at <https://www.washingtonpost.com/investigations/2022/05/20/ginni-thomas-arizona-election-emails>.

<sup>7</sup> Documented, Ginni Thomas Emails to Wisconsin Lawmakers Urging Them to Overturn 2020 Election, Sept. 1, 2022, available at <https://documented.net/media/ginni-thomas-emails-to-wi-lawmakers-urging-them-to-overturn-2020-election>.

<sup>8</sup> Nicholas Wu and Kyle Cheney, Ginni Thomas tells Jan. 6 panel she still believes false election fraud claims, chair says, *Politico*, Sept. 29, 2022, available at <https://www.politico.com/news/2022/09/29/ginni-thomas-jan-6-panel-false-election-fraud-claims-00059627>; Michael S. Schmidt and Maggie Haberman, The Lawyer Behind the Memo on How Trump Could Stay in Office, *The New York Times*, Oct. 2, 2021, available at <https://www.nytimes.com/2021/10/02/us/politics/john-eastman-trump-memo.html>.

rationale and process to overturn the election, and it is no coincidence that the opportunity he identified to target was Congress's certification of the election results on January 6, 2020.

Thomas's support for efforts to change the election results continued through at least January 6, 2020. She admitted that she attended the January 6th "Stop the Steal" rally at the Ellipse, though she said she left before Trump spoke.<sup>9</sup> Early on that day, Thomas proclaimed on Facebook "LOVE MAGA people!!!!" and posted "GOD BLESS EACH OF YOU STANDING UP or PRAYING."<sup>10</sup>

Ms. Thomas's multi-pronged efforts to overturn the election raise questions about her continued fitness to serve as a board member for the Library of Congress Trust Fund.<sup>11</sup> They also raise questions about her husband, Associate Supreme Court Justice Clarence Thomas's, failure to recuse from matters pertaining to the January 6 attack as well as the absence of any binding Supreme Court ethics rules to compel such a result.<sup>12</sup> Although Ms. Thomas reportedly testified to the Select Committee that she did not speak to her husband Justice Thomas about election activities,<sup>13</sup> that claim merits the utmost scrutiny and is in any case insufficient to prevent the irreparable compromise of public trust in the Supreme Court's decision-making process that flows from Justice Thomas's continued participation in cases relating to the 2020 election.

As Justice Thomas himself knows, the appearance of impropriety alone is a sufficient and often necessary reason to recuse.<sup>14</sup> It is for that reason that Justice Thomas has recused himself from cases 54 times since joining the Supreme Court in 1993, including 17 times to

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<sup>9</sup> Kevin Daley, EXCLUSIVE: Ginni Thomas Wants To Set the Record Straight on January 6, *The Free Beacon*, Mar. 14, 2022, available at

<https://freebeacon.com/courts/exclusive-ginni-thomas-sets-the-record-straight-on-january-6/>.

<sup>10</sup> Mark Joseph Stern (@mjs\_DC), *Twitter*, (Jan 7, 2021 11:09 PM), available at

[https://twitter.com/mjs\\_DC/status/1347395084527017985?s=20&t=Bo-hbsvsMo2e58SsNWXOQ](https://twitter.com/mjs_DC/status/1347395084527017985?s=20&t=Bo-hbsvsMo2e58SsNWXOQ).

<sup>11</sup> Adam Rappaport, Ginni Thomas should be removed from board managing Library of Congress funds, *CREW*, Apr. 4, 2022,

<https://www.citizensforethics.org/news/analysis/ginni-thomas-should-be-removed-from-board-managing-library-of-congress-funds/>.

<sup>12</sup> Thomas must recuse. Supreme Court needs Code of Conduct, *CREW*, Apr. 1, 2022, available at

<https://www.citizensforethics.org/legal-action/legal-complaints/thomas-must-recuse-supreme-court-needs-code-of-conduct/>.

<sup>13</sup> Annie Grayer, Sara Murray, Kristin Wilson, Andrew Millman and Paul LeBlanc, Ginni Thomas tells January 6 committee she didn't discuss election activities with Justice Clarence Thomas, *CNN*, Sept. 28, 2022, available at

<https://www.cnn.com/2022/09/28/politics/ginni-thomas-january-6-committee-interview>.

<sup>14</sup> See, e.g., The Need for Supreme Court Recusals: Justice Thomas and Supreme Court Proceedings Related to Jan. 6, *New York City Bar*, May 20, 2022, available at

<https://www.nycbar.org/media-listing/media/detail/justice-thomas-should-recuse-from-jan-6-proceedings>.

avoid the potential perception of a conflict of interest created by his son.<sup>15</sup> Yet, as far as we are aware, he has never recused because of a potential conflict caused by his spouse and her political consulting work or her individual political activity. It is hard to conceive of anything more damaging to public trust in the Court than the spouse of someone deeply involved in efforts to overturn an election ruling on criminal and civil matters stemming from those efforts.

For these reasons, CREW respectfully requests that the House and Senate Judiciary Committees investigate Ginni Thomas and Justice Thomas. Both committees have responsibility for the oversight of our judiciary and law enforcement agencies. It is critical that you ensure that those responsible for the January 6, 2021 attack on our democracy are held accountable and that the integrity of the federal judiciary is not tainted by actual or perceived conflicts of interest.

Sincerely,



Noah Bookbinder  
President and Chief Executive Officer  
Citizens for Responsibility and Ethics in Washington

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<sup>15</sup> Paul Blumenthal, Clarence Thomas Has Recused Himself From Cases Involving His Son – But Not His Wife, *Huffington Post*, Mar. 30, 2022, available at [https://www.huffpost.com/entry/clarence-thomas-recuse-jan-6\\_n\\_6243372ee4b03516d4288d1a](https://www.huffpost.com/entry/clarence-thomas-recuse-jan-6_n_6243372ee4b03516d4288d1a).