U.S. Department of Justice

Office of Professional Responsibility

950 Pennsylvania Avenue, N.W., Suite 3266
Washington, D.C. 20530
(202) 514-3365

January 27, 2023

By Email

[redacted]
CREW
[redacted]

Re: OPR FOIA No. F22-00033

Dear Mr. Sus:

This letter is in response to your January 20, 2022, Freedom of Information Act (FOIA)/Privacy Act (PA) request to the Department of Justice (DOJ) Office of Professional Responsibility (OPR) seeking the following records from January 1, 2010, to the date we began to process your request.

1. All complaints or other submissions to DOJ's Office of Professional Responsibility ("OPR") regarding possible professional misconduct by any U.S. Supreme Court Justice.
2. All referrals made by OPR to any judicial disciplinary authority, state bar, or any other external entity regarding possible professional misconduct by any U.S. Supreme Court Justice.
3. All OPR reports, conclusions, or findings relating to items 1 or 2 above.
4. All records relating to notifying any U.S. Supreme Court Justice about possible conflicts of interest or other matters potentially requiring their recusal or disqualification from a particular matter.
5. All OPR policies or procedures relating to notifying members of the judiciary about possible conflicts of interest or other matters potentially requiring their recusal or disqualification from a particular matter.

OPR received your request on January 20, 2022. It has been assigned tracking number **F22-00033**. Please refer to this number in any correspondence pertaining to this matter.

OPR conducted a search and located 76 pages responsive to Parts 1-4 of your request. After a careful review, OPR has determined that these 76 pages are appropriate for release with redactions made pursuant to Exemption 6 of the FOIA, 5 U.S.C. § 552 (b)(6), copies of which are

enclosed.* Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties.

OPR conducted a search and located 6 pages responsive to Part 5 of your request. OPR has determined that these 6 pages are appropriate for release in full, copies of which are enclosed.

Although I am aware that your request is the subject of ongoing litigation and that appeals are not ordinarily acted on in such situations, I am required by statute and regulation to inform you of your right to file an administrative appeal with the Office of Information Policy.

Sincerely,

Carmen Smith Carter

Carmen Smith Carter
Assistant Counsel for the
Freedom of Information and Privacy Acts

Enclosures

cc: Taylor Pitz
Federal Programs Attorney

* *For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.*

Department of Justice
CITIZEN MAIL
CONTROL SHEET

DATE OF DOCUMENT: 1/23/2020 **WORKFLOW ID:** 4381283
DATE RECEIVED: 1/27/2020 **DUE DATE:** 4/20/2020

FROM: (b) (6)

TO: AG

MAIL TYPE: Citizen

ACTION TO: OPR

SUBJECT:

(b) (6)

OPR C

January 21, 2020

PETITION FOR DISCLOSURE OF US ATTORNEY GENERAL'S POLICIES TOWARDS THE DRE[1] AND ORGANIZIED FEDERAL JUDICIAL MISCONDUCT

The Hon. US Attorney General William P. Barr has identified federal judicial misconduct as a threat to America's constitutional democracy ***[Note 1]****. However, he did not mention that the Hon. John G. Roberts, Jr. has strange* ***[Note 2],*** *wholly undemocratic* ***[Note 3]*** *and absolute control* ***[Note 4]*** *of the US Courts' policies, rules, and codes that govern federal judicial conduct, and their enforcement. This simple fact requires serious deliberation and consideration. It raises fundamental questions about Attorney General Barr's willingness to investigate Chief Justice Roberts's conduct in the coverup of the unauthorized fabrication and use of the so-called "domestic relations [and violence] exception ("DRE)" policy. This policy is an example of malicious "organized federal judicial misconduct."*

Dear Hon. Attorney General Barr:

1. The Hon. US Attorney General William P. Barr's policy towards deliberate federal misconduct has been to use free speech. But he has not deal with the source of the problem: lack of accountability and enforcement. Attorney General Barr did not mention the Hon. John G. Roberts, Jr. (or any other judge) in his speeches at the *Federalist Society* and at *Notre Dame University*. In the *Federalist Society* speech, Attorney General Barr lists 11 reasons that the 40 nationwide injunctions **[Note 5]** against presidential executive orders are acts of federal judicial misconduct. Yet Attorney General Barr has not filed a single judicial conduct complaint against any of the judges or against Chief Justice Roberts for failure to supervise judicial misconduct. Now Attorney General Barr has before him the verified petition calling on him to make an executive decision to investigate Chief Justice's misconduct in engaging in a coverup. This raises questions about Attorney General Barr's willingness to investigate Chief Justice Roberts's misconduct at the US Judicial Conference in family law and *organized federal judicial misconduct* in general.

2. The facts demonstrate that Chief Justice Roberts is engaging in a cover-up because he knows that the predication that the *domestic relations [and violence] exception [DRE] to federal subject matter jurisdiction is a judicial doctrine of deference to federalism in family law* is false. The facts could not be more plain, simple, or clear. The DRE lacks any foundation in the Constitution **[Note 6]** or law **[Note 7]**. The DRE is an unauthorized abrogation of access to justice and due process **[Note 8]**. It is by definition an act of federally organized deliberate and malicious federal judicial misconduct. The problem for Chief Justice Roberts could not be more politically

1. The so-called "domestic relations [and violence] exception ("DRE") to federal subject matter jurisdiction."

serious. His support of this false predication is allowing all 50 states to assert jurisdiction over religious and political beliefs, and private noncommercial matters. The magnitude of Chief Justice Roberts's political problem is undeniable.

3. Chief Justice Roberts is allowing all 50 states to profit politically and financially from ruling over liberties that government cannot regulate *"at all, no matter what process is provided"* **[Note 9]**. These are liberties that have been ruled to be *"far more precious than property rights"* **[Note 10]**. These are liberties *with which neither public power nor majoritarian views can interfere*, and they are liberties that cannot be codified under neutral principles.[2] Thus, they cannot be governed **[Note 11]**. They are sacred privacies **[Note 12]** that are beyond the legitimate powers of government to regulate **[Note 13]**.

4. Chief Justice Roberts's cover-up is a major case. The cover-up of a fabrication that is being used to *eliminate basic human rights* in America. These are rights dating back to the Assize of Clarendon Act of 1166 and the Magna Carta of 1215. The spirit of the Assize of Clarendon Act and the Magna Carta is incorporated into America's laws **[Note 14]**."

5. A problem of this magnitude, especially when Chief Justice Roberts is presiding over the impeachment, should be alarming to Attorney General Barr. The problem is that Attorney General Barr has not addressed how he plans to fight federal judicial misconduct or how it affects state judicial misconduct, such as in the DRE case. Below are five actions that Attorney General Barr could have done but did not:

I. Attorney General Barr has declined to tell the president, Congress, and the nation about Chief Justice Roberts's responsibilities for this federal judicial misconduct and advise the president that he has the right to take action against Chief Justice Roberts in any of the 40 nationwide injunctions.

II. Attorney General Barr declined to take any action against Chief Justice Roberts under the "Judicial Council Reform and Judicial Conduct and Disability Act" of 1980 (US Code, Title 28 Judiciary and Judicial Procedure, Part I: Organization of Courts, Chapter 16, titled "Complaints Against Judges and Judicial Discipline" [§§ 351–364]; hereafter **Conduct Act**) and the Conferences and Councils of Judges Law[3] (**Council Act**) with regard to any of the judicial misconduct listed herein below, as well as in Note 10.

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2. The neutrality principle "forbids courts to 'mak[e] law or policy out of whole cloth, [or] . . . to impose substantive judicial judgments on disputes not capable of resolution through the application of neutral principles to sharply defined sets of facts.'" Richard H. Fallon, Jr., *Reflections on the Hart and Wechsler Paradigm*, 47 V and. L. Rev. 953,976 (1994)

3. The "21st Century Department of Justice Appropriations Authorization Act" was enacted under Pub. L. 107-273 and incorporates the "Judicial Improvements Act of 2002," which enacts USC Title 28 Chapter 16 and amends §§ 331, 332, 372, 375, and 604. For the legislative history, see H.R. Rep. 107-459 (2002).

III. Attorney General Barr has declined to tell the president, Congress, and the nation that, as the presiding judge of the US Judicial Conference, Chief Justice Roberts not only controls the Conduct and Council Acts but also controls the administration of the "Rules Enabling Act of 1934" (US Code [USC] Title 28 §§2071 to §2077) and the Federal Rules of Civil Procedure.

IV. Attorney General Barr has declined to tell the president, Congress, and the nation that, as presiding judge, Chief Justice Roberts not only has complete control over the federal judicial conduct apparatus at the US Judicial Conference but also is the chair of the Federal Judicial Center, where he is responsible for the education and training of federal judges and court staff.

V. Attorney General Barr has declined to tell the president, Congress, and the nation that, as presiding judge, Chief Justice Roberts controls the creation and enforcement of judicial conduct codes and conduct advisory notices as well as the self-enforcement machinery applicable to the lawbreaking federal judges and his own conduct. He has this control without supervision. This is an absolute truth—a fact that leaves the nation vulnerable to a presiding judge of the US Judicial Conference who is willing to use his control in bad faith.

6. Below are eight of Attorney General Barr's statements concerning federal judicial misconduct that suggest an investigation of Chief Justice Roberts's supervisory conduct is warranted:

I. Attorney General Barr has remarked that federal judicial misconduct leads to government with "no liberty, just tyranny" **[Note 15]**.

II. Attorney General Barr remarked on how federal judges he identified as "so-called progressives" treat politics as their religion—how they claim to be on a holy mission; how they use their political offices to coerce Americans to accept their political nonsense as if it were a legitimate authority over private liberties, morality, and codes of conduct; and how they have justified their official misconduct by believing they are "virtuous people pursuing a deific end" **[Note 16]**.

III. Attorney General Barr remarked on how the federal judges do "not act as a co-equal" when they appoint themselves as the arbiters of disputes between Congress and the president. He noted that the framers gave Congress and the president the meanings and motives to fend for themselves, and how the federal judges have used these disagreements to usurp presidential authority. He remarked on how "running to the courts" was a "false promise" that would eliminate the "incentive to debate their differences" and force people to make compromises and political accommodations **[Note 17]**.

IV. Attorney General Barr remarked on large city "District Attorneys that style

themselves as 'social justice' reformers, who spend their time undercutting the police, letting criminals off the hook, and refusing to enforce the law" **[Note 18].**

V. Former Attorney General Jefferson B Sessions remarked that "Judicial activism is . . . a threat to our representative government and the liberty it secures." **[Note 19]**

VI. Speaking at the *Wall Street Journal* Chief Executive Officer Council on December 10, 2019, Attorney General Barr remarked on the "use of the criminal law process as a political weapon." This problem is central in the DRE case.

VII. Attorney General Barr remarked on federal judges who use the law as a "battering ram to break down traditional moral values and to establish moral relativism as a new orthodoxy" and who "take a delight in compelling people to violate their conscience" **[Note 20]**. Federal judges claim to be on a "holy mission" to excuse their deliberate lawbreaking by claiming to be "virtuous people pursing a deific end" **[Note 21].**

VIII. Attorney General Barr remarked that "restraints could not be handed down from above by philosopher kings. Instead, social order must flow up from the people themselves—freely obeying the dictates of inwardly possessed and commonly shared moral values. And to control willful human beings, with an infinite capacity to rationalize, those moral values must rest on authority independent of men's will—they must flow from a transcendent Supreme Being . . . free government was only suitable and sustainable for a religious people—a people who recognized that there was a transcendent moral order antecedent to both the state and man-made law and who had the discipline to control themselves according to those enduring principles" **[Note 22]**.

7. The matter of Chief Justice Roberts's conduct in the DRE matter and is cover-up is a major concern to all Americans. The petitioner eagerly anticipates the Attorney General's cultivated decision on his Petition to open an investigation as requested, and a clear policy disclosure on the DRE, and Chief Justice Roberts's conduct and coverup, and organized federal judicial misconduct.

Respectfully submitted,

(b) (6) (b) (6)

(b) (6)

Founder and Director

01/23/20

MICHELLE MOHAN
Notary Public - State of New York
NO. 01MO6199128
Qualified in Queens County
My Commission Expires Oct 2, 2021

cc: The Hon. John G. Roberts, Jr.

I, (b) (6) swear that I am the petitioner in the *"Petition To Investigate Chief Justice Roberts's "DRE" Cover-Up,"* the plaintiff in (b) (6)

(b) (6) and the Complainant in five the actions filed under the "Judicial Council Reform and Judicial Conduct and Disability Act of 1980" docketed at the Judicial Council for the Second Circuit and at the US Judicial Conference under numbers (b) (6) and (b) (6). I also swear that the statements contained in this Petition are complete, correct and true to the best of my knowledge, and that any statements I make based upon information and belief are based upon due and fair consideration of all the facts, factors and circumstances that I know to be relevant.

I do so declare:

(b) (6)

01/23/20

MICHELLE MOHAN
Notary Public - State of New York
NO. 01MO6199028
Qualified in Queens County
My Commission Expires Oct 2, 2021

1. In late 2019, in two speeches, Attorney General Barr committed resources to keep an eye out for cases in two areas. One is to protect religious liberties. Two is to protect the Constitution and rule law from "leftist ... militant secularists . . . so-called progressive" federal judicial that "seem to take a delight in compelling people to violate their conscience [or acquiesce] . . . [that] eliminate laws that reflect traditional moral norms.

One of the speeches was presented at University of Notre Dame Law School and its Nicola Center for Ethics and Culture. The other was presented in honor of 19th Annual Barbara K. Olson Memorial Lecture at the Federalist Society's 2019 National Lawyers Convention. The excerpts in endnotes from a transcript of Attorney General William P. Barr's "**Notre Dame 2019**" speech posted on the Department of Justice's website under the title of "Attorney General Barr Delivers Remarks to the Law School and the de Nicola Center for Ethics and Culture at the University of Notre Dame, South Bend, IN Friday, October 11, 2019" and from a transcript of Attorney General Barr's "**Federalist Society 2019**" speech posted on the Department of Justice's website under the title of "Attorney General William P. Barr Delivers the 19th Annual Barbara K. Olson Memorial Lecture at the Federalist Society's 2019 National Lawyers Convention Washington, DC Friday, November 15, 2019."

In the Notre Dame speech, "The Attorney General committed to "set up a task force within the Department with different components that have equities in these areas, including the Solicitor General's Office, the Civil Division, the Office of Legal Counsel, and other offices; be involved in regular meetings on these matters, to keep an eye out for cases or events around the country that discriminate against people of faith, or impinge upon the free exercise of religion, and to be vigilant to resist efforts by the forces of secularization to drive religious viewpoints from the public square and to impinge upon the free exercise of our faith." He gave an assurance you that "as long as he is Attorney General, the Department of Justice will be at the forefront of this effort, ready to fight for the most cherished liberties: the freedom to live according to our faith."

In a third speech at **Heritage Foundation** on October 2018, former Attorney General Jeff Sessions delivered "Remarks to the Heritage Foundation on Judicial Encroachment." He stated that "Ed Meese['s] . . . leadership in ignit[ed] the jurisprudence of originalism. And now, largely because of your work, for the first time in our lifetimes, we have a majority of justices who adhere to these principles." The former Attorney General remarked that "empathy" is "more akin to emotion, bias, and politics than law" and that "[j]udicial activism is therefore a threat to our representative government and the liberty it secures. We at the DOJ fight against this heresy relentlessly." The former Attorney General remarked, "In effect, activist advocates want judges who will do for them what they have been unable to achieve at the ballot box. It is fundamentally undemocratic. Too many judges believe it is their right, their duty, to act upon their sympathies and policy preferences."

Heritage Foundation 2018. https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-heritage-foundation-judicial-encroachment

Notre Dame 2019. https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-law-school-and-de-nicola-center-ethics

Federalist Society 2019. https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-19th-annual-barbara-k-olson-memorial-lecture

2. See the *Petition to Investigate Chief Justice Roberts's "Dre" Cover-Up.*

"The U.S. Supreme Court agrees: *"It would be very strange if our system of law permitted a judge to act as a grand jury and then try the very persons accused as a result of his investigations. . . . Having been a part of that process, a judge cannot be, in the very nature of things, wholly disinterested in the conviction or acquittal of those accused."* In *re Murchison*, 349 US 133, 137 (1955), "*A fair trial in a fair tribunal is a basic requirement of due process.* Fairness of course requires an absence of actual bias in the trial of cases. But the United States system of law has always endeavored to prevent even the *probability* of unfairness" (*Id.* at 136, emphasis supplied). Thus, the DRE

and Chief Justice Roberts's absolute control of the Conduct, Council, and Rules Acts and the FRCP are a nationwide "very strange" system."

"Under *Murchison*, 349 US 133, 137 (1955), Chief Justice Roberts is the party responsible for the creation of a *"very strange"* family law scheme in New York State and nationwide. The petitioner's case is an uncomplicated and routine family matter. Only under the protection of the DRE could New York State convert liberties that government cannot regulate *"at all, no matter what process is provided"* and *liberties with which neither public power nor majoritarian views can interfere* into a cash cow for its political operatives."

3. See the *Petition to Investigate Chief Justice Roberts's "Dre" Cover-Up.*

"Charles Tilly *[See Tilly, C. (2007). Democracy. Cambridge: Cambridge University Press]* described a way to measure democracy. He gauged it by measuring the "political relations between the state and its citizens." He focused on features that determined if the relation between the state and its citizens was "broad, equal, [and] protected," and if it relied on "mutually binding consultations." By these measures, the position of the presiding judge at the US Judicial Conference held by the Hon. John G. Roberts, Jr. is by far the least democratic, and most dangerous, of any in the US government. Chief Justice Roberts is using this strange position to fabricate family law policies nationwide. He is also using this unknown position to engage in a coverup. Why the coverup? Chief Justice Roberts fabricated his family law policies without notice or authority. Also, his policies allow the use of federal judicial misconduct and usurp Americans' unassailable liberties and freedoms."

4. See the *Petition to Investigate Chief Justice Roberts's "Dre" Cover-Up.*

"By allowing states to interfere with unassailable liberties and freedoms, and denying Americans the right to access federal justice to defend themselves against the states and *any form of questioning or enquiry whatsoever*, Chief Justice Roberts is *eliminating basic human rights* in America. These are rights dating back to the Assize of Clarendon Act of 1166 and the Magna Carta of 1215. The spirit of the Assize of Clarendon Act and the Magna Carta is incorporated into America's laws. . . . We hold here that the right to a speedy trial is as fundamental as any of the rights secured by the Sixth Amendment. That right has its roots at the very foundation of our English law heritage. Its first articulation in modern jurisprudence appears to have been made in **Magna Carta** (1215), wherein it was written, 'We will sell to no man, we will not deny or defer to any man either justice or right'; but evidence of recognition of the right to speedy justice in even earlier times is found in the **Assize of Clarendon** (1166)." *Klopfer v. State of N.C.*, 386 U.S. 213, 223, 87 S.Ct. 988, 993, 18 L.Ed. 2d 1 (1967).

"As the presiding judge of the US Judicial Conference, Chief Justice Roberts not only controls the Conduct and Council Acts but also controls the administration of the "Rules Enabling Act of 1934" (US Code [USC] Title 28 §§2071 to §2077 [**Rules Act**]) and the Federal Rules of Civil Procedure (**FRCP**). This is how Chief Justice Roberts operates the enforcement machine in secret.

"The Conduct, Council, and Rules Acts and the FRCP are intended to be an effective safeguard preventing Chief Justice Roberts from affecting US rights without legal authority. However, legal experts have labeled this idea as "absurd" and as "political nonsense". The DRE is proof that Chief Justice Roberts is using supposedly innocuous "housekeeping" authority to eviscerate the rule of law through exercising "decisions, interred by antipathy" and through deliberately allowing federal judges to "tread on contested fact issues."

"It was Sir John Emerich Edward Dalberg-Acton, (January 10, 1834–June 19, 1902), who in 1887 wrote that **"power corrupts, and absolute power corrupts absolutely."** He also wrote that "there is no worse heresy than that the office sanctifies the holder of it." He was referring to the medieval popes that instituted a special tribunal with special functionaries, elaborating special laws that were developed, applied, and protected by sanction, both spiritual and temporal. They used this system to inflict penalties of death and damnation on everybody who resisted."

5. Federalist Society 2019. The impact of these judicial intrusions on Executive responsibility have been hugely magnified by another judicial innovation – the nationwide injunction. First used in 1963, and sparely since

then until recently, these court orders enjoin enforcement of a policy not just against the parties to a case, but against everyone. Since President Trump took office, district courts have issued over 40 nationwide injunctions against the government. By comparison, during President Obama's first two years, district courts issued a total of two nationwide injunctions against the government. Both were vacated by the Ninth Circuit.

It is no exaggeration to say that virtually every major policy of the Trump Administration has been subjected to immediate freezing by the lower courts. No other President has been subjected to such sustained efforts to debilitate his policy agenda.

The legal flaws underlying nationwide injunctions are myriad. Just to summarize briefly, [1] nationwide injunctions have no foundation in courts' Article III jurisdiction or [2] traditional equitable powers; [3] they radically inflate the role of district judges, [4] allowing any one of more than 600 individuals to singlehandedly freeze a policy nationwide, [5] a power that no single appellate judge or Justice can accomplish; [6] they foreclose percolation and reasoned debate among lower courts, [7] often requiring the Supreme Court to decide complex legal issues in an emergency posture with limited briefing; [8] they enable transparent forum shopping, [9] which saps public confidence in the integrity of the judiciary; and [10] they displace the settled mechanisms for aggregate litigation of genuinely nationwide claims, such as Rule 23 class actions.

Of particular relevance to my topic tonight, [11] nationwide injunctions also disrupt the political process. There is no better example than the courts' handling of the rescission of DACA. As you recall, DACA was a discretionary policy of enforcement forbearance adopted by President Obama's administration. The Fifth Circuit concluded that the closely related DAPA policy (along with an expansion of DACA) was unlawful, and the Supreme Court affirmed that decision by an equally divided vote. Given that DACA was *discretionary* — and that four Justices apparently thought a legally indistinguishable policy was *unlawful* —President Trump's administration understandably decided to rescind DACA.

Importantly, however, the President coupled that rescission with negotiations over legislation that would create a lawful and better alternative as part of a broader immigration compromise. In the middle of those negotiations — indeed, on the same day the President invited cameras into the Cabinet Room to broadcast his negotiations with bipartisan leaders from both Houses of Congress — a district judge in the Northern District of California enjoined the rescission of DACA nationwide. Unsurprisingly, the negotiations over immigration legislation collapsed after one side achieved its preferred outcome through judicial means. A humanitarian crisis at the southern border ensued. And just this week, the Supreme Court finally heard argument on the legality of the DACA rescission. The Court will not likely decide the case until next summer, meaning that President Trump will have spent *almost his entire first term* enforcing President Obama's signature immigration policy, even though that policy is *discretionary* and half the Supreme Court concluded that a legally indistinguishable policy was *unlawful*. That is not how our democratic system is supposed to work.

6. "the domestic relations exception to federal jurisdiction **[DRE]** is an archaic, historical remnant that should be overruled by the U.S. Supreme Court, and thus, the Article III federal courts have jurisdiction to hear pure marital status cases despite their domestic nature. We call on the Supreme Court to eliminate the domestic relations exception as to all forms of federal jurisdiction.

Steven G. Calabresi & Genna L. Sinel The Same-Sex Marriage Cases and Federal Jurisdiction: On Third-Party Standing and Why the Domestic Relations Exception to Federal Jurisdiction Should Be Overruled

"The current formulation and application of the domestic relations exception **[DRE]** poses serious problems. From a practical perspective, the domestic relations exception jurisprudence features contradiction, confusion, and inconsistency. From a policy perspective, the domestic relations exception risks foreclosing the invaluable federal forum to family law issues—even fundamental constitutional issues, as in Elk Grove. From the statutory interpretation perspective, the only current, expressly-accepted foundation for the domestic relations exception articulated by the Supreme Court requires people to accept the counterintuitive notion that the unambiguous breadth of the statutory

phrase 'all civil actions' should be superseded by Congress's failure to explicitly reject dicta from an 1858 case that provided no reasoning or authority . . ."

Family Law Is Not "Civil": The Faulty Foundation Of The Domestic Relations Exception To Federal Jurisdiction, Joseph Carroll, winner of the First Place, 2017 Howard C. Schwab Memorial Essay.

Applying the exception to bar federal courts **[DRE]** from jurisdiction over bona fide federal questions would violate Article III, which endows federal courts with jurisdiction over all federal-question case in law or equity. Additionally, the federal-question jurisdiction statute is best read as reflecting a Congressional intent that federal jurisdiction extends to domestic-relations matters that raise questions of federal law. Federal courts have the authority to resolve important and timely questions of federal law. The domestic-relations exception should not be misconstrued to stand in their way."

"Federal Questions and the Domestic-Relations Exception." The Yale Law Journal, Bradley G. Silverman

"Much domestic relations law fails to present a "controversy" within the meaning of Article III; the consensual nature of many status-altering acts (marriage, consensual divorce, adoption) forecloses a federal dispute-resolution role. But when federal courts hear "cases" arising under federal law, they have full power to exercise both contentious and (what Roman and civil lawyers refer to as) non-contentious jurisdiction. Our non-contentious account explains a range of puzzles, including why Article III courts can issue decrees at the core of the domestic relations exception **[DRE]** when the matter at hand implicates federal law."

A Non-Contentious Account Of Article III's Domestic Relations Exception James E. Pfander & Emily K. Damrau Notre Dame Law Review

One may question the continued vitality of the domestic relations exception **[DRE]** given the vast amount of federal court involvement in family law matters. For example, in the recent landmark case Obergefell v. Hodges, the Supreme Court held that same-sex individuals have a fundamental right to marry.11 Moreover, under its Commerce, Full Faith and Credit, and Spending Clause powers, Congress has passed many laws in the area of domestic relations. 12 Of course, being that it is the federal judiciary's "province and duty" to say what the law is,13 federal courts routinely review these laws. Yet despite the large quantity of family law activity in the federal sphere, the domestic relations exception survives, albeit inconsistently applied in federal courts across the country. . . . The diverse inter- and intra-circuit treatment of the domestic relations exception stems from the different weight courts place on the exception's underlying values: stare decisis, federalism, and access to courts. Some federal courts only apply the exception because it has long been a part of precedent; otherwise, they would overrule it. Other courts apply the exception rigorously, concluding that family law matters are properly left to state courts, elevating federalism ideas. Even still, there are courts that recognize and apply the exception, but believe federalism should always take a back seat to a litigant's right to access a federal forum.

Let's Not Throw Out The Baby With The Bathwater: A Uniform Approach To The Domestic Relations Exception Karla M. Doe, Emory Law Journal

"judicial review is necessary as a constitutional guard against state incursions on federal, constitutional rights. Even state regulation of traditionally state matters cannot run afoul of federal, constitutional limits, and this will at least sometimes require the presence of a federal forum to make such determinations. Thus, regardless of the extent of Congress's role in regulating and shaping American families, the federal judicial role in protecting them must remain intact . . . monolithic view of the family as an exclusively local subject is both misguided and unworkable **[DRE]**. Guarding personal autonomy against unwarranted intrusion by the state demands a federal forum to ensure that fundamental rights of the family remain secure. Supporting, empowering, and protecting contemporary families and family members is the joint work of local, state, and federal systems.

Is the Family a Federal Question? Meredith Johnson Harbach Washington and Lee Law Review

7. Chief Justice Roberts has fabricated a set of elaborate unethical DRE policies, decisions and rules without notice, an iota of authority, or legal foundation. These acts are a blatantly illegal abrogation of all the most important US citizens' constitutional and legal rights. In fact, Chief Justice Roberts's concealed DRE plans and standards are a violation of the first and most important law governing the chief justice's conduct: Title 28, Chapter 131, USC §2072(b) that specifically prohibits federal judges from creating or implementing policies or rules that "abridge, enlarge or modify any substantive right."

"'[T]he domestic-relations exception **[DRE]** encompasses only cases involving the issuance of a divorce, alimony, or child custody decree.' *Ankenbrandt*, 504 U.S. at 704, 112 S.Ct. 2206 ***not*** federal civil rights claims under fundamental liberty, due process or the right to be free from judicial fraud and manufactured crimes. It is not 'compelled by the text of the Constitution or federal statute' but is rather a 'judicially created doctrine' . . . stemming in large measure from ***misty understandings of English legal history***." *Marshall*, 547 U.S. at 299, 126 S.Ct. 1735. [Emphasis added by author]. *Chevalier v. Estate of Barnhart*, 803 F.3d 789, 794 (6th Cir. 2015).

In the 5–4 split opinion of *Barber v. Barber*, the dissent strongly contested, that "[i]t is not in accordance with the design and operation of a [state] Government . . . [to] assume to regulate the domestic relations of society . . . [to take an] inquisitorial authority, [to] enter the habitations and even into the chambers and nurseries of private families, and inquire into and pronounce upon the morals and habits and affections or antipathies of the members of every household. . . . [This is the case] whether [a statute] expressly conferred upon the State courts, or [is] tacitly assumed by them, [and] their example and practice cannot be recognized as sources of authority by the courts of the United States. The origin and the extent of their jurisdiction must be sought in the laws of the United States." See *Barber v. Barber*, 62 US 582 (1858).

In *Cohens v. Virginia*, Chief Justice Marshall famously cautioned: "'It is most true that this Court will not take jurisdiction if it should not: but it is equally true, that it must take jurisdiction if it should... We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given.'" 6 *Wheat* 264, 404, 5 L.Ed. 257 (1821). "**Among longstanding limitations on federal jurisdiction [DRE] otherwise properly exercised are the so-called "domestic relations" and "probate" exceptions. Neither is compelled by the text of the Constitution or federal statute. Both are judicially created doctrines stemming in large measure from misty understandings of English legal history.** See, *e.g.*, *Atwood, Domestic Relations Case in Federal Court: Toward a Principled Exercise of Jurisdiction*, 35 Hastings L.J. 571, 584–588 (1984); *Spindel v. Spindel*, 283 F.Supp. 797, 802 (E.D.N.Y.1968) (collecting case and commentary revealing vulnerability of historical explanation for domestic relations exception); Winkler, The Probate Jurisdiction of the Federal Courts, 14 Probate L.J. 77, 125–126, and n. 256 (1997) (describing historical explanation for probate exception as 'an exercise in mythography'"). "In the years following Marshall's 1821 pronouncement, **courts have sometimes lost sight of his admonition and have rendered decisions expansively interpreting the two exceptions**. In *Ankenbrandt v. Richards*, 504 U.S. 689, 112 S.Ct. 2206, 119 L.Ed.2d 468 (1992), this Court reined in the 'domestic relations exception.' Earlier, in *Markham v. Allen*, 326 U.S. 490, 66 S.Ct. 296, 90 L.Ed. 256 (1946), the Court endeavored similarly to curtail the 'probate exception.'" *Marshall v. Marshall*, 547 U.S. 293, 298–99, 126 S. Ct. 1735, 1741, 164 L. Ed. 2d 480 (2006).

8. The DRE violates Article III of the US Constitution established Americans' access to US judicial power; First Amendment's prohibition of laws on the exercise of religious beliefs and that protects freedom of speech and the right to petition the Government for a redress of grievances; the Due Process Clause of the Fifth Amendment, and the Equal Protection Clause of the Fourteenth Amendment, and the Tenth Amendment limits the federal government to powers granted in the US Constitution and reserves all other power to the States and the people.

https://www.archives.gov/founding-docs/bill-of-rights-transcript#toc-amendment-i

9. Neither Congress nor judges have the power to govern fundamental liberties simply because they cannot be prescribed by law, statute, rule, policies, codes or judged by neutral principles. "The neutrality principle" forbids courts to "**mak[e] law or policy out of whole cloth**, [or] . . . to impose substantive judicial judgments on disputes not capable of resolution through the application of neutral principles to sharply defined sets of facts." Richard H. Fallon, Jr., *Reflections on the Hart and Wechsler Paradigm*, 47 Vand. L. Rev. 953, 976 (1994).

"The identification and protection of fundamental *rights"* (see *Obergefell v. Hodges*, 135 S.Ct. 2584, 2597–98, 192 L.Ed. 2d 609 [2015]) and the duty to protect fundamental liberties "deeply rooted in this Nation's history and tradition" (*id.*, at 503, 97 S.Ct., at 1938 [plurality opinion] *Snyder v. Massachusetts,* 291 U.S. 97, 105, 54 S.Ct. 330, 332, 78 L.Ed. 674 [1934]) that are "so rooted in the traditions and conscience of our people as to be ranked as fundamental" and so "implicit in the concept of ordered liberty" that "neither liberty nor justice would exist if they were sacrificed" (*Palko v. Connecticut,* 302 U.S. 319, 325, 326, 58 S.Ct. 149, 152, 82 L.Ed. 288 [1937]) and that neither judges nor Congress can govern, "***at all, no matter what process is provided***" (*Washington v. Glucksberg*, 521 U.S. 702, 719–21, 117 S. Ct. 2258, 2267–68, 138 L. Ed. 2d 772 [1997]).

"The Fourteenth Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures—Boards of Education not excepted. These have, of course, important, delicate, and highly discretionary functions, but none that they may not perform within the limits of the Bill of Rights. That they are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes . . . The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections . . Nor does our duty to apply the Bill of Rights to assertions of official authority depend upon our possession of marked competence in the field where the invasion of rights occurs. True, the task of translating the majestic generalities of the Bill of Rights, conceived as part of the pattern of liberal government in the eighteenth century, into concrete restraints on officials dealing with the problems of the twentieth century, is one to disturb self-confidence. **These principles grew in soil which also produced a philosophy that the individual was the center of society, that his liberty was attainable through mere absence of governmental restraints, and that government should be entrusted with few controls and only the mildest supervision over men's affairs.** We must transplant these rights to a soil in which the laissez-faire concept or principle of non-interference has withered.. " *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 637, 63 S.Ct. 1178, 1185, 87 L.Ed. 1628 (1943).

Under the Due Process Clause of the Fourteenth Amendment, no state shall "deprive any person of life, liberty, or property, without due process of law." The fundamental liberties protected by this clause include most of the rights enumerated in the Bill of Rights. See *Duncan v. Louisiana*, 391 U.S. 145, 147–149, 88 S.Ct. 1444, 20 L.Ed.2d 491 (1968). In addition, these liberties extend to certain personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs. See, e.g., *Eisenstadt v. Baird*, 405 U.S. 438, 453, 92 S.Ct. 1029, 31 L.Ed.2d 349 (1972) and *Griswold v. Connecticut*, 381 U.S. 479, 484–486, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965). **The identification and protection of fundamental rights is an enduring part of the judicial duty to interpret the Constitution.** See *Obergefell v. Hodges*, 135 S.Ct. 2584, 2597–98, 192 L.Ed. 2d 609 (2015).

10. "The Court has frequently emphasized the importance of the family. The rights to conceive and to raise one's children have been deemed 'essential,'[1] 'basic civil rights of man,'[2] and '**rights far more precious . . . than property rights**.'[3] 'It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.'[4] The integrity of the family unit has found protection in the Due Process Clause of the Fourteenth Amendment, the Equal Protection Clause of the Fourteenth Amendment,[5] and the Ninth Amendment." 5 *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct. 1208, 1212-13, 31 L.Ed. 2d 551 (1972):

1 *Meyer v. Nebraska*, 262 U.S. 390, 399, 43 S.Ct. 625, 626, 67 L.Ed. 1042 (1923)
2 *Skinner v. Oklahoma*, 316 U.S. 535, 541, 62 S.Ct. 111 0, 111 3, 86 L.Ed. 1655 (1942)
3 *May v. Anderson*, 345 U.S. 528, 533, 73 S.Ct. 840, 843, 97 L.Ed. 1221 (1953)
4 *Prince v. Massachusetts*, 321 U.S. 1 58, 1 66, 64 S.Ct. 438, 442, 88 L.Ed. 645 (1944)
5 *Griswold v. Connecticut*, 381 U.S. 479, 496, 85 S.Ct. 1678, 14 L.Ed. 2d 510 (1965)
6 *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct. 1208, 1 21 2-13, 31 L.Ed. 2d 551 (1972)

"Neither decisional rule nor statute can displace a fit parent . . . the courts and the law would, under existing constitutional principles, be powerless to supplant parents except for grievous cause or necessity in which the principle is plainly stated and stressed as more significant than other essential constitutional rights . . . The private interest here, that of a man in the children he has sired and raised, undeniably warrants deference and, absent a powerful countervailing interest, protection. It is plain that the interest of a parent in the companionship, care, custody, and management of his or her children come(s) to this Court with a momentum for respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements . . . It is firmly established . . . that . . . wherever possible, the best interests of a child lie in his being nurtured and guided by both of his natural parents . . . Interference with the relationship between the child and the non-custodial parent is 'an act so inconsistent with the best interest of the child that it raises a strong presumption that the offending parent is unfit to act as custodial parent . . . The custodial parent's anger, hostility and attitude toward the non-custodial parent can substantially interfere with her ability to place the needs of the children before her own in fostering a continued relationship with then on custodial parent . . . Furthermore, the custodial parent's conduct can be so egregious as to warrant a change of custody . . . The fostering of a relationship with the noncustodial parent is an important consideration in a custody determination."

Bennett v. Jeffreys, 40 N.Y.2d 543, 548, 356 N.E.2d 277, 282-83 (1976) Daghirv. Daghir, 92 A.D.2d 191,193,441 N.Y.S.2d 494 (2d Dept. 1981) *Prugh v. Prugh*, 298 A.D.2d 569 (2nd Dept. 2002) *Young v. Young*, 212 A.D.2d 114, 123 (2nd Dept. 1995) *Landau v. Landau*, 214 A.D.2d 541 (2nd Dept. 1995) Matter of *Esterle v. Dellay*, supra, 281 A.D.2d at 726.

"It is firmly established . . . that . . . wherever possible, the best interests of a child lie in his being nurtured and guided by both of his natural parents." *Daghir v. Daghir*, 92 A.D.2d 191,193,441 N.Y.S.2d 494 (2d Dept. 1981).

"Interference with the relationship between the child and the noncustodial parent is 'an act so inconsistent with the best interest of the child that it raises a strong presumption that the offending parent is unfit to act as custodial parent.'" *Prugh v. Prugh*, 298 A.D.2d 569 (2nd Dept. 2002).

"The fostering of a relationship with the noncustodial parent is an important consideration in a custody determination." *Matter of Esterle v. Dellay*, supra, 281 A.D.2d at 726.

"A parent's desire for and right to the companionship, care, custody, and management of his or her children is an important interest that undeniably warrants deference and, absent a powerful countervailing interest, protection. . . [P]arent's interest in accuracy and justice of decision to terminate parental status is an extremely important one." *Lassiter v. Department of Social Services of Durham County, N.C.*, 452 U.S. 18, 101 S.Ct. 2153, 68 L.Ed. 2d 640 (1981).

"The right to be heard is fundamental to our system of justice . . . [and p]arents have an equally fundamental interest in the liberty, care and control of their children." *In re Jung*, 11 N.Y.3d 365 (N.Y., 2008).

"The right of a parent to the custody and control of a minor child is one of our fundamental rights as United States citizens." *Mark N. v. Runaway Homeless Youth Shelter*, 189 Misc. 2d 245, 733 N.Y.S.2d 566 (Fam.Ct. 2001).

11. The due process, rule of law, or any other form of justice cannot exist without neutral principles. The neutrality principle "forbids courts to 'mak[e] law or policy out of whole cloth, [or] . . . to impose substantive judicial judgments on disputes not capable of resolution through the application of neutral principles to sharply defined sets of facts.'" Richard H. Fallon, Jr., *Reflections on the Hart and Wechsler Paradigm*, 47 V and. L. Rev. 953,976 (1994)

12. US Supreme Court Louis Dembitz Brandeis and his law partner, Samuel D. Warren, published an article in the *Harvard Law Review* in December 1890 titled "**The Right to Privacy**." In this article Justice Brandeis wrote that "to protect Americans in their beliefs, their thoughts, their emotions and their sensations . . . against the Government, the right to be let alone [is] the most comprehensive of rights and the right most valued by civilized men." The DRE is the most violent and intolerable offense on the right to "let alone."

13. "The legitimate powers of government extend to such acts only as are injurious to others. But it does me no injury for my neighbor to say there are twenty gods, or no god. It neither picks my pocket nor breaks my leg."

Thomas Jefferson, *Notes on the State of Virginia. Query XVII.* Published in English in London in 1787. Published anonymously in Paris in 1785.

[14]. "We hold here that the right to a speedy trial is as fundamental as any of the rights secured by the Sixth Amendment. That right has its roots at the very foundation of our English law heritage. Its first articulation in modern jurisprudence appears to have been made in **Magna Carta** (1215), wherein it was written, 'We will sell to no man, we will not deny or defer to any man either justice or right'; but evidence of recognition of the right to speedy justice in even earlier times is found in the **Assize of Clarendon** (1166)." *Klopfer v. State of N.C.*, 386 U.S. 213, 223, 87 S.Ct. 988, 993, 18 L.Ed. 2d 1 (1967).

("And when a robber or murderer or thief or receiver of them has been arrested through the aforesaid oath, if the justices are not about to come speedily enough into the country where they have been taken, let the sheriffs send word to the nearest justice by some well-informed person that they have arrested such men, and the justices shall send back word to the sheriffs informing them where they desire the men to be brought before them; and let the sheriffs bring them before the justices." English Historical Documents 408 [1953]).

15. Notre Dame 2019. "Men are subject to powerful passions and appetites, and, if unrestrained, are capable of ruthlessly riding roughshod over their neighbors and the community at large. No society can exist without some means for restraining individual rapacity. But, if you rely on the coercive power of government to impose restraints, this will inevitably lead to a government that is too controlling, and you will end up with no liberty, just tyranny. On the other hand, unless you have some effective restraint, you end up with something equally dangerous – licentiousness – the unbridled pursuit of personal appetites at the expense of the common good. This is just another form of tyranny – where the individual is enslaved by his appetites, and the possibility of any healthy community life crumbles. "In the words of Madison, "We have staked our future on the ability of each of us to govern ourselves. . ." This is really what was meant by "self-government." It did not mean primarily the mechanics by which we select a representative legislative body. It referred to the capacity of each individual to restrain and govern themselves."

The "force, fervor, and comprehensiveness of the assault on religion we are experiencing today. This is not decay; it is organized destruction. Secularists, and their allies among the "progressives," have marshaled all the force of mass communications, popular culture, the entertainment industry, and academia in an unremitting assault on religion and traditional values. These instruments are used not only to affirmatively promote secular orthodoxy, but also drown out and silence opposing voices, and to attack viciously and hold up to ridicule any dissenters. One of the ironies, as some have observed, is that the secular project has itself become a religion, pursued with religious fervor. It is taking on all the trappings of a religion, including inquisitions and excommunication. Those who defy the creed risk a figurative burning at the stake – social, educational, and professional ostracism and exclusion waged through lawsuits and savage social media campaigns . . . today – in the face of all the increasing pathologies – instead of addressing the underlying cause, we have the State in the role of alleviator of bad consequences. We call on the State to mitigate the social costs of personal misconduct and irresponsibility. So[,] the reaction to growing illegitimacy is not sexual responsibility, but abortion. The reaction to drug addiction is safe injection sites. The solution to the breakdown of the family is for the State to set itself up as the ersatz husband for single mothers and the ersatz father to their children. The call comes for more and more social programs to deal with the wreckage. While we think we are solving problems, we are underwriting them. We start with an untrammeled freedom and we end up as dependents of a coercive state on which we depend. Interestingly, this idea of the State as the alleviator of bad consequences has given rise to a new moral system that goes hand-in-hand with the secularization of society. It can be called the system of "macro-morality." It is in some ways an inversion of Christian morality. Christianity teaches a micro-morality. We transform the world by focusing on our own personal morality and transformation. The new secular religion teaches macro-morality. One's morality is not gauged by their private conduct, but rather on their commitment to political causes and collective action to address social problems."

"It is hard to resist the constant seductions of our contemporary society. This is where we need grace, prayer, and the help of our church. Beyond this, we must place greater emphasis on the moral education of our children. Education is not vocational training. It is leading our children to the recognition that there is truth and helping them develop the faculties to discern and love the truth and the discipline to live by it. We cannot have a moral renaissance unless we succeed in passing to the next generation our faith and values in full vigor. The times are hostile to this.

Public agencies, including public schools, are becoming secularized and increasingly are actively promoting moral relativism. If ever there was a need for a resurgence of Catholic education – and more generally religiously-affiliated schools – it is today. I think we should do all we can to promote and support authentic Catholic education at all levels. Finally, as lawyers, we should be particularly active in the struggle that is being waged against religion on the legal plane. We must be vigilant to resist efforts by the forces of secularization to drive religious viewpoints from the public square and to impinge upon the free exercise of our faith. I can assure you that, as long as I am Attorney General, the Department of Justice will be at the forefront of this effort, ready to fight for the most cherished of our liberties: the freedom to live according to our faith."

16. Federalist Society 2019. "In any age, the so-called progressives treat politics as their religion. Their holy mission is to use the coercive power of the State to remake man and society in their own image, according to an abstract ideal of perfection. Whatever means they use are therefore justified because, by definition, they are a virtuous people pursing a deific end. They are willing to use any means necessary to gain momentary advantage in achieving their end, regardless of collateral consequences and the systemic implications. They never ask whether the actions they take could be justified as a general rule of conduct, equally applicable to all sides.

Conservatives, on the other hand, do not seek an earthly paradise. We are interested in preserving over the long run the proper balance of freedom and order necessary for healthy development of natural civil society and individual human flourishing. This means that we naturally test the propriety and wisdom of action under a "rule of law" standard. The essence of this standard is to ask what the overall impact on society over the long run if the action we are taking, or principle we are applying, in a given circumstance was universalized – that is, would it be good for society over the long haul if this was done in all like circumstances?

For these reasons, conservatives tend to have more scruple over their political tactics and rarely feel that the ends justify the means. And this is as it should be, but there is no getting around the fact that this puts conservatives at a disadvantage when facing progressive holy far, especially when doing so under the weight of a hyper-partisan media."

17. Federalist Society 2019. "I believe has been the prime source of the erosion of separation-of-power principles generally, and Executive Branch authority specifically. I am speaking of the Judicial Branch.

In recent years the Judiciary has been steadily encroaching on Executive responsibilities in a way that has substantially undercut the functioning of the Presidency. The Courts have done this in essentially two ways: First, the Judiciary has appointed itself the ultimate arbiter of separation of powers disputes between Congress and Executive, thus preempting the political process, which the Framers conceived as the primary check on interbranch rivalry. Second, the Judiciary has usurped Presidential authority for itself, either (a) by, under the rubric of "review," substituting its judgment for the Executive's in areas committed to the President's discretion, or (b) by assuming direct control over realms of decision-making that heretofore have been considered at the core of Presidential power.

The Framers did not envision that the Courts would play the role of arbiter of turf disputes between the political branches. As Madison explained in Federalist 51, "the great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others." By giving each the Congress and the Presidency the tools to fend off the encroachments of the others, the Framers believed this would force compromise and political accommodation.

The "constitutional means" to "resist encroachment" that Madison described take various forms. As Justice Scalia observed, the Constitution gives Congress and the President many "clubs with which to beat" each other. Conspicuously absent from the list is running to the courts to resolve their disputes.

That omission makes sense. When the Judiciary purports to pronounce a conclusive resolution to constitutional disputes between the other two branches, it does not act as a co-equal. And, if the political branches believe the courts will resolve their constitutional disputes, they have no incentive to debate their differences through

the democratic process — with input from and accountability to the people. And they will not even try to make the hard choices needed to forge compromise. The long experience of our country is that the political branches can work out their constitutional differences without resort to the courts.

In any event, the prospect that courts can meaningfully resolve interbranch disputes about the meaning of the Constitution is mostly a false promise."

18. On August 12, 2019, Attorney General remarked at the Grand Lodge Fraternal Order of Police's 64th National Biennial Conference on a "the emergence in some of our large cities of District Attorneys that style themselves as "social justice" reformers, who spend their time undercutting the police, letting criminals off the hook, and refusing to enforce the law. These anti-law enforcement DAs have tended to emerge in jurisdictions where the election is largely determined by the primary. Frequently, these candidates ambush an incumbent DA in the primary with misleading campaigns and large infusions of money from outside groups. Once in office, they have been announcing their refusal to enforce broad swathes of the criminal law."

19. In a speech at **Heritage Foundation** on October 2018, former US Attorney General Jefferson B. Sessions delivered "Remarks to the Heritage Foundation on Judicial Encroachment." He remarked that "empathy" is "more akin to emotion, bias, and politics than law" and that "Judicial activism is therefore a threat to our representative government and the liberty it secures. We at the DOJ fight against this heresy relentlessly." The former Attorney General remarked, "In effect, activist advocates want judges who will do for them what they have been unable to achieve at the ballot box. It is fundamentally undemocratic. Too many judges believe it is their right, their duty, to act upon their sympathies and policy preferences."

Heritage Foundation 2018. https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-heritage-foundation-judicial-encroachment

20. Notre Dame 2019. "A third phenomenon which makes it difficult for the pendulum to swing back is the way law is being used as a battering ram to break down traditional moral values and to establish moral relativism as a new orthodoxy. Law is being used as weapon in a couple of ways. First, either through legislation but more frequently through judicial interpretation, secularists have been continually seeking to eliminate laws that reflect traditional moral norms. At first, this involved rolling back laws that prohibited certain kinds of conduct. Thus, the watershed decision legalizing abortion. And since then, the legalization of euthanasia. The list goes on. More recently, we have seen the law used aggressively to force religious people and entities to subscribe to practices and policies that are antithetical to their faith. The problem is not that religion is being forced on others. The problem is that irreligion and secular values are being forced on people of faith. This reminds me of how some Roman emperors could not leave their loyal Christian subjects in peace but would mandate that they violate their conscience by offering religious sacrifice to the emperor as a god. Similarly, militant secularists today do not have a live and let live spirit - they are not content to leave religious people alone to practice their faith. Instead, they seem to take a delight in compelling people to violate their conscience."

21. Federalist Society 2019. "In any age, the so-called progressives treat politics as their religion. Their holy mission is to use the coercive power of the State to remake man and society in their own image, according to an abstract ideal of perfection. Whatever means they use are therefore justified because, by definition, they are a virtuous people pursing a deific end. They are willing to use any means necessary to gain momentary advantage in achieving their end, regardless of collateral consequences and the systemic implications. They never ask whether the actions they take could be justified as a general rule of conduct, equally applicable to all sides."

22. But what was the source of this internal controlling power? In a free republic, those restraints could not be handed down from above by philosopher kings. Instead, social order must flow up from the people themselves – freely obeying the dictates of inwardly-possessed and commonly-shared moral values. And to control willful human beings, with an infinite capacity to rationalize, those moral values must rest on authority independent of men's will – they must flow from a transcendent Supreme Being. In short, in the Framers' view, free government was only suitable and sustainable for a religious people – a people who recognized that there was a transcendent moral order antecedent

to both the state and man-made law and who had the discipline to control themselves according to those enduring principles. As John Adams put it, "We have no government armed with the power which is capable of contending with human passions unbridled by morality and religion. Our Constitution was made only for a moral and religious people. It is wholly inadequate for the government of any other." As Father John Courtney Murray observed, the American tenet was not that: "Free government is inevitable, only that it is possible, and that its possibility can be realized only when the people as a whole are inwardly governed by the recognized imperatives of the universal moral order."

(b) (6)

January 21, 2020

The Honorable William Pelham Barr
Attorney General of the United States
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

PETITION TO INVESTIGATE
CHIEF JUSTICE ROBERTS'S "DRE"[1] COVER-UP

The Hon. John G. Roberts, Jr., is engaged in a cover-up of federal judicial misconduct complaints filed in the petitioner's civil rights case against New York State. Chief Justice Roberts is attempting to cover up his leadership role in fabricating federal family law so called "policies" at the US Judicial Conference as its presiding judge. These nationwide "policies" are concealed and unauthorized. Chief Justice Roberts' "policies" are allowing New York State to assert authority over Americans' unassailable liberties and freedoms. Chief Justice Roberts's "policies" allow the state to use this unauthorized authority to execute coercive acts against political views and religious beliefs. US Attorney General Barr has announced his interest in this type of case. [2]

Dear Hon. Attorney General Barr:

1. Charles Tilly described a way to measure democracy.[3] He gauged it by measuring the "political relations between the state and its citizens." He focused on features that determined if the relation was "broad, equal, [and] protected," and if it relied on "mutually binding consultations." By these measures, the position of the presiding judge at the US Judicial Conference held by the Hon. John G. Roberts, Jr. is by far the least democratic, and most dangerous, of any in the US government. Chief Justice Roberts is using this strange position to fabricate family law policies nationwide. He is also using this unknown position to engage in a coverup. Why the coverup? Chief Justice Roberts fabricated his family law policies without notice or authority. Also, his policies allow the use of federal judicial misconduct and usurp Americans' unassailable liberties and freedoms.

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1. The so-called "domestic relations [and violence] exception ("DRE") to federal subject matter jurisdiction."

2. In his speech at the University of Notre Dame Law School's Nicola Center for Ethics and Culture, US Attorney General Barr announced that he had established a task force within the Department of Justice to "keep an eye out for cases" involving freedom to live according to religious beliefs and to deploy the Department's resources to defend individuals that resist efforts by the forces of secularization to drive religious viewpoints from the public square.

3. Tilly, C. (2007), Democracy, Cambridge: Cambridge University Press

2. These unassailable liberties and freedoms are rights that government cannot legitimately regulate *"at all, no matter what process is provided"* **[Note 1]**. *These are liberties* that have been ruled to be *"far more precious than property rights"* **[Note 2]**. These are liberties *with which neither public power nor majoritarian views can interfere*—these are liberties that cannot be codified under neutral principles.[4] Thus, neither judges nor legitimate law can govern them **[Note 3]**. They are sacred private privileges **[Note 4]** that belong exclusively to individual Americans that are far beyond the legitimate powers of government to regulate **[Note 5]**.

3. The Hon. US Attorney General William P. Barr **[Note 6]** has identified organized federal judicial misconduct the primary threat to Americans' liberty and America's constitutional democracy.[5] Former US Attorney General Jefferson B. Sessions remarked that "Judicial activism is . . . a threat to our representative government and the liberty it secures." **[Note 7]**

4. Attorney General Barr has explicitly remarked that organized federal judicial misconduct leads to government with "no liberty, just tyranny," **[Note 8]** and that "free government was only suitable and sustainable for a religious people—a people who recognized that there was a transcendent moral order antecedent to both the state and man-made law and who had the discipline to control themselves according to those enduring principles." Attorney General Barr remarked on federal judges who use the law as a "battering ram to break down traditional moral values and to establish moral relativism as a new orthodoxy" and who "take a delight in compelling people to violate their conscience" **[Note 9]**. Federal judges claim to be on a "holy mission" to excuse their deliberate lawbreaking by claiming to be "virtuous people pursing a deific end" **[Note 10]**. Attorney General Barr remarked on how federal judges he identified as "so-called progressives" treat politics as their religion—how they claim to be on a holy mission; how they use their political offices to coerce Americans to accept their political nonsense as if it were a legitimate authority over private liberties, morality, and codes of conduct; and how they have justified their official misconduct by believing they are "virtuous people pursuing a deific end" **[Note 11]**.

5. In the Federalist Society speech, Attorney General Barr remarked on the 40 nationwide injunctions **[Note 12]** against the present administration's presidential executive orders. He listed 11 so called "legal flaws" that are unmistakable evidence of deliberate and malicious federal judicial misconduct. A review of the issuance of an order to depose the US Secretary of Commerce in the *State of New York et al. v. United States Department of Commerce et al.* case also provides straightforward evidence of federal judicial misconduct. Yet Attorney General Barr has commented on Chief Justice Roberts's responsibility, or filed, and perhaps not considered filing,

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[4]. The neutrality principle "forbids courts to 'mak[e] law or policy out of whole cloth, [or] . . . to impose substantive judicial judgments on disputes not capable of resolution through the application of neutral principles to sharply defined sets of facts.'" Richard H. Fallon, Jr., *Reflections on the Hart and Wechsler Paradigm*, 47 V and. L. Rev. 953,976 (1994).

5. Most recently in Attorney General Barr's 2019 speeches at the Federalist Society on deliberate and malicious judicial misconduct and at Notre Dame University on militant secularization and religious freedom, and at the *Wall Street Journal* CEO Council on December 10, 2019 on the Mueller investigation's use of criminal law for political purposes.

judicial conduct complaints against any of the judges. In fact, Attorney General Barr did not mention Chief Justice Roberts at all. Chief Justice Roberts is responsible for regulating federal judicial misconduct and who has absolute control over US Court policies and the rules that govern federal judicial misconduct in his speeches.

6. The evidence shows Chief Justice Roberts has tampered with complaints, witnesses, and evidence and aided and abetted in a cover-up[6] of collusion between the Hon. Robert Allen Katzmann (Chief Judge of the US Court of Appeals for the Second Circuit and the Judicial Council for the Second Circuit), the Hon. Colleen McMahon (Chief Judge of the Sothern District of New York), and the New York State defendants, as well as in the fabrication of fictitious official proceedings and documents in the DRE case. The evidence also concerns Chief Justice Roberts's use of the Hon. Anthony J. Scirica (Chair of the US Judicial Conduct Committee) and James C. Duff (Director of the Administrative Office of the US Courts) **[Note 13]** to execute his coverup.

7. This is a petition for Attorney General Barr to open an investigation into Chief Justice Roberts's deliberate misconduct in the petitioner's **[Note 14]** DRE civil rights and judicial conduct cases **[Note 15]**. The DRE case is a serious and genuine nationwide matter. Attorney General Barr is familiar and comfortable with the problem that underlies this petition, as he marked in the Federalist Society speech, "By and large, the Founding generation's view of human nature was drawn from the classical Christian tradition. These practical statesmen understood that individuals, while having the potential for great good, also had the capacity for great evil. Men are subject to powerful passions and appetites, and, if unrestrained, are capable of ruthlessly riding roughshod over their neighbors and the community at large. No society can exist without some means for restraining individual rapacity. But, if you rely on the coercive power of government to impose restraints, this will inevitably lead to a government that is too controlling, and you will end up with no liberty, just tyranny" **[Note 16]**. As Attorney General Barr knows, the only single US official "with unrestrained [capacity to] ruthlessly rid[e] roughshod over [his] neighbors and the community at large" is Chief Justice Roberts, not the president or Congress. It is the chief justice acting as the president judge of the US Judicial Conference.

8 The first step is to clarify Attorney General Barr's policy towards law enforcement towards deliberate and malicious federal judicial misconduct, and the use of the position of presiding judge of the US Judicial Conference as Chief Justice Roberts is using that position nationwide, and specifically in the DRE case, and Chief Justice Roberts's coverup.

ATTORNEY GENERAL BARR'S POLICIES TOWARD ORGANIZED FEDERAL JUDICIAL MISCONDUCT

9. This petition concerns Chief Justice Roberts's misconduct aimed at allowing New York federal judges in the Southern District of New York and the Second Circuit to protect New York State's policy of manufacturing so-called "domestic violence" crimes as a family law scheme. This policy allows the fabrication of so-called "interim" fees and parenting suspensions. The policy aims to coerce New Yorkers into accepting so-called "progressive" religious and political reforms.

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6. There are documents that prove Chief Justice Roberts deliberately violated Title 28 of the US Code Chapter 16 §§ 359 and 455(b) (iii) as part of his cover-up.

This multilayering of unauthorized policies creates income streams for the members of the New York City Bar Association. The policies also advance New York State's political interests. An example is the New York City Bar Association's militant campaign to impeach and investigate Attorney General Barr "for making conservative political statements" **[Note 17]**. Meanwhile, every member the NYC Bar Association that practices in family court uses and benefits from these concealed and unauthorized policies.

10. Speaking at the *Wall Street Journal* CEO Council on December 10, 2019, Attorney General Barr remarked on the "use of the criminal law process as a political weapon." In the speeches referenced above, Attorney General Barr remarked on large city "District Attorneys who style themselves as 'social justice' reformers." **[Note 18]** The manufacturing of criminal indictments as a "social justice" reform policy is the primary issue underlying this petition.

11. Point 9 of Attorney General Barr's 11 points in Note 4 remarks on the damage to "public confidence in the integrity of the judiciary" caused by evidence of federal judicial misconduct in the nationwide injunction matter.

12. Chief Justice Roberts is the presiding judge in the presidential impeachment trial. Chief Justice Roberts sits in that position comfortably understanding the seriousness of the DRE case and knowing that evidence exists showing he is leading a cover-up to protect himself from scandal in the nationwide DRE case.

13. Thus, in support of this petition, the petitioner is requesting that Attorney General Barr disclose his policy on enforcing the law in cases of deliberate and malicious federal judicial misconduct. The petitioner makes this request in a separate petition filed on this day, titled, *"US Attorney General's Policies toward the DRE and Organized Federal Judicial Misconduct."*

CHIEF JUSTICE ROBERTS'S UNDENIABLE MOTIVE FOR ENGAGING IN A COVER-UP

14. The petitioner's case is against Chief Justice Roberts's unauthorized use of the so-called *"domestic relations [and domestic violence] exception [DRE] to federal subject matter jurisdiction"* in US courts (the DRE case). The DRE lacks any foundation in the Constitution **[Note 19]** or law **[Note 20]**. Further, the DRE is an unauthorized denial of Americans' Article III constitutional rights to access US judicial power to protect their rights under the First, Fifth, and Tenth Amendments **[Note 21]**.

15. Inexorable evidence proves that Chief Justice Roberts is promulgating the false predication that the DRE *is a legitimate judicial doctrine of deference to federalism in family law* as an excuse to deny all Americans access to federal justice. Furthermore, Chief Justice Roberts is purposefully doing this so that states can assert jurisdiction and govern religious and political beliefs, and unassailable liberties and freedoms.

16. As Thomas Jefferson wrote, it is only free enquiry that leads to the truth, and only error that needs the support of government **[Note 22]**. Chief Justice Roberts knows that an enquiry into his conduct will reveal the gravity of his misconduct. Thus, he has chosen to close off enquiry by

engaging in a cover-up of the judicial conduct complaints. Chief Justice Roberts's cover-up of evidence in judicial conduct proceedings is at war with justice and defeats the sole purpose of a trial court and is a perjurious violation of the oath of his office **[Note 23]**.

17. By allowing states to interfere with unassailable liberties and freedoms, and denying Americans the right to access federal justice to defend themselves against the states and *any form of questioning or enquiry whatsoever*, Chief Justice Roberts is *eliminating basic human rights* in America. These are rights dating back to the Assize of Clarendon Act of 1166 and the Magna Carta of 1215. The spirit of the Assize of Clarendon Act and the Magna Carta is incorporated into America's laws **[Note 24]**.

18. The evidence shows that Chief Justice Roberts has been sanctioning and protecting so-called "progressive" policies. In Attorney General Barr's own words, this suggests that Chief Justice Roberts is the leader of the "holy mission . . . to use the coercive power of the State to remake man and society." Chief Justice Roberts's family law policies justify federal judicial misconduct or "whatever means they . . . because, by definition, [Chief Justice Roberts and Judges Katzmann, McMahon, and Scirica] are a virtuous people pursing a deific end."

19. Therefore, it is Chief Justice Roberts that is allowing New York State (and states nationwide) to use of the criminal law process as a political weapon in family court. The DRE case exposed these concealed and unauthorized. The policies are aimed at interfering with the unassailable liberties in pursuit of so-called "progressive" reforms in New York Stated. By definition, it is Chief Justice Roberts who sanctions the so-called "ends justify the means" federal judicial misconduct. This is cited in Attorney General Barr's Federalist Society speech **[Note 25]**.

20. The evidence shows Chief Justice Roberts is using his control of the US Judicial Conference to allow New York's federal judges and state judges—county district attorneys who are self-styled "social justice" reformers—to fabricate illegal processes that include (a) the manufacturing of domestic relations violence charges that do not and cannot exist under New York State's Penal Code (b) using these charges in family courts to manufacture so-called "interim" parenting suspension and supervision orders without authority or stated cause because they cannot be codified under the neutrality principle, (c) manufacturing fee orders in favor of political appointees[7] that are summarily collected by unauthorized contempt orders, and (d) the manufacturing of so-called "interim" parenting suspension and supervision orders. In New York State, these so-called "interim" orders are made unreviewable under the law to further coerce Americans to surrender their liberties. This is all done without an iota of legitimate state purpose under the cover of Chief Justice Roberts's DRE policies.

CHIEF JUSTICE ROBERTS'S IMPERMISSIBLE ABSOLUTE CONTROL OF ORGANIZED FEDERAL JUDICIAL MISCONDUCT

21. The source of the problem is Chief Justice Roberts's absolute control over federal judicial

7. These are private parties who are forced upon families without respecting the parents' cultural, religious, and political beliefs and without any representation or control. In New York State, particularly New York City, these are allies of the present city administration, which appoints all state judges in family court in the city's five counties.

misconduct. This includes absolute control over his own misconduct, which allows Chief Justice Roberts to privately fabricate DRE rules at the US Judicial Conference. These rules protect state defendants—such as New York State in the petitioner's DRE case.

22. As shown in **Note 6**, the DRE case has two parts: (a) the US court cases and federal judicial conduct complaints that deal with Chief Justice Roberts's tampering with witnesses and evidence and (b) the cover-up of these judicial conduct complaints and court cases.

23. The DRE complaints are filed under the "Judicial Council Reform and Judicial Conduct and Disability Act" of 1980 (US Code, Title 28 Judiciary and Judicial Procedure, Part I: Organization of Courts, Chapter 16, titled "Complaints against Judges and Judicial Discipline" [§§ 351–364]; hereafter **Conduct Act**) **[Note 26]**. The Conduct Act states that any person may file a complaint alleging that a federal judge has engaged in conduct prejudicial to the effective and expeditious administration of justice.

24. The intent of Congress and President James E. Carter (in signing the Conduct Act) was for the American people to an absolute, simple and effective recourse against federal judicial misconduct **[Note 27]**. Further, the Conferences and Councils of Judges Law[8] (**Council Act**) establishes that the presiding judge of the US Judicial Conference is the Chief Justice of the US Supreme Court, Chief Justice Roberts, and grants him exclusive jurisdiction over the Conduct Act.

25. As the presiding judge of the US Judicial Conference, Chief Justice Roberts not only controls the Conduct and Council Acts but also controls the administration of the "Rules Enabling Act of 1934" (US Code [USC] Title 28 §§2071 to §2077 [**Rules Act**]) and the Federal Rules of Civil Procedure (**FRCP**). This is how Chief Justice Roberts operates the enforcement machine in secret.

26. The Conduct, Council, and Rules Acts and the FRCP are intended to be an effective safeguard preventing Chief Justice Roberts from affecting US rights without legal authority. However, legal experts have labeled this idea as "absurd" and as "political nonsense" **[Note 28]**. The DRE is proof that Chief Justice Roberts is using supposedly innocuous "housekeeping" authority to eviscerate the rule of law through exercising "decisions, interred by antipathy" and through deliberately allowing federal judges to "tread on contested fact issues" **[Note 29]**.

27. Chief Justice Roberts has absolute control over federal judicial misconduct, including his own, as well as control of the Council and Rule Acts and the FRCP. Historically, this control is described as absolutely corrupt power **[Note 30]**.

28. The U.S. Supreme Court agrees: *"It would be very strange if our system of law permitted a judge to act as a grand jury and then try the very persons accused as a result of his investigations. . . . Having been a part of that process, a judge cannot be, in the very nature of things, wholly disinterested in the conviction or acquittal of those accused."* In *re Murchison*, 349 US 133, 137

8. The "21st Century Department of Justice Appropriations Authorization Act" was enacted under Pub. L. 107-273 and incorporates the "Judicial Improvements Act of 2002," which enacts USC Title 28 Chapter 16 and amends §§ 331, 332, 372, 375, and 604. For the legislative history, see H.R. Rep. 107-459 (2002).

(1955), "*A fair trial in a fair tribunal is a basic requirement of due process.* Fairness of course requires an absence of actual bias in the trial of cases. But the United States system of law has always endeavored to prevent even the *probability* of unfairness" (*Id.* at 136, emphasis supplied). Thus, the DRE and Chief Justice Roberts's absolute control of the Conduct, Council, and Rules Acts and the FRCP are a nationwide "very strange" system.

29. As presiding judge, Chief Justice Roberts controls the creation and enforcement of judicial conduct codes and conduct advisory notices, as well as the machinery of self-enforcement applicable to lawbreaking federal judges and his own conduct **[Note 31]**. He has this control without supervision. This is an absolute truth—a fact that leaves the nation vulnerable to a presiding judge of the US Judicial Conference who is willing to use his control of the Conference Act, Conduct Act, Rules Act, and FRCP guidelines in bad faith.

30. Chief Justice Roberts not only has total control over the federal judicial conduct apparatus at the US Judicial Conference but also is the chair of the Federal Judicial Center, where he is responsible for the education and training of federal judges and court staff.

CHIEF JUSTICE ROBERTS'S CONCERTED AND COORDINATED BAD FAITH ACTS WITH NEW YORK STATE'S CHIEF JUDGE

31. New York State Chief Judge Janet Marie DiFiore controls New York State's Unified Court System's internal judicial conduct apparatus. Along with the state's governor, Judge DiFiore controls the New York State Commission on Judicial Conduct. Furthermore, just as Chief Justice Roberts does at the Federal Judicial Center, Judge DiFiore controls the education and training of judges and court staff in New York State **[Note 32]**. She also controls both the state's rulemaking and constitutional machinery. This gives Judge DiFiore the ability to close off all remedies available to the petitioner to protect himself and his family from unauthorized rulemaking **[Note 33]**.

32. Thus, Chief Justice Roberts, acting as the presiding judge of the US Judicial Conference, and Judge DiFiore, acting as chair of New York State's Administrative Board of the Courts, can fabricate and have fabricated absolute power for themselves without any controls, accountability, or supervision over policy, court rules, policing, and judicial misconduct in US and New York State courts applicable to the DRE.

33. Under the DRE, Chief Justice Roberts and Judge DiFiore are able to create interim suspensions, supervision and fee orders, and fictitious crimes that cannot and do not exist under law. They manufacture crimes against parents and take children out of healthy family units under unauthorized so-called "interim" suspensions that interfere with children's religious and moral education. Together, Chief Justice Roberts and Judge DiFiore have fabricated a political system without a legal process that is entirely devoid of neutrality principles in New York family courts.

34. One of the central issues in the DRE in New York State is the relationship between Judge Katzmann and Chief Justice Roberts. Judge Katzmann is Chief Justice Roberts's appointed member of his Executive and Judiciary Committees at the US Judicial Conference, and he acts as

Chief Justice Roberts's chief strategist and deputy in Congress **[Note 34].** In his own words, Judge Katzmann proclaims he likes to "soak and poke" in Congress's legislative business. Furthermore, he declares he likes to "marinate" himself in what he calls the "inter-branch understanding." Judge Katzmann is not what Chief Justice Roberts has called an apolitical "neutral umpire." The evidence indicates that Chief Justice Roberts has allowed Judge Katzmann to use his judgeship to advance his insidious leftist political agenda **[Note 35]**.

35. Judge Katzmann is a central figure in the DRE judicial conduct case; this case commenced as a conduct complaint against the Hon. Ronnie Abrams. The moment it became clear to the petitioner that Judge Katzmann had no interest in resolving the Abrams complaint or in fulfilling his legal obligation to review the judicial conduct complaint expeditiously in any way, the petitioner filed a complaint against Judge Katzmann **[Note 36]**. The petitioner immediately served notice on Chief Justice Roberts and requested for Chief Justice Roberts to assume control over the process of investigating and resolving the dispute **[Note 37]**.

36. The petitioner has pleaded with Judge Abrams to recuse herself. The petitioner even pled with Judge Abrams based on the closeness of her own family's relationship as well as her brother's close relationship with (b) (6). Judges McMahon and DiFiore espouse great love for family—its importance in their daily lives—yet Judges McMahon, Abrams, and DiFiore united against the DRE case and ignored the unprecedented cruelties the DRE causes for millions of Americans every year **[Note 38]**.

CHIEF JUSTICE ROBERTS'S COVER-UP

37. Two undeniable pieces of evidence prove Chief Justice Roberts's leadership role in directing the cover-up of the DRE case and DRE federal judicial conduct complaints. Alternatively, others are shielding Chief Justice Roberts and using his official positions under a blanket agreement to protect the DRE he himself put in place.

38. First, documents exist in the record[9] proving Chief Justice Roberts deliberately violated his mandatory obligation to restrict Judges Katzmann and McMahon from appearing at the US Judicial Conference and the US Judicial Council for the Second Circuit. Chief Justice Roberts's obligation is to comply with, and assure compliance with, Title 28 of the US Code Chapter 16 § 359 **[Note 39]**, which requires Judges Katzmann and McMahon to be restricted from appearing at the US Judicial Conference and the US Judicial Council for the Second Circuit until the DRE case is resolved. The clear, simple, undeniable reason for US Code Chapter 16 § 359 is to protect evidence and documents in judicial conduct proceedings.

39. Second, documents exist in the record[10] proving Chief Justice Roberts sanctioned Judges Scirica and Katzmann for arranging for Judge Abrams's protection so she could violate Title 28

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9. (b) (6) Document 94 Filed 06/12/19 Page 1 of 2; and Document 94-1 Filed 06/12/19 Page 1 of 3. [Mandatory Restrictions]

10. (b) (6) Document 53 Filed 04/17/19 Page 1 of 3 [Mandatory Recusal]

USC Section 455(b) (iii); Canon 3(C) (1) (d) (i) and (iii) of the Code of Conduct for U.S. Judges; and the US Judicial Conference's Advisory Opinion No. 103, which mandates as a matter of black letter law that she recuse herself from the DRE case. Instead, Chief Justice Roberts and Judge Katzmann allowed Judge Abrams to violate these laws so she could continue to deliberately mishandle the DRE case **[Note 40]**.

CONCLUSION

40. Attorney General William Barr remarked on the constitutional importance of the executive branch to the success of the American Republic **[Note 41]**. If the Office of the American Presidency cannot defend its executive powers against Chief Justice Roberts's federal judicial misconduct policies **[Note 42]**, how can any American family protect freedoms of religion, speech, political liberty, and family unity under Chief Justice Roberts's double cover-up of his concealed DRE lobbying and concealed DRE rules?

41. Chief Justice Roberts is the only individual in the US Courts, or at the US Judicial Conference, who can resolve the federal judicial conduct complaints in (b) (6) (b) (6). Only two docket numbers have been assigned to these cases: numbers (b) (6) and (b) (6). Chief Justice Roberts and Judges Scirica and Katzmann have simply taken it upon themselves not to issue docket numbers for the other complaints in the file. Chief Justice Roberts's tampering with the docket of the petitioner's complaints must be resolved; it is patently unfair and an act of lawbreaking.

42. Under *Murchison*, 349 US 133, 137 (1955), Chief Justice Roberts is the party responsible for the creation of a *"very strange"* family law scheme in New York State and nationwide. The petitioner's case is an uncomplicated and routine family matter **[None 43]**. Only under the protection of the DRE could New York State convert liberties that government cannot regulate *"at all, no matter what process is provided"* and *liberties with which neither public power nor majoritarian views can interfere* **[Note 44]** into a cash cow for its political operatives.

43. Under the DRE, state judges wrongly *"act as a grand jury and then try the very persons accused [without codified neutral principles or authorized charges] as a result of his investigations"* and make themselves gatekeepers to keep out issues one party tries to raise, only to then decide in the other party's favor. They manufacture criminal charges **[Note 45]** to enforce a gender bias **[Note 46]** in determining child custody cases nationwide. However, the petitioner's DRE case is focused on Chief Justice Roberts's deliberate lawbreaking **[Note 47]** (which is clearly set forth herein), not only on gender bias.

44. Chief Justice Roberts's DRE policies inflict unheard-of cruelties on Americans who have *done no wrong, violated no law, nor imposed themselves on any other person's rights*. This is precisely why Chief Justice Roberts is tampering with witnesses and evidence. This is Chief Justice Roberts's motive for engaging in a cover-up. This is the reason and the motive underlying Chief Justice Roberts's decision to violate Title 28 of the US Code Chapter 16 §§ 359 and 455(b) (iii) as well as tamper with evidence in, and interfere with, judicial conduct complaints as part of his cover-up.

45. Chief Justice Roberts is concealing the DRE matter from the American people, the president, and Congress. This is a nationwide cover-up of a matter that touches every American by the judge presiding over a presidential impeachment trial. Under these conditions, the petitioner respectfully request that Attorney General Barr give them notice. Otherwise, the Department of Justice should immediately and publicly notify the president and Congress.

46. According to Tilly, the goodness and fairness of government can be measured by the openness of the relationship between government officials and the people, and the degree of mutual binding consultations. Chief Justice Roberts erred terribly by allowing the federal judges to join with the state judges against the people's most cherished freedoms and liberties without an iota of democracy, authority, or consultation, or notice.

47. The petitioner eagerly anticipates the opportunity to discuss this matter further in person.

Respectfully submitted,

(b) (6)

SAMUEL T RICHMAN
Notary Public, State of New York
No. 01RI6339167
Qualified in Kings County
Commission Expires March 28, 2020

1/22/20

cc: The Hon. John G. Roberts, Jr.

I, (b) (6), swear that I am the petitioner in the *"Petition To Investigate Chief Justice Roberts's "DRE" Cover-Up,"* the plaintiff in (b) (6) (b) (6) and the Complainant in five the actions filed under the "Judicial Council Reform and Judicial Conduct and Disability Act of 1980" docketed at the Judicial Council for the Second Circuit and at the US Judicial Conference under numbers (b) (6) and (b) (6). I also swear that the statements contained in this Petition are complete, correct and true to the best of my knowledge, and that any statements I make based upon information and belief are based upon due and fair consideration of all the facts, factors and circumstances that I know to be relevant.

I do so declare:

(b) (6)

January 21, 2020

SAMUEL T RICHMAN
Notary Public, State of New York
No. 01RI6339167
Qualified in Kings County
Commission Expires March 28, 2020

1/22/20

1. Neither Congress nor judges have the power to govern fundamental liberties simply because they cannot be prescribed by law, statute, rule, policies, codes or judged by neutral principles. "The neutrality principle" forbids courts to **"mak[e] law or policy out of whole cloth,** [or] . . . to impose substantive judicial judgments on disputes not capable of resolution through the application of neutral principles to sharply defined sets of facts." Richard H. Fallon, Jr., *Reflections on the Hart and Wechsler Paradigm*, 47 Vand. L. Rev. 953, 976 (1994).

"The identification and protection of fundamental *rights"* (see *Obergefell v. Hodges*, 135 S.Ct. 2584, 2597–98, 192 L.Ed. 2d 609 [2015]) and the duty to protect fundamental liberties "deeply rooted in this Nation's history and tradition" (*id.*, at 503, 97 S.Ct., at 1938 [plurality opinion] *Snyder v. Massachusetts*, 291 U.S. 97, 105, 54 S.Ct. 330, 332, 78 L.Ed. 674 [1934]) that are "so rooted in the traditions and conscience of our people as to be ranked as fundamental" and so "implicit in the concept of ordered liberty" that "neither liberty nor justice would exist if they were sacrificed" (*Palko v. Connecticut*, 302 U.S. 319, 325, 326, 58 S.Ct. 149, 152, 82 L.Ed. 288 [1937]) and that neither judges nor Congress can govern, "***at all, no matter what process is provided***" (*Washington v. Glucksberg*, 521 U.S. 702, 719–21, 117 S. Ct. 2258, 2267–68, 138 L. Ed. 2d 772 [1997]).

"The Fourteenth Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures—Boards of Education not excepted. These have, of course, important, delicate, and highly discretionary functions, but none that they may not perform within the limits of the Bill of Rights. That they are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes . . . The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections . . . Nor does our duty to apply the Bill of Rights to assertions of official authority depend upon our possession of marked competence in the field where the invasion of rights occurs. True, the task of translating the majestic generalities of the Bill of Rights, conceived as part of the pattern of liberal government in the eighteenth century, into concrete restraints on officials dealing with the problems of the twentieth century, is one to disturb self-confidence. **These principles grew in soil which also produced a philosophy that the individual was the center of society, that his liberty was attainable through mere absence of governmental restraints, and that government should be entrusted with few controls and only the mildest supervision over men's affairs.** We must transplant these rights to a soil in which the laissez-faire concept or principle of non-interference has withered..." *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 637, 63 S.Ct. 1178, 1185, 87 L.Ed. 1628 (1943).

Under the Due Process Clause of the Fourteenth Amendment, no state shall "deprive any person of life, liberty, or property, without due process of law." The fundamental liberties protected by this clause include most of the rights enumerated in the Bill of Rights. See *Duncan v. Louisiana*, 391 U.S. 145, 147–149, 88 S.Ct. 1444, 20 L.Ed.2d 491 (1968). In addition, these liberties extend to certain personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs. See, e.g., *Eisenstadt v. Baird*, 405 U.S. 438, 453, 92 S.Ct. 1029, 31 L.Ed.2d 349 (1972) and *Griswold v. Connecticut*, 381 U.S. 479, 484–486, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965). **The identification and protection of fundamental rights is an enduring part of the judicial duty to interpret the Constitution.** See *Obergefell v. Hodges*, 135 S.Ct. 2584, 2597–98, 192 L.Ed. 2d 609 (2015).

2. "The Court has frequently emphasized the importance of the family. The rights to conceive and to raise one's children have been deemed 'essential,'[1] 'basic civil rights of man,'[2] and **'rights far more precious . . . than property rights**.'[3] 'It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.'[4] The integrity of the family unit has found protection in the Due Process Clause of the Fourteenth Amendment, the Equal Protection Clause of the Fourteenth Amendment,[2] and the Ninth Amendment." 5 *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct. 1208, 1212-13, 31 L.Ed. 2d 551 (1972):

[1] *Meyer v. Nebraska*, 262 U.S. 390, 399, 43 S.Ct. 625, 626, 67 L.Ed. 1042 (1923)

2 *Skinner v. Oklahoma*, 316 U.S. 535, 541, 62 S.Ct. 111 0, 111 3, 86 L.Ed. 1655 (1942)
3 *May v. Anderson*, 345 U.S. 528, 533, 73 S.Ct. 840, 843, 97 L.Ed. 1221 (1953)
4 *Prince v. Massachusetts*, 321 U.S. 1 58, 1 66, 64 S.Ct. 438, 442, 88 L.Ed. 645 (1944)
5 *Griswold v. Connecticut*, 381 U.S. 479, 496, 85 S.Ct. 1678, 14 L.Ed. 2d 510 (1965)
6 *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct. 1208, 1 21 2–13, 31 L.Ed. 2d 551 (1972)

"Neither decisional rule nor statute can displace a fit parent . . . the courts and the law would, under existing constitutional principles, be powerless to supplant parents except for grievous cause or necessity in which the principle is plainly stated and stressed as more significant than other essential constitutional rights . . . The private interest here, that of a man in the children he has sired and raised, undeniably warrants deference and, absent a powerful countervailing interest, protection. It is plain that the interest of a parent in the companionship, care, custody, and management of his or her children come(s) to this Court with a momentum for respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements . . . It is firmly established . . . that . . . wherever possible, the best interests of a child lie in his being nurtured and guided by both of his natural parents . . . Interference with the relationship between the child and the non-custodial parent is 'an act so inconsistent with the best interest of the child that it raises a strong presumption that the offending parent is unfit to act as custodial parent . . . The custodial parent's anger, hostility and attitude toward the non-custodial parent can substantially interfere with her ability to place the needs of the children before her own in fostering a continued relationship with then on custodial parent . . . Furthermore, the custodial parent's conduct can be so egregious as to warrant a change of custody . . . The fostering of a relationship with the noncustodial parent is an important consideration in a custody determination."

Bennett v. Jeffreys, 40 N.Y.2d 543, 548, 356 N.E.2d 277, 282-83 (1976) Daghirv. Daghir, 92 A.D.2d 191,193,441 N.Y.S.2d 494 (2d Dept, 1981) *Prugh v. Prugh*, 298 A.D.2d 569 (2nd Dept. 2002) *Young v. Young*, 212 A.D.2d 114, 123 (2nd Dept. 1995) *Landau v. Landau*, 214 A.D.2d 541 (2nd Dept. 1995) Matter of *Esterle v. Dellay*, supra, 281 A.D.2d at 726.

"It is firmly established . . . that . . . wherever possible, the best interests of a child lie in his being nurtured and guided by both of his natural parents." *Daghir v. Daghir*, 92 A.D.2d 191,193,441 N.Y.S.2d 494 (2d Dept. 1981).

"Interference with the relationship between the child and the noncustodial parent is 'an act so inconsistent with the best interest of the child that it raises a strong presumption that the offending parent is unfit to act as custodial parent.'" *Prugh v. Prugh*, 298 A.D.2d 569 (2nd Dept. 2002).

"The fostering of a relationship with the noncustodial parent is an important consideration in a custody determination." *Matter of Esterle v. Dellay*, supra, 281 A.D.2d at 726.

"A parent's desire for and right to the companionship, care, custody, and management of his or her children is an important interest that undeniably warrants deference and, absent a powerful countervailing interest, protection. . . [P]arent's interest in accuracy and justice of decision to terminate parental status is an extremely important one." *Lassiter v. Department of Social Services of Durham County, N.C.*, 452 U.S. 18, 101 S.Ct. 2153, 68 L.Ed. 2d 640 (1981).

"The right to be heard is fundamental to our system of justice . . . [and p]arents have an equally fundamental interest in the liberty, care and control of their children." *In re Jung*, 11 N.Y.3d 365 (N.Y., 2008).

"The right of a parent to the custody and control of a minor child is one of our fundamental rights as United States citizens." *Mark N. v. Runaway Homeless Youth Shelter*, 189 Misc. 2d 245, 733 N.Y.S.2d 566 (Fam.Ct. 2001).

3. The due process, rule of law, or any other form of justice cannot exist without neutral principles. The neutrality principle "forbids courts to 'mak[e] law or policy out of whole cloth, [or] . . . to impose substantive judicial judgments on disputes not capable of resolution through the application of neutral principles to sharply defined sets of facts.'" Richard H. Fallon, Jr., *Reflections on the Hart and Wechsler Paradigm*, 47 V and. L. Rev. 953,976 (1994)

4. US Supreme Court Louis Dembitz Brandeis and his law partner, Samuel D. Warren, published an article in the *Harvard Law Review* in December 1890 titled "**The Right to Privacy**." In this article Justice Brandeis wrote

that "to protect Americans in their beliefs, their thoughts, their emotions and their sensations . . . against the Government, the right to be let alone [is] the most comprehensive of rights and the right most valued by civilized men." The DRE is the most violent and intolerable offense on the right to "let alone."

5. "The legitimate powers of government extend to such acts only as are injurious to others. But it does me no injury for my neighbor to say there are twenty gods, or no god. It neither picks my pocket nor breaks my leg." Thomas Jefferson, *Notes on the State of Virginia. Query XVII.* Published in English in London in 1787. Published anonymously in Paris in 1785

6. In late 2019, in two speeches, Attorney General Barr committed resources to keep an eye out for cases in two areas. One is to protect religious liberties. Two is to protect the Constitution and rule law from "leftist ... militant secularists . . . so-called progressive" federal judicial that "seem to take a delight in compelling people to violate their conscience [or acquiesce] . . . [that] eliminate laws that reflect traditional moral norms.

One of the speeches was presented at University of Notre Dame Law School and its Nicola Center for Ethics and Culture. The other was presented in honor of 19th Annual Barbara K. Olson Memorial Lecture at the Federalist Society's 2019 National Lawyers Convention. The excerpts in endnotes from a transcript of Attorney General William P. Barr's "**Notre Dame 2019**" speech posted on the Department of Justice's website under the title of "Attorney General Barr Delivers Remarks to the Law School and the de Nicola Center for Ethics and Culture at the University of Notre Dame, South Bend, IN Friday, October 11, 2019" and from a transcript of Attorney General Barr's "**Federalist Society 2019**" speech posted on the Department of Justice's website under the title of "Attorney General William P. Barr Delivers the 19th Annual Barbara K. Olson Memorial Lecture at the Federalist Society's 2019 National Lawyers Convention Washington, DC Friday, November 15, 2019."

In the Notre Dame speech, "The Attorney General committed to "set up a task force within the Department with different components that have equities in these areas, including the Solicitor General's Office, the Civil Division, the Office of Legal Counsel, and other offices; be involved in regular meetings on these matters, to keep an eye out for cases or events around the country that discriminate against people of faith, or impinge upon the free exercise of religion, and to be vigilant to resist efforts by the forces of secularization to drive religious viewpoints from the public square and to impinge upon the free exercise of our faith." He gave an assurance you that "as long as he is Attorney General, the Department of Justice will be at the forefront of this effort, ready to fight for the most cherished liberties: the freedom to live according to our faith."

Notre Dame 2019. https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-law-school-and-de-nicola-center-ethics

Federalist Society 2019. https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-19th-annual-barbara-k-olson-memorial-lecture

7. In a speech at **Heritage Foundation** on October 2018, former US Attorney General Jefferson B. Sessions delivered "Remarks to the Heritage Foundation on Judicial Encroachment." He remarked that "empathy" is "more akin to emotion, bias, and politics than law" and that "Judicial activism is therefore a threat to our representative government and the liberty it secures. We at the DOJ fight against this heresy relentlessly." The former Attorney General remarked, "In effect, activist advocates want judges who will do for them what they have been unable to achieve at the ballot box. It is fundamentally undemocratic. Too many judges believe it is their right, their duty, to act upon their sympathies and policy preferences."

Heritage Foundation 2018. https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-heritage-foundation-judicial-encroachment

8. Notre Dame 2019. "Men are subject to powerful passions and appetites, and, if unrestrained, are capable of ruthlessly riding roughshod over their neighbors and the community at large. No society can exist without some means for restraining individual rapacity. But, if you rely on the coercive power of government to impose restraints,

this will inevitably lead to a government that is too controlling, and you will end up with no liberty, just tyranny. On the other hand, unless you have some effective restraint, you end up with something equally dangerous – licentiousness – the unbridled pursuit of personal appetites at the expense of the common good. This is just another form of tyranny – where the individual is enslaved by his appetites, and the possibility of any healthy community life crumbles. "In the words of Madison, "We have staked our future on the ability of each of us to govern ourselves . . ." This is really what was meant by "self-government." It did not mean primarily the mechanics by which we select a representative legislative body. It referred to the capacity of each individual to restrain and govern themselves."

The "force, fervor, and comprehensiveness of the assault on religion we are experiencing today. This is not decay; it is organized destruction. Secularists, and their allies among the "progressives," have marshaled all the force of mass communications, popular culture, the entertainment industry, and academia in an unremitting assault on religion and traditional values. These instruments are used not only to affirmatively promote secular orthodoxy, but also drown out and silence opposing voices, and to attack viciously and hold up to ridicule any dissenters. One of the ironies, as some have observed, is that the secular project has itself become a religion, pursued with religious fervor. It is taking on all the trappings of a religion, including inquisitions and excommunication. Those who defy the creed risk a figurative burning at the stake – social, educational, and professional ostracism and exclusion waged through lawsuits and savage social media campaigns . . . today – in the face of all the increasing pathologies – instead of addressing the underlying cause, we have the State in the role of alleviator of bad consequences. We call on the State to mitigate the social costs of personal misconduct and irresponsibility. So[,] the reaction to growing illegitimacy is not sexual responsibility, but abortion. The reaction to drug addiction is safe injection sites. The solution to the breakdown of the family is for the State to set itself up as the ersatz husband for single mothers and the ersatz father to their children. The call comes for more and more social programs to deal with the wreckage. While we think we are solving problems, we are underwriting them. We start with an untrammeled freedom and we end up as dependents of a coercive state on which we depend. Interestingly, this idea of the State as the alleviator of bad consequences has given rise to a new moral system that goes hand-in-hand with the secularization of society. It can be called the system of "macro-morality." It is in some ways an inversion of Christian morality. Christianity teaches a micro-morality. We transform the world by focusing on our own personal morality and transformation. The new secular religion teaches macro-morality. One's morality is not gauged by their private conduct, but rather on their commitment to political causes and collective action to address social problems."

"It is hard to resist the constant seductions of our contemporary society. This is where we need grace, prayer, and the help of our church. Beyond this, we must place greater emphasis on the moral education of our children. Education is not vocational training. It is leading our children to the recognition that there is truth and helping them develop the faculties to discern and love the truth and the discipline to live by it. We cannot have a moral renaissance unless we succeed in passing to the next generation our faith and values in full vigor. The times are hostile to this. Public agencies, including public schools, are becoming secularized and increasingly are actively promoting moral relativism. If ever there was a need for a resurgence of Catholic education – and more generally religiously-affiliated schools – it is today. I think we should do all we can to promote and support authentic Catholic education at all levels. Finally, as lawyers, we should be particularly active in the struggle that is being waged against religion on the legal plane. We must be vigilant to resist efforts by the forces of secularization to drive religious viewpoints from the public square and to impinge upon the free exercise of our faith. I can assure you that, as long as I am Attorney General, the Department of Justice will be at the forefront of this effort, ready to fight for the most cherished of our liberties: the freedom to live according to our faith."

9. Notre Dame 2019. "A third phenomenon which makes it difficult for the pendulum to swing back is the way law is being used as a battering ram to break down traditional moral values and to establish moral relativism as a new orthodoxy. Law is being used as weapon in a couple of ways. First, either through legislation but more frequently through judicial interpretation, secularists have been continually seeking to eliminate laws that reflect traditional moral norms. At first, this involved rolling back laws that prohibited certain kinds of conduct. Thus, the watershed decision legalizing abortion. And since then, the legalization of euthanasia. The list goes on. More recently, we have seen the law used aggressively to force religious people and entities to subscribe to practices and policies that are antithetical to their faith. The problem is not that religion is being forced on others. The problem is that irreligion and secular values are being forced on people of faith. This reminds me of how some Roman emperors could not leave their loyal Christian subjects in peace but would mandate that they violate their conscience by offering religious sacrifice to the

emperor as a god. Similarly, militant secularists today do not have a live and let live spirit - they are not content to leave religious people alone to practice their faith. Instead, they seem to take a delight in compelling people to violate their conscience."

10. Federalist Society 2019. "In any age, the so-called progressives treat politics as their religion. Their holy mission is to use the coercive power of the State to remake man and society in their own image, according to an abstract ideal of perfection. Whatever means they use are therefore justified because, by definition, they are a virtuous people pursing a deific end. They are willing to use any means necessary to gain momentary advantage in achieving their end, regardless of collateral consequences and the systemic implications. They never ask whether the actions they take could be justified as a general rule of conduct, equally applicable to all sides."

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Conservatives, on the other hand, do not seek an earthly paradise. We are interested in preserving over the long run the proper balance of freedom and order necessary for healthy development of natural civil society and individual human flourishing. This means that we naturally test the propriety and wisdom of action under a "rule of law" standard. The essence of this standard is to ask what the overall impact on society over the long run if the action we are taking, or principle we are applying, in a given circumstance was universalized – that is, would it be good for society over the long haul if this was done in all like circumstances?

For these reasons, conservatives tend to have more scruple over their political tactics and rarely feel that the ends justify the means. And this is as it should be, but there is no getting around the fact that this puts conservatives at a disadvantage when facing progressive holy far, especially when doing so under the weight of a hyper-partisan media."

12. Federalist Society 2019. The impact of these judicial intrusions on Executive responsibility have been hugely magnified by another judicial innovation – the nationwide injunction. First used in 1963, and sparely since then until recently, these court orders enjoin enforcement of a policy not just against the parties to a case, but against everyone. Since President Trump took office, district courts have issued over 40 nationwide injunctions against the government. By comparison, during President Obama's first two years, district courts issued a total of two nationwide injunctions against the government. Both were vacated by the Ninth Circuit.

It is no exaggeration to say that virtually every major policy of the Trump Administration has been subjected to immediate freezing by the lower courts. No other President has been subjected to such sustained efforts to debilitate his policy agenda.

The legal flaws underlying nationwide injunctions are myriad. Just to summarize briefly, [1] nationwide injunctions have no foundation in courts' Article III jurisdiction or [2] traditional equitable powers; [3] they radically inflate the role of district judges, [4] allowing any one of more than 600 individuals to singlehandedly freeze a policy nationwide, [5] a power that no single appellate judge or Justice can accomplish; [6] they foreclose percolation and reasoned debate among lower courts, [7] often requiring the Supreme Court to decide complex legal issues in an emergency posture with limited briefing; [8] they enable transparent forum shopping, [9] which saps public confidence in the integrity of the judiciary; and [10] they displace the settled mechanisms for aggregate litigation of genuinely nationwide claims, such as Rule 23 class actions.

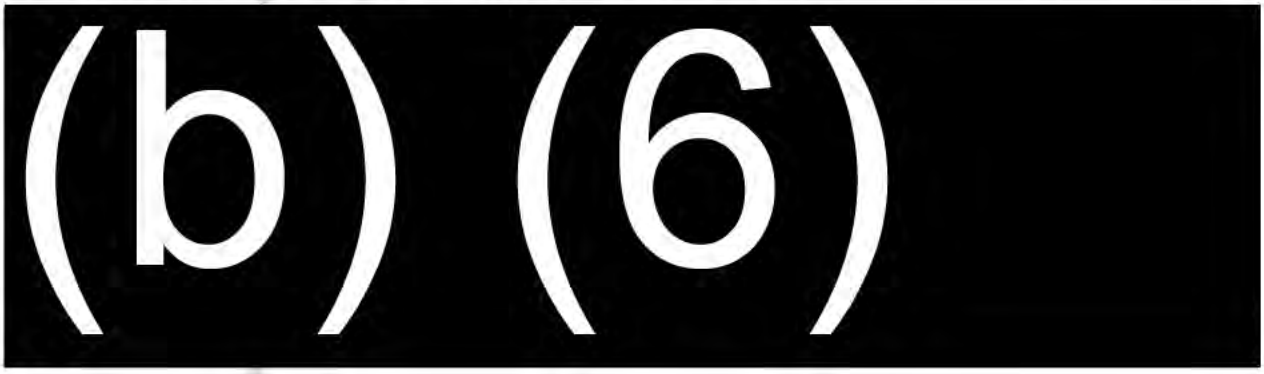
Of particular relevance to my topic tonight, [11] nationwide injunctions also disrupt the political process. There is no better example than the courts' handling of the rescission of DACA. As you recall, DACA was a discretionary policy of enforcement forbearance adopted by President Obama's administration. The Fifth Circuit

concluded that the closely related DAPA policy (along with an expansion of DACA) was unlawful, and the Supreme Court affirmed that decision by an equally divided vote. Given that DACA was *discretionary* -- and that four Justices apparently thought a legally indistinguishable policy was *unlawful* —President Trump's administration understandably decided to rescind DACA.

Importantly, however, the President coupled that rescission with negotiations over legislation that would create a lawful and better alternative as part of a broader immigration compromise. In the middle of those negotiations — indeed, on the same day the President invited cameras into the Cabinet Room to broadcast his negotiations with bipartisan leaders from both Houses of Congress — a district judge in the Northern District of California enjoined the rescission of DACA nationwide. Unsurprisingly, the negotiations over immigration legislation collapsed after one side achieved its preferred outcome through judicial means. A humanitarian crisis at the southern border ensued. And just this week, the Supreme Court finally heard argument on the legality of the DACA rescission. The Court will not likely decide the case until next summer, meaning that President Trump will have spent *almost his entire first term* enforcing President Obama's signature immigration policy, even though that policy is *discretionary* and half the Supreme Court concluded that a legally indistinguishable policy was *unlawful*. That is not how our democratic system is supposed to work.

13. From 1996 to 2000, Mr. Duff was Chief Justice William Rehnquist's administrative assistant, now called "Counselor to the Chief Justice." As such, Duff served as former Chief Justice Rehnquist's liaison with both Congress and state judges. Even more, Mr. Duff served as the executive director of the Judicial Fellows Commission. From July 2006 to September 15, 2011, Duff served as the director of the Administrative Office of the United States Courts. Chief Justice Roberts was reappointed to the position on January 1, 2015. He also served as counselor to the chief justice as the presiding officer of the US Senate's 1999 presidential impeachment trial. In September 2005, Duff was a pallbearer at former Chief Justice Rehnquist's funeral, alongside seven of former Chief Justice Rehnquist's former law clerks. Duff authored a tribute to former Chief Justice Rehnquist in the November 2005 edition of the Harvard Law Review and spoke at the unveiling ceremony for the William H. Rehnquist bust in the Great Hall of the Supreme Court in December 2009. The position is authorized under 28 U.S.C.A Chapter 41. Administrative Office of United States Courts § 601. Creation; Director and Deputy Director: The Administrative Office of the United States Courts shall be maintained at the seat of government. It shall be supervised by a Director and a Deputy Director appointed and subject to removal by the Chief Justice of the United States, after consulting with the Judicial Conference. The Director and Deputy Director shall be deemed to be officers for purposes of title 5, United States Code."

14. On May 15, 2014, the petitioner, commenced an investigation into the administration of US laws that apply to domestic relations in New York State. This investigation, as the Hon. William P. Barr knows, leads to Chief Justice Roberts and his conduct as the presiding judge of the US Judicial Conference. The petitioner is the founder of (b) (6) the nation's only independent research organization dedicated to resolving federal judicial misconduct complaints. He has experience conducting this type of investigation. Following are excerpts for the petitioner's professional biography.



[redacted]

The DRE case has two parts, the court cases and (b) (6) complaints. The courts cases are titled:

(b) (6)

There are five separate actions filed under the "Judicial Council Reform and Judicial Conduct and Disability Act of 1980." These are docketed at the Judicial Council for the Second Circuit and at the US Judicial Conference. The parties in the DRE courts and conduct cases are:

(b) (6) (b) (6)

(b) (6) . (b) (6)

16. Federalist Society 2019. "In the 20th century, our form of free society faced a severe test.There had always been the question whether a democracy so solicitous of individual freedom could stand up against a regimented totalitarian state.

That question was answered with a resounding "yes" as the United States stood up against and defeated, first fascism, and then communism.

But in the 21st century, we face an entirely different kind of challenge.

The challenge we face is precisely what the Founding Fathers foresaw would be our supreme test as a free society.

They never thought the main danger to the republic came from external foes. The central question was whether, over the long haul, we could handle freedom. The question was whether the citizens in such a free society could maintain the moral discipline and virtue necessary for the survival of free institutions.

By and large, the Founding generation's view of human nature was drawn from the classical Christian tradition.

These practical statesmen understood that individuals, while having the potential for great good, also had the capacity for great evil.

Men are subject to powerful passions and appetites, and, if unrestrained, are capable of ruthlessly riding roughshod over their neighbors and the community at large.

No society can exist without some means for restraining individual rapacity.

But, if you rely on the coercive power of government to impose restraints, this will inevitably lead to a government that is too controlling, and you will end up with no liberty, just tyranny"

17. "The [New York City] legal bar is supposed to be a professional group that enforces standards for lawyers, yet it increasingly seems to be one more partisan political outfit. The latest example is the New York City Bar Association's letter to Congress demanding it 'investigate' Attorney General Bill Barr for making conservative political statements."

Among other things, the organization is incensed that Mr. Barr gave a speech at the University of Notre Dame praising "Judeo-Christian values." They say he implicitly rejected other religions and therefore disregarded his obligation to appear unbiased. Apparently without realizing it, the bar is demonstrating the merit of Mr. Barr's argument about the importance of religious liberty. His appreciation for religion's role in society is being used by a professional group as a possible disqualification for public office.

The bar continues with a laundry-list of partisan complaints about Mr. Barr, including his vocal opposition to criminal-justice reform, his summary of the Mueller investigation and his interpretation of the Inspector General's report on the FBI's conduct in the 2016 election."

https://www.nycbar.org/media-listing/media/detail/the-trumped-up-case-of-bar-v-barr-wall-street-journal
Wall Street Journal, January 10, 2020 https://www.wsj.com/articles/the-trumped-up-case-of-bar-v-barr-11578699265

18. On August 12, 2019, Attorney General remarked at the Grand Lodge Fraternal Order of Police's 64th National Biennial Conference on a "the emergence in some of our large cities of District Attorneys that style themselves as "social justice" reformers, who spend their time undercutting the police, letting criminals off the hook, and refusing to enforce the law. These anti-law enforcement DAs have tended to emerge in jurisdictions where the election is largely determined by the primary. Frequently, these candidates ambush an incumbent DA in the primary with misleading campaigns and large infusions of money from outside groups. Once in office, they have been announcing their refusal to enforce broad swathes of the criminal law."

19. "the domestic relations exception to federal jurisdiction **[DRE]** is an archaic, historical remnant that should be overruled by the U.S. Supreme Court, and thus, the Article III federal courts have jurisdiction to hear pure marital status cases despite their domestic nature. We call on the Supreme Court to eliminate the domestic relations exception as to all forms of federal jurisdiction.

Steven G. Calabresi & Genna L. Sinel The Same-Sex Marriage Cases and Federal Jurisdiction: On Third-Party Standing and Why the Domestic Relations Exception to Federal Jurisdiction Should Be Overruled

"The current formulation and application of the domestic relations exception **[DRE]** poses serious problems. From a practical perspective, the domestic relations exception jurisprudence features contradiction, confusion, and inconsistency. From a policy perspective, the domestic relations exception risks foreclosing the invaluable federal forum to family law issues—even fundamental constitutional issues, as in Elk Grove. From the statutory interpretation perspective, the only current, expressly-accepted foundation for the domestic relations exception articulated by the Supreme Court requires people to accept the counterintuitive notion that the unambiguous breadth of the statutory phrase 'all civil actions' should be superseded by Congress's failure to explicitly reject dicta from an 1858 case that provided no reasoning or authority . . ."

Family Law Is Not "Civil": The Faulty Foundation Of The Domestic Relations Exception To Federal Jurisdiction, Joseph Carroll, winner of the First Place, 2017 Howard C. Schwab Memorial Essay.

Applying the exception to bar federal courts **[DRE]** from jurisdiction over bona fide federal questions would violate Article III, which endows federal courts with jurisdiction over all federal-question case in law or equity.

Additionally, the federal-question jurisdiction statute is best read as reflecting a Congressional intent that federal jurisdiction extends to domestic-relations matters that raise questions of federal law. Federal courts have the authority to resolve important and timely questions of federal law. The domestic-relations exception should not be misconstrued to stand in their way."

"Federal Questions and the Domestic-Relations Exception." The Yale Law Journal, Bradley G. Silverman

"Much domestic relations law fails to present a "controversy" within the meaning of Article III; the consensual nature of many status-altering acts (marriage, consensual divorce, adoption) forecloses a federal dispute-resolution role. But when federal courts hear "cases" arising under federal law, they have full power to exercise both contentious and (what Roman and civil lawyers refer to as) non-contentious jurisdiction. Our non-contentious account explains a range of puzzles, including why Article III courts can issue decrees at the core of the domestic relations exception **[DRE]** when the matter at hand implicates federal law."

A Non-Contentious Account Of Article III's Domestic Relations Exception James E. Pfander & Emily K. Damrau Notre Dame Law Review

One may question the continued vitality of the domestic relations exception **[DRE]** given the vast amount of federal court involvement in family law matters. For example, in the recent landmark case Obergefell v. Hodges, the Supreme Court held that same-sex individuals have a fundamental right to marry.11 Moreover, under its Commerce, Full Faith and Credit, and Spending Clause powers, Congress has passed many laws in the area of domestic relations. 12 Of course, being that it is the federal judiciary's "province and duty" to say what the law is,13 federal courts routinely review these laws. Yet despite the large quantity of family law activity in the federal sphere, the domestic relations exception survives, albeit inconsistently applied in federal courts across the country. . . . The diverse inter- and intra-circuit treatment of the domestic relations exception stems from the different weight courts place on the exception's underlying values: stare decisis, federalism, and access to courts. Some federal courts only apply the exception because it has long been a part of precedent; otherwise, they would overrule it. Other courts apply the exception rigorously, concluding that family law matters are properly left to state courts, elevating federalism ideas. Even still, there are courts that recognize and apply the exception, but believe federalism should always take a back seat to a litigant's right to access a federal forum.

Let's Not Throw Out The Baby With The Bathwater: A Uniform Approach To The Domestic Relations Exception Karla M. Doe, Emory Law Journal

"judicial review is necessary as a constitutional guard against state incursions on federal, constitutional rights. Even state regulation of traditionally state matters cannot run afoul of federal, constitutional limits, and this will at least sometimes require the presence of a federal forum to make such determinations. Thus, regardless of the extent of Congress's role in regulating and shaping American families, the federal judicial role in protecting them must remain intact . . . monolithic view of the family as an exclusively local subject is both misguided and unworkable **[DRE]**. Guarding personal autonomy against unwarranted intrusion by the state demands a federal forum to ensure that fundamental rights of the family remain secure. Supporting, empowering, and protecting contemporary families and family members is the joint work of local, state, and federal systems.

Is the Family a Federal Question? Meredith Johnson Harbach Washington and Lee Law Review

20. Chief Justice Roberts has fabricated a set of elaborate unethical DRE policies, decisions and rules without notice, an iota of authority, or legal foundation. These acts are a blatantly illegal abrogation of all the most important US citizens' constitutional and legal rights. In fact, Chief Justice Roberts's concealed DRE plans and standards are a violation of the first and most important law governing the chief justice's conduct: Title 28, Chapter 131, USC §2072(b) that specifically prohibits federal judges from creating or implementing policies or rules that "abridge, enlarge or modify any substantive right."

"'[T]he domestic-relations exception **[DRE]** encompasses only cases involving the issuance of a divorce, alimony, or child custody decree.' *Ankenbrandt*, 504 U.S. at 704, 112 S.Ct. 2206 ***not*** federal civil rights claims under

fundamental liberty, due process or the right to be free from judicial fraud and manufactured crimes. It is not 'compelled by the text of the Constitution or federal statute' but is rather a 'judicially created doctrine' . . . stemming in large measure from ***misty understandings of English legal history***." *Marshall*, 547 U.S. at 299, 126 S.Ct. 1735. [Emphasis added by author]. *Chevalier v. Estate of Barnhart*, 803 F.3d 789, 794 (6th Cir. 2015).

In the 5–4 split opinion of *Barber v. Barber*, the dissent strongly contested, that "[i]t is not in accordance with the design and operation of a [state] Government . . . [to] assume to regulate the domestic relations of society . . [to take an] inquisitorial authority, [to] enter the habitations and even into the chambers and nurseries of private families, and inquire into and pronounce upon the morals and habits and affections or antipathies of the members of every household. . . . [This is the case] whether [a statute] expressly conferred upon the State courts, or [is] tacitly assumed by them, [and] their example and practice cannot be recognized as sources of authority by the courts of the United States. The origin and the extent of their jurisdiction must be sought in the laws of the United States." See *Barber v. Barber*, 62 US 582 (1858).

In *Cohens v. Virginia*, Chief Justice Marshall famously cautioned: "'It is most true that this Court will not take jurisdiction if it should not: but it is equally true, that it must take jurisdiction if it should... We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given.'" 6 *Wheat* 264, 404, 5 L.Ed. 257 (1821). "**Among longstanding limitations on federal jurisdiction [DRE] otherwise properly exercised are the so-called "domestic relations" and "probate" exceptions. Neither is compelled by the text of the Constitution or federal statute. Both are judicially created doctrines stemming in large measure from misty understandings of English legal history.** See, *e.g., Atwood, Domestic Relations Case in Federal Court: Toward a Principled Exercise of Jurisdiction*, 35 Hastings L.J. 571, 584–588 (1984); *Spindel v. Spindel*, 283 F.Supp. 797, 802 (E.D.N.Y.1968) (collecting case and commentary revealing vulnerability of historical explanation for domestic relations exception); Winkler, The Probate Jurisdiction of the Federal Courts, 14 Probate L.J. 77, 125–126, and n. 256 (1997) (describing historical explanation for probate exception as 'an exercise in mythography'"). "In the years following Marshall's 1821 pronouncement, **courts have sometimes lost sight of his admonition and have rendered decisions expansively interpreting the two exceptions**. In *Ankenbrandt v. Richards*, 504 U.S. 689, 112 S.Ct. 2206, 119 L.Ed.2d 468 (1992), this Court reined in the 'domestic relations exception.' Earlier, in *Markham v. Allen*, 326 U.S. 490, 66 S.Ct. 296, 90 L.Ed. 256 (1946), the Court endeavored similarly to curtail the 'probate exception.'" *Marshall v. Marshall*, 547 U.S. 293, 298–99, 126 S. Ct. 1735, 1741, 164 L. Ed. 2d 480 (2006).

21. The DRE violates Article III of the US Constitution established Americans' access to US judicial power; First Amendment's prohibition of laws on the exercise of religious beliefs and that protects freedom of speech and the right to petition the Government for a redress of grievances; the Due Process Clause of the Fifth Amendment, and the Equal Protection Clause of the Fourteenth Amendment, and the Tenth Amendment limits the federal government to powers granted in the US Constitution and reserves all other power to the States and the people.

https://www.archives.gov/founding-docs/bill-of-rights-transcript#toc-amendment-i

22. "Had not the Roman government permitted free enquiry; Christianity could never have been introduced. Had not free enquiry been indulged, at the area of the reformation, the corruptions of Christianity could not have been purged away. If it be restrained now, the present corruptions will be protected, and new ones encouraged. Galileo was sent to the inquisition for affirming that the earth was a sphere: the government had declared it to be as flat as a trencher, and Galileo was obliged to abjure his error. This error however at length prevailed, the earth became a globe, and Descartes declared it was whirled round its axis by a vortex. The government in which he lived was wise enough to see that this was no question of civil jurisdiction, or we should all have been involved by authority in vortices. In fact, the vortices have been exploded, and the Newtonian principle of gravitation is now more firmly established, on the basis of reason, than it would be were the government to step in, and to make it an article of necessary faith. Reason and experiment have been indulged, and error has fled before them. **It is error alone which needs the support of government. Truth can stand by itself. Subject opinion to coercion: whom will you make your inquisitors**."

Thomas Jefferson, *Notes on the State of Virginia. Query XVII Published* in English in London in 1787. Published anonymously in Paris in 1785.

23. *In re Michael,* all "perjured relevant testimony is at war with justice, since it may produce a judgment not resting on truth. Therefore, it cannot be denied that it tends to defeat the sole ultimate objective of a trial." *re* Michael, 326 U.S. 224, 227 (1945). Perjury is defined as "deliberately making false or misleading statements while under oath." BLACK'S LAW DICTIONARY 1175 (8th ed. 2004).

[24]. "We hold here that the right to a speedy trial is as fundamental as any of the rights secured by the Sixth Amendment. That right has its roots at the very foundation of our English law heritage. Its first articulation in modern jurisprudence appears to have been made in **Magna Carta** (1215), wherein it was written, 'We will sell to no man, we will not deny or defer to any man either justice or right'; but evidence of recognition of the right to speedy justice in even earlier times is found in the **Assize of Clarendon** (1166)." *Klopfer* v. *State of N.C.*, 386 U.S. 213, 223, 87 S.Ct. 988, 993, 18 L.Ed. 2d 1 (1967).

("And when a robber or murderer or thief or receiver of them has been arrested through the aforesaid oath, if the justices are not about to come speedily enough into the country where they have been taken, let the sheriffs send word to the nearest justice by some well-informed person that they have arrested such men, and the justices shall send back word to the sheriffs informing them where they desire the men to be brought before them; and let the sheriffs bring them before the justices." English Historical Documents 408 [1953]).

25. Federalist Society 2019. "In any age, the so-called progressives treat politics as their religion. Their holy mission is to use the coercive power of the State to remake man and society in their own image, according to an abstract ideal of perfection. Whatever means they use are therefore justified because, by definition, they are a virtuous people pursing a deific end. They are willing to use any means necessary to gain momentary advantage in achieving their end, regardless of collateral consequences and the systemic implications. They never ask whether the actions they take could be justified as a general rule of conduct, equally applicable to all sides.

Conservatives, on the other hand, do not seek an earthly paradise. We are interested in preserving over the long run the proper balance of freedom and order necessary for healthy development of natural civil society and individual human flourishing. This means that we naturally test the propriety and wisdom of action under a "rule of law" standard. The essence of this standard is to ask what the overall impact on society over the long run if the action we are taking, or principle we are applying, in a given circumstance was universalized – that is, would it be good for society over the long haul if this was done in all like circumstances?

For these reasons, conservatives tend to have more scruple over their political tactics and rarely feel that the ends justify the means. And this is as it should be, but there is no getting around the fact that this puts conservatives at a disadvantage when facing progressive holy far, especially when doing so under the weight of a hyper-partisan media."

26. Under the Judicial Council Reform and Judicial Conduct and Disability Act of 1980 (Act) (Title 28 of the US Code Chapter 16 §§ 351-364) the chief justice acting as the presiding judge of the US Judicial Conference controls the nation's policing, prosecution and punishment of criminal, fraudulent, malicious and unethical judicial conduct in federal court. The follow are the sections in the Act that govern the adjudication of complaints.

U.S. Code CHAPTER 16 (§§ 351-364)—COMPLAINTS AGAINST JUDGES AND JUDICIAL DISCIPLINE

§ 351.Complaints; judge defined

(a) Filing of Complaint by Any Person.—Any person alleging that a judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such judge is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

§ 352. Review of complaint by chief judge

(a) (intentionally left blank)

(b) (intentionally left blank)

(c) Review of Orders of Chief Judge. A complainant or judge aggrieved by a final order of the chief judge under this section may petition the judicial council of the circuit for review thereof. The denial of a petition for review of the chief judge's order shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

§ 357. Review of orders and actions

(a) Review of Action of Judicial Council. A complainant or judge aggrieved by an action of the judicial council under section 354 may petition the Judicial Conference of the United States for review thereof.

(b) Action of Judicial Conference. The Judicial Conference, or the standing committee established under section 331 [of USC, Title 28, Chapter 15, "Conferences and Councils of Judges," §§331-335] may grant a petition filed by a complainant or judge under subsection (a).

(c) No Judicial Review. Except as expressly provided in this section and section 352(c), all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

27. As President James Carter wrote in his 1980 signing statement that enacted the Conduct Act: *"Judges are human and experience has shown that if only the massive machinery of impeachment is available, some valid complaints will not be remedied"* and that the American people must be assured that a complaint filed under the Conduct Act's *"system will receive fair and serious attention throughout the process."* Notably, the federal judges took 28 years (until 2008) to finally create the system.

Weekly Compilation of Presidential Documents, vol. 16, no. 42, Oct. 15, 1980, pp. 2239–2240.

28. "[T]he notion that by confining the Rules to matters of 'procedure,' as the Rules Enabling Act of 1934 directed, one could somehow prevent them from having important and controversial socio-economic and political consequences outside the courtroom is **absurd** . . . it is perhaps unreasonable anachronistically to superimpose on the Congressional drafters a sophisticated understanding of how procedural choices may impact substantive policies." [Emphasis added by author.] See 356 U.S. 525, 549 (1958) (Whittaker, J., concurring in part and dissenting in part.) ("The words 'substantive' and 'procedural' are mere conceptual labels and in no sense talismanic.") and 304 U.S. 64, 91–92 (1938) (Reed, J., concurring) ("The line between procedural and substantive law is hazy ...").

The Rules Enabling Act is intended to preserve Congress' legislative power. In *The Supreme Court, The Rules Enabling Act, and the Politicization of the Federal Rules: Constitutional and Statutory Implications*, 90 MINN. L. REV. 1303, 1307–08, 1326 (2006), author Martin H. Redish wrote: "The reasoning appears to have been that where the Court merely promulgates rules of 'procedure,' it is not overstepping its constitutionally limited bounds because procedure is, by definition, internal to the operation of the judiciary; it has no impact outside the four walls of the courthouse. We now know—and probably should have known at the time of the Act's passage—that this is **political nonsense**. In numerous instances, procedural choices inevitably—and often **intentionally—impact the scope of substantive political choices**. This recognition should logically raise a concern that the Act unconstitutionally vests in the Supreme Court power that is reserved, in a constitutional democracy, for those who are representative of and accountable to the electorate."

Karen Nelson Moore, *The Supreme Court's Role in Interpreting the Federal Rules of Civil Procedure*, 44 HASTINGS L.J. 1039, 1043 (1993) ("[C]ommentators have placed recent emphasis on the relationship between Congress and the Court in the rulemaking process as the source of the restriction against affecting substantive rights."); Martin H. Redish, *The Supreme Court, The Rules Enabling Act, and the Politicization of the Federal Rules: Constitutional and Statutory Implications*, 90 MINN. L. REV. 1303, 1307–08, 1326 (2006) **("arguing that current rulemaking oversteps constitutional bounds because the committee produces substantive rules and proposing that rules falling into a 'non-housekeeping' category of procedural rules or that 'are found to implicate significant economic, social, or political dispute(s)' should require Congressional and presidential approval")**; Stephen B. Burbank, *Ignorance and Procedural Law Reform: A Call for a Moratorium*, 59 BROOK. L. REV. 841, 841–42 (1993) ("arguing that the rulemaking process should rely more heavily on empiricism and called for a moratorium on rulemaking pending further study"); Linda S. Mullenix, *Hope Over Experience: Mandatory Informal Discovery and the Politics of Rulemaking*, 69 N.C. L. REV. 795 (1991) ("arguing that the discovery proposals lacked empirical foundation and calling for reform of the rulemaking process"); Laurens Walker, *A Comprehensive Reform for Federal Civil Rulemaking*, 61 GEO. WASH. L. REV. 455, 481 (1993) ("arguing for a limit on the Committee's discretion to be accomplished through a set of administrative agency-like guidelines"); Marc S. Galanter, *The Vanishing Trial: An Examination of Trials and Related Matters in Federal and State Courts*, 1 J. EMPIRICAL LEGAL STUD. 459, 491 (2004); Professor Richard L. Marcus has noted, we have a "litigation machine that often seems indifferent to the merits." Richard L. Marcus, Of Babies and Bathwater: The Prospects for Procedural Progress, 59 BROOK. L. REV. 761, 766 (1993).

Sarah Staszak, "The Administrative Role of the Chief Justice: Law, Politics, and Procedure in the Roberts Court Era." *Laws* (ISSN 2075-471X), a peer-reviewed journal of legal systems, theory, and institutions, published quarterly online by MDPI: "The Chief Justice of the Supreme Court plays a critical role in shaping national politics and public policy. While political scientists tend to focus on the ways in which the chief affects the Court's jurisprudence, **relatively little attention has been devoted to the unique administrative aspects of the position that allow for strategic influence over political and legal outcomes**. This article examines the role of the chief justice as the head of the Judicial Conference, which is the primary policy making body for federal courts in the United States." https://www.mdpi.com/2075-471X/7/2/15/htm

Dawn M. Chutkow, "The Chief Justice as Executive: Judicial Conference Committee Appointments," *Journal of Law and Courts* 2, no. 2 (2014): 301–25. doi:10.1086/677172: "This article is the first comprehensive empirical study of chief justice appointments to the Judicial Conference committees of the US Courts, entities with influence over substantive public and legal policy. Using a newly created database of all judges appointed to serve on Judicial Conference committees between 1986 and 2012, the results indicate that a judge's partisan alignment with the chief justice matters, as do personal characteristics such as race, experience on the bench, and court level. **These results support claims that Judicial Conference committee selection, membership, and participation may present a vehicle for advancing the chief justice's individual political and policy interests."** https://www.jstor.org/stable/10.1086/677172?seq=1#page_scan_tab_contents

[29]. "extreme vigilance against **treading on contested fact issues or mixed questions of law and fact-even arguable ones-reserving them for evidentiary hearings** . . . [u]nless the parties settled, disputes regarding intent, state-of-mind, and credibility were virtually always tried, often before a jury."

Paul W. Mollica, Federal Summary Judgment at High Tide, 84 MARQ. L. REV. 141,147 (2000)

"A well-chronicled, decades-long effort ultimately led to the passage of the Rules Enabling Act of 1934 . . . The Federal Rules of Civil Procedure became law four years later . . . "the drafters of the Federal Rules wanted cases to be **resolved on the merits**" . . . those "core values of [federal] rules have **been eviscerated by judicial decisions, interred by antipathy, and eulogized** by none other than Wright and Miller" . . . **"Federal Rules were premised on the notion that, once the parties learned the relevant facts, cases would either settle or go to trial.**"

Stephen N. Subrin & Thomas O. Main, The Fourth Era of American Civil Procedure, 162 U. PA. L. REV. 1839 (2014)

"In 1951, the median time from filing to disposition for tried cases was 12.2 months. In 1962, that number was sixteen months. Since 1990, the median time to disposition for all terminated cases is only seven to eight months.

But as of 2012, the median time from filing to disposition remains twenty-three months in those cases where there is a trial, which, of course, these days are only one percent of all cases."

Harold Hongju Koh, The Just, Speedy, and Inexpensive Determination of Every Action? Yale Law School Faculty Scholarship (2014)

30. It was Sir John Emerich Edward Dalberg-Alton, (January 10, 1834–June 19, 1902), who in 1887 wrote that **"power corrupts, and absolute power corrupts absolutely."** He also wrote that "there is no worse heresy than that the office sanctifies the holder of it." He was referring to the medieval popes that instituted a special tribunal with special functionaries, elaborating special laws that were developed, applied, and protected by sanction, both spiritual and temporal. They used this system to inflict penalties of death and damnation on everybody who resisted.

It was in the "Letters to Bishop Mandell Creighton, the first Dixie Professorship of Ecclesiastical History of the University of Cambridge" where Sir Acton wrote about "the popes of the thirteenth and fourteenth centuries, from Innocent III down to the time of Hus. These men instituted a system of Persecution, with a special tribunal, special functionaries, special laws. They carefully elaborated, and developed, and applied it. They protected it with every sanction, spiritual and temporal. They inflicted, as far as they could, the penalties of death and damnation on everybody who resisted it. They constructed quite a new system of procedure, with unheard of cruelties, for its maintenance. They devoted to it a whole code of legislation, pursued for several generations."

In 1858, twenty-nine years before Sir Dalberg-Alton penned his most famous words, the US Supreme Court ruled that government must not "assume to regulate domestic relations of society." It spoke of this type of regulation as an "inquisitorial authority." The Court added that a state cannot give its judges any authority over its citizens' "morals and habits and affections or antipathies" without seeking the authority of the United States.

"Lord Acton was among the most illustrious historians of nineteenth-century England, a man of great learning with a deep devotion to individual liberty and a profound understanding of history."
https://www.libertyfund.org/people/acton-john-emerich-edward-dalberg

31. **Title 28 Chapter 16 U.S. Code § 355. Action by Judicial Conference.**

(a) In General.

Upon referral or certification of any matter under section 354(b), the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in section 354(a)(1)(C) and (2), as it considers appropriate.

(b) If Impeachment Warranted.

(1) In general.

If the Judicial Conference concurs in the determination of the judicial council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary. Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination.

(2) In case of felony conviction.

If a judge has been convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the **Judicial Conference may**, by majority vote and without referral or certification under section

U.S. Department of Justice

Office of Professional Responsibility

950 Pennsylvania Avenue, N.W., Suite 3266
Washington, D.C. 20530

FEB 03 2020

(b) (6)

Dear (b) (6)

This is in response to your letter to Attorney General William P. Barr, dated January 21, 2020, in which you complained that Attorney General Barr has failed to file judicial misconduct complaints against Chief Justice John Roberts and other federal judges. Because your letter referenced potential misconduct by the Attorney General, it was referred to this office for review.

The Office of Professional Responsibility (OPR) has jurisdiction to investigate allegations of professional misconduct involving Department of Justice attorneys that relate to the exercise of an attorney's authority to investigate, litigate, or provide legal advice. The Attorney General has wide discretion to initiate or decline investigations or to file complaints against federal judges. Generally, OPR does not investigate the exercise of that discretion. We have carefully reviewed your letter and accompanying materials, and we have concluded that no action by this office is warranted.

We regret that we can be of no further assistance to you.

Sincerely,

Jeffrey R. Ragsdale
Acting Director and Chief Counsel

U.S. Department of Justice

Office of Professional Responsibility

950 Pennsylvania Avenue, N.W., Suite 3266
Washington, D.C. 20530

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Sincerely,

Jeffrey R. Ragsdale
Acting Director and Chief Counsel

Department of Justice
CITIZEN MAIL
CONTROL SHEET

DATE OF DOCUMENT: 1/21/2020 **WORKFLOW ID:** 4381289
DATE RECEIVED: 1/27/2020 **DUE DATE:** 5/19/2020

FROM: (b) (6)

TO: AG

MAIL TYPE: Citizen

ACTION TO: OPR

SUBJECT:

CRT C

(b) (6)

January 21, 2020

The Honorable William Pelham Barr
Attorney General of the United States
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

PETITION TO INVESTIGATE
CHIEF JUSTICE ROBERTS'S "DRE"[1] COVER-UP

The Hon. John G. Roberts, Jr., is engaged in a cover-up of federal judicial misconduct complaints filed in the petitioner's New York State civil rights case. Chief Justice Roberts is attempting to cover up his leadership role in fabricating federal family law policies at the US Judicial Conference as its presiding judge. These nationwide policies are concealed and unauthorized. In New York State, the policies are allowing state judges to coerce Americans who hold conservative political and traditional religious beliefs in order to impose their politics, militant secularization, and so-called "progressive" reforms in their families.[2]

Dear Hon. Attorney General Barr:

1. Charles Tilly described a way to measure democracy.[3] He gauged it by measuring the "political relations between the state and its citizens." He focused on features that determined if the relation was "broad, equal, [and] protected," and if it relied on "mutually binding consultations." By these measures, the position of the presiding judge at the US Judicial Conference held by the Hon. John G. Roberts, Jr. is by far the least democratic, and most dangerous, of any in the US government. Chief Justice Roberts is using this strange position to fabricate family law policies nationwide. He is also using this unknown position to engage in a coverup. Why the coverup? Chief Justice Roberts fabricated his family law policies without notice or authority. Also, his policies allow the use of federal judicial misconduct and usurp Americans unassailable liberties and freedoms.

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1. The so-called "domestic relations [and violence] exception ("DRE") to federal subject matter jurisdiction."

2. In his speech at the University of Notre Dame Law School's Nicola Center for Ethics and Culture, US Attorney General Barr announced that he had established a task force within the Department of Justice to "keep an eye out for cases" involving freedom to live according to religious beliefs and to deploy the Department's resources to defend individuals that resist efforts by the forces of secularization to drive religious viewpoints from the public square.

3. Tilly, C. (2007), Democracy, Cambridge: Cambridge University Press

2. These unassailable liberties and freedoms are rights that government cannot legitimately regulate *"at all, no matter what process is provided"* **[Note 1]**. *These are liberties* that have been ruled to be "*far more precious than property rights*" **[Note 2]**. These are liberties *with which neither public power nor majoritarian views can interfere*—these are liberties that cannot be codified under neutral principles.[4] Thus, neither judges nor legitimate law can govern them **[Note 3]**. They are sacred private privileges **[Note 4]** that belong exclusively to individual Americans that are far beyond the legitimate powers of government to regulate **[Note 5]**.

3. The Hon. US Attorney General William P. Barr **[Note 6]** has identified organized federal judicial misconduct the primary threat to Americans' liberty and America's constitutional democracy.[5] Former US Attorney General Jefferson B. Sessions remarked that "Judicial activism is . . . a threat to our representative government and the liberty it secures." **[Note 7]**

4. Attorney General Barr has explicitly remarked that organized federal judicial misconduct leads to government with "no liberty, just tyranny," **[Note 8]** and that "free government was only suitable and sustainable for a religious people—a people who recognized that there was a transcendent moral order antecedent to both the state and man-made law and who had the discipline to control themselves according to those enduring principles." Attorney General Barr remarked on federal judges who use the law as a "battering ram to break down traditional moral values and to establish moral relativism as a new orthodoxy" and who "take a delight in compelling people to violate their conscience" **[Note 9]**. Federal judges claim to be on a "holy mission" to excuse their deliberate lawbreaking by claiming to be "virtuous people pursing a deific end" **[Note 10]**. Attorney General Barr remarked on how federal judges he identified as "so-called progressives" treat politics as their religion—how they claim to be on a holy mission; how they use their political offices to coerce Americans to accept their political nonsense as if it were a legitimate authority over private liberties, morality, and codes of conduct; and how they have justified their official misconduct by believing they are "virtuous people pursuing a deific end" **[Note 11]**. .

5. In the Federalist Society speech, Attorney General Barr remarked on the 40 nationwide injunctions **[Note 12]** against the present administration's presidential executive orders. He listed 11 so called "legal flaws" that are unmistakable evidence of deliberate and malicious federal judicial misconduct. A review of the issuance of an order to depose the US Secretary of Commerce in the *State of New York et al. v. United States Department of Commerce et al.* case also provides straightforward evidence of federal judicial misconduct. Yet Attorney General Barr has commented on Chief Justice Roberts's responsibility, or filed, and perhaps not considered filing, judicial conduct complaints against any of the judges. In fact, Attorney General Barr did not

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[4]. The neutrality principle "forbids courts to 'mak[e] law or policy out of whole cloth, [or] . . . to impose substantive judicial judgments on disputes not capable of resolution through the application of neutral principles to sharply defined sets of facts.'" Richard H. Fallon, Jr., *Reflections on the Hart and Wechsler Paradigm*, 47 V and. L. Rev. 953,976 (1994).

5. Most recently in Attorney General Barr's 2019 speeches at the Federalist Society on deliberate and malicious judicial misconduct and at Notre Dame University on militant secularization and religious freedom, and at the *Wall Street Journal* CEO Council on December 10, 2019 on the Mueller investigation's use of criminal law for political purposes.

mention Chief Justice Roberts at all. Chief Justice Roberts is responsible for regulating federal judicial misconduct and who has absolute control over US Court policies and the rules that govern federal judicial misconduct in his speeches.

6. The evidence shows Chief Justice Roberts has tampered with complaints, witnesses, and evidence and aided and abetted in a cover-up[6] of collusion between the Hon. Robert Allen Katzmann (Chief Judge of the US Court of Appeals for the Second Circuit and the Judicial Council for the Second Circuit), the Hon. Colleen McMahon (Chief Judge of the Sothern District of New York), and the New York State defendants, as well as in the fabrication of fictitious official proceedings and documents in the DRE case. The evidence also concerns Chief Justice Roberts's use of the Hon. Anthony J. Scirica (Chair of the US Judicial Conduct Committee) and James C. Duff (Director of the Administrative Office of the US Courts) **[Note 13]** to execute his coverup.

7. This is a petition for Attorney General Barr to open an investigation into Chief Justice Roberts's deliberate misconduct in the petitioner's **[Note 14]** DRE civil rights and judicial conduct cases **[Note 15]**. The DRE case is a serious and genuine nationwide matter. Attorney General Barr is familiar and comfortable with the problem that underlies this petition, as he marked in the Federalist Society speech, "By and large, the Founding generation's view of human nature was drawn from the classical Christian tradition. These practical statesmen understood that individuals, while having the potential for great good, also had the capacity for great evil. Men are subject to powerful passions and appetites, and, if unrestrained, are capable of ruthlessly riding roughshod over their neighbors and the community at large. No society can exist without some means for restraining individual rapacity. But, if you rely on the coercive power of government to impose restraints, this will inevitably lead to a government that is too controlling, and you will end up with no liberty, just tyranny" **[Note 16].** As Attorney General Barr knows, the only single US official "with unrestrained [capacity to] ruthlessly rid[e] roughshod over [his] neighbors and the community at large" is Chief Justice Roberts, not the president or Congress. It is the chief justice acting as the president judge of the US Judicial Conference.

8. The first step is to clarify Attorney General Barr's policy towards law enforcement on use of the position of presiding judge of the US Judicial Conference as Chief Justice Roberts is using that position in the DRE case.

ATTORNEY GENERAL BARR'S POLICIES TOWARD ORGANIZED FEDERAL JUDICIAL MISCONDUCT

9. This petition concerns Chief Justice Roberts's misconduct aimed at allowing New York federal judges in the Southern District of New York and the Second Circuit to protect New York State's policy of manufacturing so-called "domestic violence" crimes as a family law scheme. This policy allows the fabrication of so-called "interim" fees and parenting suspensions. The policy aims to coerce New Yorkers into accepting so-called "progressive" religious and political reforms. This multilayering of unauthorized policies creates income streams for the members of the New York City Bar Association. The policies also advance New York State's political interests. An

6. There are documents that prove Chief Justice Roberts deliberately violated Title 28 of the US Code Chapter 16 §§ 359 and 455(b) (iii) as part of his cover-up.

example is the New York City Bar Association's militant campaign to impeach and investigate Attorney General Barr "for making conservative political statements" **[Note 17]**. Meanwhile, every member the NYC Bar Association that practices in family court uses and benefits from these concealed and unauthorized policies.

10. Speaking at the *Wall Street Journal* CEO Council on December 10, 2019, Attorney General Barr remarked on the "use of the criminal law process as a political weapon." In the speeches referenced above, Attorney General Barr remarked on large city "District Attorneys who style themselves as 'social justice' reformers." **[Note 18]** The manufacturing of criminal indictments as a "social justice" reform policy is the primary issue underlying this petition.

11. Point 9 of Attorney General Barr's 11 points in Note 4 remarks on the damage to "public confidence in the integrity of the judiciary" caused by evidence of federal judicial misconduct in the nationwide injunction matter.

12. Chief Justice Roberts is the presiding judge in the presidential impeachment trial. Chief Justice Roberts sits in that position comfortably understanding the seriousness of the DRE case and knowing that evidence exists showing he is leading a cover-up to protect himself from scandal in the nationwide DRE case.

13. Thus, in support of this petition, the petitioner is requesting that Attorney General Barr disclose his policy on enforcing the law in cases of deliberate and malicious federal judicial misconduct. The petitioner makes this request in a separate petition filed on this day, titled, *"US Attorney General's Policies toward the DRE and Organized Federal Judicial Misconduct."*

CHIEF JUSTICE ROBERTS'S UNDENIABLE MOTIVE FOR ENGAGING IN A COVER-UP

14. The petitioner's case is against Chief Justice Roberts's unauthorized use of the so-called "*domestic relations [and domestic violence] exception [DRE] to federal subject matter jurisdiction*" in US courts (the DRE case). The DRE lacks any foundation in the Constitution **[Note 19]** or law **[Note 20]**. Further, the DRE is an unauthorized denial of Americans' Article III constitutional rights to access US judicial power to protect their rights under the First, Fifth, and Tenth Amendments **[Note 21]**.

15. Inexorable evidence proves that Chief Justice Roberts is promulgating the false predication that the DRE *is a legitimate judicial doctrine of deference to federalism in family law* as an excuse to deny all Americans access to federal justice. Furthermore, Chief Justice Roberts is purposefully doing this so that states can assert jurisdiction and govern religious and political beliefs, and unassailable liberties and freedoms.

16. As Thomas Jefferson wrote, it is only free enquiry that leads to the truth, and only error that needs the support of government **[Note 22]**. Chief Justice Roberts knows that an enquiry into his conduct will reveal the gravity of his misconduct. Thus, he has chosen to close off enquiry by engaging in a cover-up of the judicial conduct complaints. Chief Justice Roberts's cover-up of evidence in judicial conduct proceedings is at war with justice and defeats the sole purpose of a

trial court and is a perjurious violation of the oath of his office **[Note 23]**.

17. By allowing states to interfere with unassailable liberties and freedoms, and denying Americans the right to access federal justice to defend themselves against the states and *any form of questioning or enquiry whatsoever*, Chief Justice Roberts is *eliminating basic human rights* in America. These are rights dating back to the Assize of Clarendon Act of 1166 and the Magna Carta of 1215. The spirit of the Assize of Clarendon Act and the Magna Carta is incorporated into America's laws **[Note 24]**.

18. The evidence shows that Chief Justice Roberts has been sanctioning and protecting so-called "progressive" policies. In Attorney General Barr's own words, this suggests that Chief Justice Roberts is the leader of the "holy mission . . . to use the coercive power of the State to remake man and society." The policies mean that "whatever means they use are therefore justified because, by definition, [Chief Justice Roberts and Judges Katzmann, McMahon, and Scirica] are a virtuous people pursing a deific end."

19. Therefore, it is Chief Roberts that is allowing New York State (and states nationwide) to use of the criminal law process as a political weapon in family court. The DRE case exposed these policies that are concealed and unauthorized. The policies are aimed at interfering with the above-mentioned freedom and liberty of Americans who have done no wrong, violated no law, nor imposed themselves on any other person's rights—all in order to "reform" these Americans—in New York State according to so-called "progressive" policies domiciled. By definition, it is Chief Justice Roberts who sanctions the so-called "ends justify the means" federal judicial misconduct This is cited in Attorney General Barr's Federalist Society speech **[Note 25]**.

20. The evidence shows Chief Justice Roberts is using his control of the US Judicial Conference to allow New York's federal judges and state judges—county district attorneys who are self-styled "social justice" reformers—to fabricate illegal processes that include (a) the manufacturing of domestic relations violence charges that do not and cannot exist under New York State's Penal Code (b) using these charges in family courts to manufacture so-called "interim" parenting suspension and supervision orders without authority or stated cause because they cannot be codified under the neutrality principle, (c) manufacturing fee orders in favor of political appointees[7] that are summarily collected by unauthorized contempt orders, and (d) the manufacturing of so-called "interim" parenting suspension and supervision orders. In New York State, these so-called "interim" orders are made unreviewable under the law to further coerce Americans to surrender their liberties. This is all done without an iota of legitimate state purpose under the cover of Chief Justice Roberts's DRE policies.

CHIEF JUSTICE ROBERTS'S IMPERMISSIBLE ABSOLUTE CONTROL OF ORGANIZED FEDERAL JUDICIAL MISCONDUCT

21. The source of the problem is Chief Justice Roberts's absolute control over federal judicial

7. These are private parties who are forced upon families without respecting the parents' cultural, religious, and political beliefs and without any representation or control. In New York State, particularly New York City, these are allies of the present city administration, which appoints all state judges in family court in the city's five counties.

misconduct. This includes absolute control over his own misconduct, which allows Chief Justice Roberts to privately fabricate DRE rules at the US Judicial Conference. These rules protect state defendants—such as New York State in the petitioner's DRE case.

22. As shown in **Note 6**, the DRE case has two parts: (a) the US court cases and federal judicial conduct complaints that deal with Chief Justice Roberts's tampering with witnesses and evidence and (b) the cover-up of these judicial conduct complaints and court cases.

23. The DRE complaints are filed under the "Judicial Council Reform and Judicial Conduct and Disability Act" of 1980 (US Code, Title 28 Judiciary and Judicial Procedure, Part I: Organization of Courts, Chapter 16, titled "Complaints against Judges and Judicial Discipline" [§§ 351–364]; hereafter **Conduct Act**) **[Note 26].** The Conduct Act states that any person may file a complaint alleging that a federal judge has engaged in conduct prejudicial to the effective and expeditious administration of justice.

24. The intent of Congress and President James E. Carter (in signing the Conduct Act) was for the American people to an absolute, simple and effective recourse against federal judicial misconduct **[Note 27]**. Further, the Conferences and Councils of Judges Law[8] (**Council Act**) establishes that the presiding judge of the US Judicial Conference is the Chief Justice of the US Supreme Court, Chief Justice Roberts, and grants him exclusive jurisdiction over the Conduct Act.

25. As the presiding judge of the US Judicial Conference, Chief Justice Roberts not only controls the Conduct and Council Acts but also controls the administration of the "Rules Enabling Act of 1934" (US Code [USC] Title 28 §§2071 to §2077 [**Rules Act**]) and the Federal Rules of Civil Procedure (**FRCP**). This is how Chief Justice Roberts operates the enforcement machine in secret.

26. The Conduct, Council, and Rules Acts and the FRCP are intended to be an effective safeguard preventing Chief Justice Roberts from affecting US rights without legal authority. However, legal experts have labeled this idea as "absurd" and as "political nonsense" **[Note 28]**. The DRE is proof that Chief Justice Roberts is using supposedly innocuous "housekeeping" authority to eviscerate the rule of law through exercising "decisions, interred by antipathy" and through deliberately allowing federal judges to "tread on contested fact issues" **[Note 29]**.

27. Chief Justice Roberts has absolute control over federal judicial misconduct, including his own, as well as control of the Council and Rule Acts and the FRCP. Historically, this control is described as absolutely corrupt power **[Note 30]**.

28. The U.S. Supreme Court agrees: *"It would be very strange if our system of law permitted a judge to act as a grand jury and then try the very persons accused as a result of his investigations. . . . Having been a part of that process, a judge cannot be, in the very nature of things, wholly disinterested in the conviction or acquittal of those accused."* In *re Murchison,* 349 US 133, 137

8. The "21st Century Department of Justice Appropriations Authorization Act" was enacted under Pub. L. 107-273 and incorporates the "Judicial Improvements Act of 2002," which enacts USC Title 28 Chapter 16 and amends §§ 331, 332, 372, 375, and 604. For the legislative history, see H.R. Rep. 107-459 (2002).

(1955), "*A fair trial in a fair tribunal is a basic requirement of due process.* Fairness of course requires an absence of actual bias in the trial of cases. But the United States system of law has always endeavored to prevent even the *probability* of unfairness" (*Id.* at 136, emphasis supplied). Thus, the DRE and Chief Justice Roberts's absolute control of the Conduct, Council, and Rules Acts and the FRCP are a nationwide "very strange" system.

29. As presiding judge, Chief Justice Roberts controls the creation and enforcement of judicial conduct codes and conduct advisory notices, as well as the machinery of self-enforcement applicable to lawbreaking federal judges and his own conduct **[Note 31]**. He has this control without supervision. This is an absolute truth—a fact that leaves the nation vulnerable to a presiding judge of the US Judicial Conference who is willing to use his control of the Conference Act, Conduct Act, Rules Act, and FRCP guidelines in bad faith.

30. Chief Justice Roberts not only has total control over the federal judicial conduct apparatus at the US Judicial Conference but also is the chair of the Federal Judicial Center, where he is responsible for the education and training of federal judges and court staff.

CHIEF JUSTICE ROBERTS'S CONCERTED AND COORDINATED BAD FAITH ACTS WITH NEW YORK STATE'S CHIEF JUDGE

31. New York State Chief Judge Janet Marie DiFiore controls New York State's Unified Court System's internal judicial conduct apparatus. Along with the state's governor, Judge DiFiore controls the New York State Commission on Judicial Conduct. Furthermore, just as Chief Justice Roberts does at the Federal Judicial Center, Judge DiFiore controls the education and training of judges and court staff in New York State **[Note 32]**. She also controls both the state's rulemaking and constitutional machinery. This gives Judge DiFiore the ability to close off all remedies available to the petitioner to protect himself and his family from unauthorized rulemaking **[Note 33]**.

32. Thus, Chief Justice Roberts, acting as the presiding judge of the US Judicial Conference, and Judge DiFiore, acting as chair of New York State's Administrative Board of the Courts, can fabricate and have fabricated absolute power for themselves without any controls, accountability, or supervision over policy, court rules, policing, and judicial misconduct in US and New York State courts applicable to the DRE.

33. Under the DRE, Chief Justice Roberts and Judge DiFiore are able to create interim suspensions, supervision and fee orders, and fictitious crimes that cannot and do not exist under law. They manufacture crimes against parents and take children out of healthy family units under unauthorized so-called "interim" suspensions that interfere with children's religious and moral education. Together, Chief Justice Roberts and Judge DiFiore have fabricated a political system without a legal process that is entirely devoid of neutrality principles in New York family courts.

34. One of the central issues in the DRE in New York State is the relationship between Judge Katzmann and Chief Justice Roberts. Judge Katzmann is Chief Justice Roberts's appointed member of his Executive and Judiciary Committees at the US Judicial Conference, and he acts as

Chief Justice Roberts's chief strategist and deputy in Congress **[Note 34]**. In his own words, Judge Katzmann proclaims he likes to "soak and poke" in Congress's legislative business. Furthermore, he declares he likes to "marinate" himself in what he calls the "inter-branch understanding." Judge Katzmann is not what Chief Justice Roberts has called an apolitical "neutral umpire." The evidence indicates that Chief Justice Roberts has allowed Judge Katzmann to use his judgeship to advance his insidious leftist political agenda **[Note 35]**.

35. Judge Katzmann is a central figure in the DRE judicial conduct case; this case commenced as a conduct complaint against the Hon. Ronnie Abrams. The moment it became clear to the petitioner that Judge Katzmann had no interest in resolving the Abrams complaint or in fulfilling his legal obligation to review the judicial conduct complaint expeditiously in any way, the petitioner filed a complaint against Judge Katzmann **[Note 36]**. The petitioner immediately served notice on Chief Justice Roberts and requested Chief Justice Roberts assume control over the process of resolving the dispute **[Note 37]**.

36. The petitioner has pleaded with Judge Abrams to recuse herself. The petitioner even pled with Judge Abrams based on the closeness of her own family's relationship as well as her brother's close relationship with (b) (6) [redacted]. Judges McMahon and DiFiore espouse great love for family—its importance in their daily lives—yet Judges McMahon, Abrams, and DiFiore united against the DRE case and ignored the unprecedented cruelties the DRE causes for millions of Americans every year **[Note 38]**.

CHIEF JUSTICE ROBERTS'S COVER-UP

37. Two undeniable pieces of evidence prove Chief Justice Roberts's leadership role in directing the cover-up of the DRE case and DRE federal judicial conduct complaints. Alternatively, others are shielding Chief Justice Roberts and using his official positions under a blanket agreement to protect the DRE he himself put in place.

38. First, documents exist in the record[9] proving Chief Justice Roberts deliberately violated his mandatory obligation to restrict Judges Katzmann and McMahon from appearing at the US Judicial Conference and the US Judicial Council for the Second Circuit. Chief Justice Roberts's obligation is to comply with, and assure compliance with, Title 28 of the US Code Chapter 16 § 359 **[Note 39]**, which requires Judges Katzmann and McMahon to be restricted from appearing at the US Judicial Conference and the US Judicial Council for the Second Circuit until the DRE case is resolved. The clear, simple, undeniable reason for US Code Chapter 16 § 359 is to protect evidence and documents in judicial conduct proceedings.

39. Second, documents exist in the record[10] proving Chief Justice Roberts sanctioned Judges Scirica and Katzmann for arranging for Judge Abrams's protection so she could violate Title 28

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9. (b) (6) [redacted] Document 94 Filed 06/12/19 Page 1 of 2; and Document 94-1 Filed 06/12/19 Page 1 of 3. [Mandatory Restrictions]

10. (b) (6) [redacted] Document 53 Filed 04/17/19 Page 1 of 3 [Mandatory Recusal]

USC Section 455(b) (iii); Canon 3(C) (1) (d) (i) and (iii) of the Code of Conduct for U.S. Judges; and the US Judicial Conference's Advisory Opinion No. 103, which mandates as a matter of black letter law that she recuse herself from the DRE case. Instead, Chief Justice Roberts and Judge Katzmann allowed Judge Abrams to violate these laws so she could continue to deliberately mishandle the DRE case **[Note 40]**.

CONCLUSION

40. Attorney General William Barr remarked on the constitutional importance of the executive branch to the success of the American Republic **[Note 41]**. If the Office of the American Presidency cannot defend its executive powers against Chief Justice Roberts's federal judicial misconduct policies **[Note 42]**, how can any American family protect freedoms of religion, speech, political liberty, and family unity under Chief Justice Roberts's double cover-up of his concealed DRE lobbying and concealed DRE rules?

41. Chief Justice Roberts is the only individual in the US Courts, or at the US Judicial Conference, who can resolve the federal judicial conduct complaints in (b) (6) (b) (6) Only two docket numbers have been assigned to these cases; numbers (b) (6) and (b) (6) Chief Justice Roberts and Judges Scirica and Katzmann have simply taken it upon themselves not to issue docket numbers for the other complaints in the file. Chief Justice Roberts's tampering with the docket of the petitioner's complaints must be resolved; it is patently unfair and an act of lawbreaking.

42. Under *Murchison*, 349 US 133, 137 (1955), Chief Justice Roberts is the party responsible for the creation of a *"very strange"* family law scheme in New York State and nationwide. The petitioner's case is an uncomplicated and routine family matter **[None 43]**. Only under the protection of the DRE could New York State convert liberties that government cannot regulate *"at all, no matter what process is provided"* and *liberties with which neither public power nor majoritarian views can interfere* **[Note 44]** into a cash cow for its political operatives.

43. Under the DRE, state judges wrongly *"act as a grand jury and then try the very persons accused [without codified neutral principles or authorized charges] as a result of his investigations"* and make themselves gatekeepers to keep out issues one party tries to raise, only to then decide in the other party's favor. They manufacture criminal charges **[Note 45]** to enforce a gender bias **[Note 46]** in determining child custody cases nationwide. However, the petitioner's DRE case is focused on Chief Justice Roberts's deliberate lawbreaking **[Note 47]** (which is clearly set forth herein), not only on gender bias.

44. Chief Justice Roberts's DRE policies inflict unheard-of cruelties on Americans who have *done no wrong, violated no law, nor imposed themselves on any other person's rights*. This is precisely why Chief Justice Roberts is tampering with witnesses and evidence. This is Chief Justice Roberts's motive for engaging in a cover-up. This is the reason and the motive underlying Chief Justice Roberts's decision to violate Title 28 of the US Code Chapter 16 §§ 359 and 455(b) (iii) as well as tamper with evidence in, and interfere with, judicial conduct complaints as part of his cover-up.

45. Chief Justice Roberts is concealing the DRE matter from the American people, the president, and Congress. This is a nationwide cover-up of a matter that touches every American by the judge presiding over a presidential impeachment trial. Under these conditions, the petitioner respectfully request that Attorney General Barr give them notice. Otherwise, the Department of Justice should immediately and publicly notify the president and Congress.

46. According to Tilly, the goodness and fairness of government can be measured by the openness of the relationship between government officials and the people, and the degree of mutual binding consultations. Chief Justice Roberts erred terribly by allowing the federal judges to join with the state judges against the people's most cherished freedoms and liberties without an iota of democracy, authority, or consultation, or notice.

47. The petitioner eagerly anticipates the opportunity to discuss this matter further in person.

Respectfully submitted,

(b) (6)

(b) (6)

(b) (6)

SAMUEL T RICHMAN
Notary Public, State of New York
No. 01RI6339167
Qualified in Kings County
Commission Expires March 28, 2020

1/22/20

cc: The Hon. John G. Roberts, Jr.

I, (b) (6), swear that I am the petitioner in the *"Petition To Investigate Chief Justice Roberts's "DRE" Cover-Up,"* the plaintiff in (b) (6) (b) (6) and the Complainant in five the actions filed under the "Judicial Council Reform and Judicial Conduct and Disability Act of 1980" docketed at the Judicial Council for the Second Circuit and at the US Judicial Conference under numbers (b) (6) and (b) (6). I also swear that the statements contained in this Petition are complete, correct and true to the best of my knowledge, and that any statements I make based upon information and belief are based upon due and fair consideration of all the facts, factors and circumstances that I know to be relevant.

I do so declare:

(b) (6)

January 21, 2020

SAMUEL T RICHMAN
Notary Public, State of New York
No. 01RI6339167
Qualified in Kings County
Commission Expires March 28, 2020

1/22/20

[1]. Neither Congress nor judges have the power to govern fundamental liberties simply because they cannot be prescribed by law, statute, rule, policies, codes or judged by neutral principles. "The neutrality principle" forbids courts to **"mak[e] law or policy out of whole cloth,** [or] . . . to impose substantive judicial judgments on disputes not capable of resolution through the application of neutral principles to sharply defined sets of facts." Richard H. Fallon, Jr., *Reflections on the Hart and Wechsler Paradigm,* 47 Vand. L. Rev. 953, 976 (1994).

"The identification and protection of fundamental *rights"* (see *Obergefell v. Hodges*, 135 S.Ct. 2584, 2597–98, 192 L.Ed. 2d 609 [2015]) and the duty to protect fundamental liberties "deeply rooted in this Nation's history and tradition" (*id.,* at 503, 97 S.Ct., at 1938 [plurality opinion] *Snyder v. Massachusetts,* 291 U.S. 97, 105, 54 S.Ct. 330, 332, 78 L.Ed. 674 [1934]) that are "so rooted in the traditions and conscience of our people as to be ranked as fundamental" and so "implicit in the concept of ordered liberty" that "neither liberty nor justice would exist if they were sacrificed" (*Palko v. Connecticut,* 302 U.S. 319, 325, 326, 58 S.Ct. 149, 152, 82 L.Ed. 288 [1937]) and that neither judges nor Congress can govern, "***at all, no matter what process is provided***" (*Washington v. Glucksberg*, 521 U.S. 702, 719–21, 117 S. Ct. 2258, 2267–68, 138 L. Ed. 2d 772 [1997]).

"The Fourteenth Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures—Boards of Education not excepted. These have, of course, important, delicate, and highly discretionary functions, but none that they may not perform within the limits of the Bill of Rights. That they are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes . . . The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections . . . Nor does our duty to apply the Bill of Rights to assertions of official authority depend upon our possession of marked competence in the field where the invasion of rights occurs. True, the task of translating the majestic generalities of the Bill of Rights, conceived as part of the pattern of liberal government in the eighteenth century, into concrete restraints on officials dealing with the problems of the twentieth century, is one to disturb self-confidence. **These principles grew in soil which also produced a philosophy that the individual was the center of society, that his liberty was attainable through mere absence of governmental restraints, and that government should be entrusted with few controls and only the mildest supervision over men's affairs.** We must transplant these rights to a soil in which the laissez-faire concept or principle of non-interference has withered..." *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 637, 63 S.Ct. 1178, 1185, 87 L.Ed. 1628 (1943).

Under the Due Process Clause of the Fourteenth Amendment, no state shall "deprive any person of life, liberty, or property, without due process of law." The fundamental liberties protected by this clause include most of the rights enumerated in the Bill of Rights. See *Duncan v. Louisiana*, 391 U.S. 145, 147–149, 88 S.Ct. 1444, 20 L.Ed.2d 491 (1968). In addition, these liberties extend to certain personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs. See, e.g., *Eisenstadt v. Baird*, 405 U.S. 438, 453, 92 S.Ct. 1029, 31 L.Ed.2d 349 (1972) and *Griswold v. Connecticut*, 381 U.S. 479, 484–486, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965). **The identification and protection of fundamental rights is an enduring part of the judicial duty to interpret the Constitution.** See *Obergefell v. Hodges*, 135 S.Ct. 2584, 2597–98, 192 L.Ed. 2d 609 (2015).

[2]. "The Court has frequently emphasized the importance of the family. The rights to conceive and to raise one's children have been deemed 'essential,'[1] 'basic civil rights of man,'[2] and **'rights far more precious . . . than property rights**.'[3] 'It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.'[4] The integrity of the family unit has found protection in the Due Process Clause of the Fourteenth Amendment, the Equal Protection Clause of the Fourteenth Amendment,[2] and the Ninth Amendment." 5 *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct. 1208, 1212-13, 31 L.Ed. 2d 551 (1972):

1 *Meyer v. Nebraska*, 262 U.S. 390, 399, 43 S.Ct. 625, 626, 67 L.Ed. 1042 (1923)

2 *Skinner v. Oklahoma*, 316 U.S. 535, 541, 62 S.Ct. 111 0, 111 3, 86 L.Ed. 1655 (1942)
3 *May v. Anderson*, 345 U.S. 528, 533, 73 S.Ct. 840, 843, 97 L.Ed. 1221 (1953)
4 *Prince v. Massachusetts*, 321 U.S. 1 58, 1 66, 64 S.Ct. 438, 442, 88 L.Ed. 645 (1944)
5 *Griswold v. Connecticut*, 381 U.S. 479, 496, 85 S.Ct. 1678, 14 L.Ed. 2d 510 (1965)
6 *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct. 1208, 1 21 2–13, 31 L.Ed. 2d 551 (1972)

"Neither decisional rule nor statute can displace a fit parent . . . the courts and the law would, under existing constitutional principles, be powerless to supplant parents except for grievous cause or necessity in which the principle is plainly stated and stressed as more significant than other essential constitutional rights . . . The private interest here, that of a man in the children he has sired and raised, undeniably warrants deference and, absent a powerful countervailing interest, protection. It is plain that the interest of a parent in the companionship, care, custody, and management of his or her children come(s) to this Court with a momentum for respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements . . . It is firmly established . . . that . . .wherever possible, the best interests of a child lie in his being nurtured and guided by both of his natural parents . . . Interference with the relationship between the child and the non-custodial parent is 'an act so inconsistent with the best interest of the child that it raises a strong presumption that the offending parent is unfit to act as custodial parent . . . The custodial parent's anger, hostility and attitude toward the non-custodial parent can substantially interfere with her ability to place the needs of the children before her own in fostering a continued relationship with then on custodial parent . . . Furthermore, the custodial parent's conduct can be so egregious as to warrant a change of custody . . . The fostering of a relationship with the noncustodial parent is an important consideration in a custody determination."

Bennett v. Jeffreys, 40 N.Y.2d 543, 548, 356 N.E.2d 277, 282-83 (1976) Daghirv. Daghir, 92 A.D.2d 191,193,441 N.Y.S.2d 494 (2d Dept. 1981) *Prugh v. Prugh*, 298 A.D.2d 569 (2nd Dept. 2002) *Young v. Young*, 212 A.D.2d 114, 123 (2nd Dept. 1995) *Landau v. Landau*, 214 A.D.2d 541 (2nd Dept. 1995) Matter of *Esterle v. Dellay*, supra, 281 A.D.2d at 726.

"It is firmly established . . . that . . . wherever possible, the best interests of a child lie in his being nurtured and guided by both of his natural parents." *Daghir v. Daghir*, 92 A.D.2d 191,193,441 N.Y.S.2d 494 (2d Dept. 1981).

"Interference with the relationship between the child and the noncustodial parent is 'an act so inconsistent with the best interest of the child that it raises a strong presumption that the offending parent is unfit to act as custodial parent.'" *Prugh v. Prugh*, 298 A.D.2d 569 (2nd Dept. 2002).

"The fostering of a relationship with the noncustodial parent is an important consideration in a custody determination." *Matter of Esterle v. Dellay*, supra, 281 A.D.2d at 726.

"A parent's desire for and right to the companionship, care, custody, and management of his or her children is an important interest that undeniably warrants deference and, absent a powerful countervailing interest, protection... [P]arent's interest in accuracy and justice of decision to terminate parental status is an extremely important one." *Lassiter v. Department of Social Services of Durham County, N.C.*, 452 U.S. 18, 101 S.Ct. 2153, 68 L.Ed. 2d 640 (1981).

"The right to be heard is fundamental to our system of justice . . . [and p]arents have an equally fundamental interest in the liberty, care and control of their children." *In re Jung*, 11 N.Y.3d 365 (N.Y., 2008).

"The right of a parent to the custody and control of a minor child is one of our fundamental rights as United States citizens." *Mark N. v. Runaway Homeless Youth Shelter*, 189 Misc. 2d 245, 733 N.Y.S.2d 566 (Fam.Ct. 2001).

[3]. The due process, rule of law, or any other form of justice cannot exist without neutral principles. The neutrality principle "forbids courts to 'mak[e] law or policy out of whole cloth, [or] . . . to impose substantive judicial judgments on disputes not capable of resolution through the application of neutral principles to sharply defined sets of facts.'" Richard H. Fallon, Jr., *Reflections on the Hart and Wechsler Paradigm*, 47 V and. L. Rev. 953,976 (1994)

[4]. US Supreme Court Louis Dembitz Brandeis and his law partner, Samuel D. Warren, published an article in the *Harvard Law Review* in December 1890 titled **"The Right to Privacy."** In this article Justice Brandeis wrote

that "to protect Americans in their beliefs, their thoughts, their emotions and their sensations . . . against the Government, the right to be let alone [is] the most comprehensive of rights and the right most valued by civilized men." The DRE is the most violent and intolerable offense on the right to "let alone."

[5]. "The legitimate powers of government extend to such acts only as are injurious to others. But it does me no injury for my neighbor to say there are twenty gods, or no god. It neither picks my pocket nor breaks my leg." Thomas Jefferson, *Notes on the State of Virginia. Query XVII.* Published in English in London in 1787. Published anonymously in Paris in 1785.

6. In late 2019, in two speeches, Attorney General Barr committed resources to keep an eye out for cases in two areas. One is to protect religious liberties. Two is to protect the Constitution and rule law from "leftist ... militant secularists . . . so-called progressive" federal judicial that "seem to take a delight in compelling people to violate their conscience [or acquiesce] . . . [that] eliminate laws that reflect traditional moral norms.

One of the speeches was presented at University of Notre Dame Law School and its Nicola Center for Ethics and Culture. The other was presented in honor of 19th Annual Barbara K. Olson Memorial Lecture at the Federalist Society's 2019 National Lawyers Convention. The excerpts in endnotes from a transcript of Attorney General William P. Barr's "**Notre Dame 2019**" speech posted on the Department of Justice's website under the title of "Attorney General Barr Delivers Remarks to the Law School and the de Nicola Center for Ethics and Culture at the University of Notre Dame, South Bend, IN Friday, October 11, 2019" and from a transcript of Attorney General Barr's "**Federalist Society 2019**" speech posted on the Department of Justice's website under the title of "Attorney General William P. Barr Delivers the 19th Annual Barbara K. Olson Memorial Lecture at the Federalist Society's 2019 National Lawyers Convention Washington, DC Friday, November 15, 2019."

In the Notre Dame speech, "The Attorney General committed to "set up a task force within the Department with different components that have equities in these areas, including the Solicitor General's Office, the Civil Division, the Office of Legal Counsel, and other offices; be involved in regular meetings on these matters, to keep an eye out for cases or events around the country that discriminate against people of faith, or impinge upon the free exercise of religion, and to be vigilant to resist efforts by the forces of secularization to drive religious viewpoints from the public square and to impinge upon the free exercise of our faith." He gave an assurance you that "as long as he is Attorney General, the Department of Justice will be at the forefront of this effort, ready to fight for the most cherished liberties: the freedom to live according to our faith."

Notre Dame 2019. https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-law-school-and-de-nicola-center-ethics

Federalist Society 2019. https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-19th-annual-barbara-k-olson-memorial-lecture

7. In a speech at **Heritage Foundation** on October 2018, former US Attorney General Jefferson B. Sessions delivered "Remarks to the Heritage Foundation on Judicial Encroachment." He remarked that "empathy" is "more akin to emotion, bias, and politics than law" and that "Judicial activism is therefore a threat to our representative government and the liberty it secures. We at the DOJ fight against this heresy relentlessly." The former Attorney General remarked, "In effect, activist advocates want judges who will do for them what they have been unable to achieve at the ballot box. It is fundamentally undemocratic. Too many judges believe it is their right, their duty, to act upon their sympathies and policy preferences."

Heritage Foundation 2018. https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-heritage-foundation-judicial-encroachment

8. Notre Dame 2019. "Men are subject to powerful passions and appetites, and, if unrestrained, are capable of ruthlessly riding roughshod over their neighbors and the community at large. No society can exist without some means for restraining individual rapacity. But, if you rely on the coercive power of government to impose restraints,

this will inevitably lead to a government that is too controlling, and you will end up with no liberty, just tyranny. On the other hand, unless you have some effective restraint, you end up with something equally dangerous – licentiousness – the unbridled pursuit of personal appetites at the expense of the common good. This is just another form of tyranny – where the individual is enslaved by his appetites, and the possibility of any healthy community life crumbles. "In the words of Madison, "We have staked our future on the ability of each of us to govern ourselves..." This is really what was meant by "self-government." It did not mean primarily the mechanics by which we select a representative legislative body. It referred to the capacity of each individual to restrain and govern themselves."

The "force, fervor, and comprehensiveness of the assault on religion we are experiencing today. This is not decay; it is organized destruction. Secularists, and their allies among the "progressives," have marshaled all the force of mass communications, popular culture, the entertainment industry, and academia in an unremitting assault on religion and traditional values. These instruments are used not only to affirmatively promote secular orthodoxy, but also drown out and silence opposing voices, and to attack viciously and hold up to ridicule any dissenters. One of the ironies, as some have observed, is that the secular project has itself become a religion, pursued with religious fervor. It is taking on all the trappings of a religion, including inquisitions and excommunication. Those who defy the creed risk a figurative burning at the stake – social, educational, and professional ostracism and exclusion waged through lawsuits and savage social media campaigns . . . today – in the face of all the increasing pathologies – instead of addressing the underlying cause, we have the State in the role of alleviator of bad consequences. We call on the State to mitigate the social costs of personal misconduct and irresponsibility. So[,] the reaction to growing illegitimacy is not sexual responsibility, but abortion. The reaction to drug addiction is safe injection sites. The solution to the breakdown of the family is for the State to set itself up as the ersatz husband for single mothers and the ersatz father to their children. The call comes for more and more social programs to deal with the wreckage. While we think we are solving problems, we are underwriting them. We start with an untrammeled freedom and we end up as dependents of a coercive state on which we depend. Interestingly, this idea of the State as the alleviator of bad consequences has given rise to a new moral system that goes hand-in-hand with the secularization of society. It can be called the system of "macro-morality." It is in some ways an inversion of Christian morality. Christianity teaches a micro-morality. We transform the world by focusing on our own personal morality and transformation. The new secular religion teaches macro-morality. One's morality is not gauged by their private conduct, but rather on their commitment to political causes and collective action to address social problems."

"It is hard to resist the constant seductions of our contemporary society. This is where we need grace, prayer, and the help of our church. Beyond this, we must place greater emphasis on the moral education of our children. Education is not vocational training. It is leading our children to the recognition that there is truth and helping them develop the faculties to discern and love the truth and the discipline to live by it. We cannot have a moral renaissance unless we succeed in passing to the next generation our faith and values in full vigor. The times are hostile to this. Public agencies, including public schools, are becoming secularized and increasingly are actively promoting moral relativism. If ever there was a need for a resurgence of Catholic education – and more generally religiously-affiliated schools – it is today. I think we should do all we can to promote and support authentic Catholic education at all levels. Finally, as lawyers, we should be particularly active in the struggle that is being waged against religion on the legal plane. We must be vigilant to resist efforts by the forces of secularization to drive religious viewpoints from the public square and to impinge upon the free exercise of our faith. I can assure you that, as long as I am Attorney General, the Department of Justice will be at the forefront of this effort, ready to fight for the most cherished of our liberties: the freedom to live according to our faith."

9. Notre Dame 2019. "A third phenomenon which makes it difficult for the pendulum to swing back is the way law is being used as a battering ram to break down traditional moral values and to establish moral relativism as a new orthodoxy. Law is being used as weapon in a couple of ways. First, either through legislation but more frequently through judicial interpretation, secularists have been continually seeking to eliminate laws that reflect traditional moral norms. At first, this involved rolling back laws that prohibited certain kinds of conduct. Thus, the watershed decision legalizing abortion. And since then, the legalization of euthanasia. The list goes on. More recently, we have seen the law used aggressively to force religious people and entities to subscribe to practices and policies that are antithetical to their faith. The problem is not that religion is being forced on others. The problem is that irreligion and secular values are being forced on people of faith. This reminds me of how some Roman emperors could not leave their loyal Christian subjects in peace but would mandate that they violate their conscience by offering religious sacrifice to the

emperor as a god. Similarly, militant secularists today do not have a live and let live spirit - they are not content to leave religious people alone to practice their faith. Instead, they seem to take a delight in compelling people to violate their conscience."

10. Federalist Society 2019. "In any age, the so-called progressives treat politics as their religion. Their holy mission is to use the coercive power of the State to remake man and society in their own image, according to an abstract ideal of perfection. Whatever means they use are therefore justified because, by definition, they are a virtuous people pursing a deific end. They are willing to use any means necessary to gain momentary advantage in achieving their end, regardless of collateral consequences and the systemic implications. They never ask whether the actions they take could be justified as a general rule of conduct, equally applicable to all sides."

11. Federalist Society 2019. "In any age, the so-called progressives treat politics as their religion. Their holy mission is to use the coercive power of the State to remake man and society in their own image, according to an abstract ideal of perfection. Whatever means they use are therefore justified because, by definition, they are a virtuous people pursing a deific end. They are willing to use any means necessary to gain momentary advantage in achieving their end, regardless of collateral consequences and the systemic implications. They never ask whether the actions they take could be justified as a general rule of conduct, equally applicable to all sides.

Conservatives, on the other hand, do not seek an earthly paradise. We are interested in preserving over the long run the proper balance of freedom and order necessary for healthy development of natural civil society and individual human flourishing. This means that we naturally test the propriety and wisdom of action under a "rule of law" standard. The essence of this standard is to ask what the overall impact on society over the long run if the action we are taking, or principle we are applying, in a given circumstance was universalized – that is, would it be good for society over the long haul if this was done in all like circumstances?

For these reasons, conservatives tend to have more scruple over their political tactics and rarely feel that the ends justify the means. And this is as it should be, but there is no getting around the fact that this puts conservatives at a disadvantage when facing progressive holy far, especially when doing so under the weight of a hyper-partisan media."

12. Federalist Society 2019. The impact of these judicial intrusions on Executive responsibility have been hugely magnified by another judicial innovation – the nationwide injunction. First used in 1963, and sparely since then until recently, these court orders enjoin enforcement of a policy not just against the parties to a case, but against everyone. Since President Trump took office, district courts have issued over 40 nationwide injunctions against the government. By comparison, during President Obama's first two years, district courts issued a total of two nationwide injunctions against the government. Both were vacated by the Ninth Circuit.

It is no exaggeration to say that virtually every major policy of the Trump Administration has been subjected to immediate freezing by the lower courts. No other President has been subjected to such sustained efforts to debilitate his policy agenda.

The legal flaws underlying nationwide injunctions are myriad. Just to summarize briefly, [1] nationwide injunctions have no foundation in courts' Article III jurisdiction or [2] traditional equitable powers; [3] they radically inflate the role of district judges, [4] allowing any one of more than 600 individuals to singlehandedly freeze a policy nationwide, [5] a power that no single appellate judge or Justice can accomplish; [6] they foreclose percolation and reasoned debate among lower courts, [7] often requiring the Supreme Court to decide complex legal issues in an emergency posture with limited briefing; [8] they enable transparent forum shopping, [9] which saps public confidence in the integrity of the judiciary; and [10] they displace the settled mechanisms for aggregate litigation of genuinely nationwide claims, such as Rule 23 class actions.

Of particular relevance to my topic tonight, [11] nationwide injunctions also disrupt the political process. There is no better example than the courts' handling of the rescission of DACA. As you recall, DACA was a discretionary policy of enforcement forbearance adopted by President Obama's administration. The Fifth Circuit

concluded that the closely related DAPA policy (along with an expansion of DACA) was unlawful, and the Supreme Court affirmed that decision by an equally divided vote. Given that DACA was *discretionary* — and that four Justices apparently thought a legally indistinguishable policy was *unlawful* —President Trump's administration understandably decided to rescind DACA.

Importantly, however, the President coupled that rescission with negotiations over legislation that would create a lawful and better alternative as part of a broader immigration compromise. In the middle of those negotiations — indeed, on the same day the President invited cameras into the Cabinet Room to broadcast his negotiations with bipartisan leaders from both Houses of Congress — a district judge in the Northern District of California enjoined the rescission of DACA nationwide. Unsurprisingly, the negotiations over immigration legislation collapsed after one side achieved its preferred outcome through judicial means. A humanitarian crisis at the southern border ensued. And just this week, the Supreme Court finally heard argument on the legality of the DACA rescission. The Court will not likely decide the case until next summer, meaning that President Trump will have spent *almost his entire first term* enforcing President Obama's signature immigration policy, even though that policy is *discretionary* and half the Supreme Court concluded that a legally indistinguishable policy was *unlawful*. That is not how our democratic system is supposed to work.

13. From 1996 to 2000, Mr. Duff was Chief Justice William Rehnquist's administrative assistant, now called "Counselor to the Chief Justice." As such, Duff served as former Chief Justice Rehnquist's liaison with both Congress and state judges. Even more, Mr. Duff served as the executive director of the Judicial Fellows Commission. From July 2006 to September 15, 2011, Duff served as the director of the Administrative Office of the United States Courts. Chief Justice Roberts was reappointed to the position on January 1, 2015. He also served as counselor to the chief justice as the presiding officer of the US Senate's 1999 presidential impeachment trial. In September 2005, Duff was a pallbearer at former Chief Justice Rehnquist's funeral, alongside seven of former Chief Justice Rehnquist's former law clerks. Duff authored a tribute to former Chief Justice Rehnquist in the November 2005 edition of the Harvard Law Review and spoke at the unveiling ceremony for the William H. Rehnquist bust in the Great Hall of the Supreme Court in December 2009. The position is authorized under 28 U.S.C.A Chapter 41. Administrative Office of United States Courts § 601. Creation; Director and Deputy Director: The Administrative Office of the United States Courts shall be maintained at the seat of government. It shall be supervised by a Director and a Deputy Director appointed and subject to removal by the Chief Justice of the United States, after consulting with the Judicial Conference. The Director and Deputy Director shall be deemed to be officers for purposes of title 5, United States Code."

14. On May 15, 2014, the petitioner, commenced an investigation into the administration of US laws that apply to domestic relations in New York State. This investigation, as the Hon. William P. Barr knows, leads to Chief Justice Roberts and his conduct as the presiding judge of the US Judicial Conference. The petitioner is the founder of (b) (6)., the nation's only independent research organization dedicated to resolving federal judicial misconduct complaints. He has experience conducting this type of investigation. Following are excerpts for the petitioner's professional biography.

(b) (6)

[redacted]

The DRE case has two parts, the court cases and (b) (6), (b) (7)(C) complaints. The courts cases are titled: (b) (6)

There are five separate actions filed under the "Judicial Council Reform and Judicial Conduct and Disability Act of 1980." These are docketed at the Judicial Council for the Second Circuit and at the US Judicial Conference. The parties in the DRE courts and conduct cases are:

(b) (6) (b) (6), (b) (7)(C)

(b) (6) (b) (6), (b) (7)(C)

16. Federalist Society 2019. "In the 20th century, our form of free society faced a severe test.

There had always been the question whether a democracy so solicitous of individual freedom could stand up against a regimented totalitarian state.

That question was answered with a resounding "yes" as the United States stood up against and defeated, first fascism, and then communism.

But in the 21st century, we face an entirely different kind of challenge.

The challenge we face is precisely what the Founding Fathers foresaw would be our supreme test as a free society.

They never thought the main danger to the republic came from external foes. The central question was whether, over the long haul, we could handle freedom. The question was whether the citizens in such a free society could maintain the moral discipline and virtue necessary for the survival of free institutions.

By and large, the Founding generation's view of human nature was drawn from the classical Christian tradition.

These practical statesmen understood that individuals, while having the potential for great good, also had the capacity for great evil.

Men are subject to powerful passions and appetites, and, if unrestrained, are capable of ruthlessly riding roughshod over their neighbors and the community at large.

No society can exist without some means for restraining individual rapacity.

But, if you rely on the coercive power of government to impose restraints, this will inevitably lead to a government that is too controlling, and you will end up with no liberty, just tyranny"

17. "The [New York City] legal bar is supposed to be a professional group that enforces standards for lawyers, yet it increasingly seems to be one more partisan political outfit. The latest example is the New York City Bar Association's letter to Congress demanding it 'investigate' Attorney General Bill Barr for making conservative political statements."

Among other things, the organization is incensed that Mr. Barr gave a speech at the University of Notre Dame praising "Judeo-Christian values." They say he implicitly rejected other religions and therefore disregarded his obligation to appear unbiased. Apparently without realizing it, the bar is demonstrating the merit of Mr. Barr's argument about the importance of religious liberty. His appreciation for religion's role in society is being used by a professional group as a possible disqualification for public office.

The bar continues with a laundry-list of partisan complaints about Mr. Barr, including his vocal opposition to criminal-justice reform, his summary of the Mueller investigation and his interpretation of the Inspector General's report on the FBI's conduct in the 2016 election."

https://www.nycbar.org/media-listing/media/detail/the-trumped-up-case-of-bar-v-barr-wall-street-journal
Wall Street Journal, January 10, 2020 https://www.wsj.com/articles/the-trumped-up-case-of-bar-v-barr-11578699265

18. On August 12, 2019, Attorney General remarked at the Grand Lodge Fraternal Order of Police's 64th National Biennial Conference on a "the emergence in some of our large cities of District Attorneys that style themselves as "social justice" reformers, who spend their time undercutting the police, letting criminals off the hook, and refusing to enforce the law. These anti-law enforcement DAs have tended to emerge in jurisdictions where the election is largely determined by the primary. Frequently, these candidates ambush an incumbent DA in the primary with misleading campaigns and large infusions of money from outside groups. Once in office, they have been announcing their refusal to enforce broad swathes of the criminal law."

19. "the domestic relations exception to federal jurisdiction **[DRE]** is an archaic, historical remnant that should be overruled by the U.S. Supreme Court, and thus, the Article III federal courts have jurisdiction to hear pure marital status cases despite their domestic nature. We call on the Supreme Court to eliminate the domestic relations exception as to all forms of federal jurisdiction.

Steven G. Calabresi & Genna L. Sinel The Same-Sex Marriage Cases and Federal Jurisdiction: On Third-Party Standing and Why the Domestic Relations Exception to Federal Jurisdiction Should Be Overruled

"The current formulation and application of the domestic relations exception **[DRE]** poses serious problems. From a practical perspective, the domestic relations exception jurisprudence features contradiction, confusion, and inconsistency. From a policy perspective, the domestic relations exception risks foreclosing the invaluable federal forum to family law issues—even fundamental constitutional issues, as in Elk Grove. From the statutory interpretation perspective, the only current, expressly-accepted foundation for the domestic relations exception articulated by the Supreme Court requires people to accept the counterintuitive notion that the unambiguous breadth of the statutory phrase 'all civil actions' should be superseded by Congress's failure to explicitly reject dicta from an 1858 case that provided no reasoning or authority . . .'"

Family Law Is Not "Civil": The Faulty Foundation Of The Domestic Relations Exception To Federal Jurisdiction, Joseph Carroll, winner of the First Place, 2017 Howard C. Schwab Memorial Essay.

Applying the exception to bar federal courts **[DRE]** from jurisdiction over bona fide federal questions would violate Article III, which endows federal courts with jurisdiction over all federal-question case in law or equity. Additionally, the federal-question jurisdiction statute is best read as reflecting a Congressional intent that federal jurisdiction extends to domestic-relations matters that raise questions of federal law. Federal courts have the authority to resolve important and timely questions of federal law. The domestic-relations exception should not be misconstrued to stand in their way."

"Federal Questions and the Domestic-Relations Exception." The Yale Law Journal, Bradley G. Silverman

"Much domestic relations law fails to present a "controversy" within the meaning of Article III; the consensual nature of many status-altering acts (marriage, consensual divorce, adoption) forecloses a federal dispute-resolution role. But when federal courts hear "cases" arising under federal law, they have full power to exercise both contentious and (what Roman and civil lawyers refer to as) non-contentious jurisdiction. Our non-contentious account explains a range of puzzles, including why Article III courts can issue decrees at the core of the domestic relations exception **[DRE]** when the matter at hand implicates federal law."

A Non-Contentious Account Of Article III's Domestic Relations Exception James E. Pfander & Emily K. Damrau Notre Dame Law Review

One may question the continued vitality of the domestic relations exception **[DRE]** given the vast amount of federal court involvement in family law matters. For example, in the recent landmark case Obergefell v. Hodges, the Supreme Court held that same-sex individuals have a fundamental right to marry.11 Moreover, under its Commerce, Full Faith and Credit, and Spending Clause powers, Congress has passed many laws in the area of domestic relations. 12 Of course, being that it is the federal judiciary's "province and duty" to say what the law is,13 federal courts routinely review these laws. Yet despite the large quantity of family law activity in the federal sphere, the domestic relations exception survives, albeit inconsistently applied in federal courts across the country. . . . The diverse inter- and intra-circuit treatment of the domestic relations exception stems from the different weight courts place on the exception's underlying values: stare decisis, federalism, and access to courts. Some federal courts only apply the exception because it has long been a part of precedent; otherwise, they would overrule it. Other courts apply the exception rigorously, concluding that family law matters are properly left to state courts, elevating federalism ideas. Even still, there are courts that recognize and apply the exception, but believe federalism should always take a back seat to a litigant's right to access a federal forum.

Let's Not Throw Out The Baby With The Bathwater: A Uniform Approach To The Domestic Relations Exception Karla M. Doe, Emory Law Journal

"judicial review is necessary as a constitutional guard against state incursions on federal, constitutional rights. Even state regulation of traditionally state matters cannot run afoul of federal, constitutional limits, and this will at least sometimes require the presence of a federal forum to make such determinations. Thus, regardless of the extent of Congress's role in regulating and shaping American families, the federal judicial role in protecting them must remain intact . . . monolithic view of the family as an exclusively local subject is both misguided and unworkable **[DRE]**. Guarding personal autonomy against unwarranted intrusion by the state demands a federal forum to ensure that fundamental rights of the family remain secure. Supporting, empowering, and protecting contemporary families and family members is the joint work of local, state, and federal systems.

Is the Family a Federal Question? Meredith Johnson Harbach Washington and Lee Law Review

20. Chief Justice Roberts has fabricated a set of elaborate unethical DRE policies, decisions and rules without notice, an iota of authority, or legal foundation. These acts are a blatantly illegal abrogation of all the most important US citizens' constitutional and legal rights. In fact, Chief Justice Roberts's concealed DRE plans and standards are a violation of the first and most important law governing the chief justice's conduct: Title 28, Chapter 131, USC §2072(b) that specifically prohibits federal judges from creating or implementing policies or rules that "abridge, enlarge or modify any substantive right."

"'[T]he domestic-relations exception **[DRE]** encompasses only cases involving the issuance of a divorce, alimony, or child custody decree.' *Ankenbrandt,* 504 U.S. at 704, 112 S.Ct. 2206 ***not*** federal civil rights claims under fundamental liberty, due process or the right to be free from judicial fraud and manufactured crimes. It is not 'compelled by the text of the Constitution or federal statute' but is rather a 'judicially created doctrine' . . . stemming in large measure from ***misty understandings of English legal history***." *Marshall,* 547 U.S. at 299, 126 S.Ct. 1735. [Emphasis added by author]. *Chevalier v. Estate of Barnhart,* 803 F.3d 789, 794 (6th Cir. 2015).

In the 5–4 split opinion of *Barber v. Barber*, the dissent strongly contested, that "[i]t is not in accordance with the design and operation of a [state] Government . . . [to] assume to regulate the domestic relations of society . . . [to take an] inquisitorial authority, [to] enter the habitations and even into the chambers and nurseries of private families, and inquire into and pronounce upon the morals and habits and affections or antipathies of the members of every household. . . . [This is the case] whether [a statute] expressly conferred upon the State courts, or [is] tacitly assumed by them, [and] their example and practice cannot be recognized as sources of authority by the courts of the United States. The origin and the extent of their jurisdiction must be sought in the laws of the United States." See *Barber v. Barber*, 62 US 582 (1858).

In *Cohens v. Virginia*, Chief Justice Marshall famously cautioned: "'It is most true that this Court will not take jurisdiction if it should not: but it is equally true, that it must take jurisdiction if it should... We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given.'" 6 *Wheat* 264, 404, 5 L.Ed. 257 (1821). "**Among longstanding limitations on federal jurisdiction [DRE] otherwise properly exercised are the so-called "domestic relations" and "probate" exceptions. Neither is compelled by the text of the Constitution or federal statute. Both are judicially created doctrines stemming in large measure from misty understandings of English legal history.** See, *e.g., Atwood, Domestic Relations Case in Federal Court: Toward a Principled Exercise of Jurisdiction*, 35 Hastings L.J. 571, 584–588 (1984); *Spindel v. Spindel,* 283 F.Supp. 797, 802 (E.D.N.Y.1968) (collecting case and commentary revealing vulnerability of historical explanation for domestic relations exception); Winkler, The Probate Jurisdiction of the Federal Courts, 14 Probate L.J. 77, 125–126, and n. 256 (1997) (describing historical explanation for probate exception as 'an exercise in mythography'"). "In the years following Marshall's 1821 pronouncement, **courts have sometimes lost sight of his admonition and have rendered decisions expansively interpreting the two exceptions**. In *Ankenbrandt v. Richards,* 504 U.S. 689, 112 S.Ct. 2206, 119 L.Ed.2d 468 (1992), this Court reined in the 'domestic relations exception.' Earlier, in *Markham v. Allen,* 326 U.S. 490, 66 S.Ct. 296, 90 L.Ed. 256 (1946), the Court endeavored similarly to curtail the 'probate exception.'" *Marshall v. Marshall*, 547 U.S. 293, 298–99, 126 S. Ct. 1735, 1741, 164 L. Ed. 2d 480 (2006).

21. The DRE violates Article III of the US Constitution established Americans' access to US judicial power; First Amendment's prohibition of laws on the exercise of religious beliefs and that protects freedom of speech and the right to petition the Government for a redress of grievances; the Due Process Clause of the Fifth Amendment, and the Equal Protection Clause of the Fourteenth Amendment, and the Tenth Amendment limits the federal government to powers granted in the US Constitution and reserves all other power to the States and the people.

https://www.archives.gov/founding-docs/bill-of-rights-transcript#toc-amendment-i

22. "Had not the Roman government permitted free enquiry; Christianity could never have been introduced. Had not free enquiry been indulged, at the area of the reformation, the corruptions of Christianity could not have been purged away. If it be restrained now, the present corruptions will be protected, and new ones encouraged. Galileo was sent to the inquisition for affirming that the earth was a sphere: the government had declared it to be as flat as a trencher, and Galileo was obliged to abjure his error. This error however at length prevailed, the earth became a globe, and Descartes declared it was whirled round its axis by a vortex. The government in which he lived was wise enough to see that this was no question of civil jurisdiction, or we should all have been involved by authority in vortices. In fact, the vortices have been exploded, and the Newtonian principle of gravitation is now more firmly established, on the basis of reason, than it would be were the government to step in, and to make it an article of necessary faith. Reason and experiment have been indulged, and error has fled before them. **It is error alone which needs the support of government. Truth can stand by itself. Subject opinion to coercion: whom will you make your inquisitors**."

Thomas Jefferson, *Notes on the State of Virginia. Query XVII Published* in English in London in 1787. Published anonymously in Paris in 1785.

23. *In re Michael,* all "perjured relevant testimony is at war with justice, since it may produce a judgment not resting on truth. Therefore, it cannot be denied that it tends to defeat the sole ultimate objective of a trial." *re* Michael, 326 U.S. 224, 227 (1945). Perjury is defined as "deliberately making false or misleading statements while under oath." BLACK'S LAW DICTIONARY 1175 (8th ed. 2004).

[24]. "We hold here that the right to a speedy trial is as fundamental as any of the rights secured by the Sixth Amendment. That right has its roots at the very foundation of our English law heritage. Its first articulation in modern jurisprudence appears to have been made in **Magna Carta** (1215), wherein it was written, 'We will sell to no man, we will not deny or defer to any man either justice or right'; but evidence of recognition of the right to speedy justice in even earlier times is found in the **Assize of Clarendon** (1166)." *Klopfer v. State of N.C.,* 386 U.S. 213, 223, 87 S.Ct. 988, 993, 18 L.Ed. 2d 1 (1967).

("And when a robber or murderer or thief or receiver of them has been arrested through the aforesaid oath, if the justices are not about to come speedily enough into the country where they have been taken, let the sheriffs send word to the nearest justice by some well-informed person that they have arrested such men, and the justices shall send back word to the sheriffs informing them where they desire the men to be brought before them; and let the sheriffs bring them before the justices." English Historical Documents 408 [1953]).

25. Federalist Society 2019. "In any age, the so-called progressives treat politics as their religion. Their holy mission is to use the coercive power of the State to remake man and society in their own image, according to an abstract ideal of perfection. Whatever means they use are therefore justified because, by definition, they are a virtuous people pursing a deific end. They are willing to use any means necessary to gain momentary advantage in achieving their end, regardless of collateral consequences and the systemic implications. They never ask whether the actions they take could be justified as a general rule of conduct, equally applicable to all sides.

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For these reasons, conservatives tend to have more scruple over their political tactics and rarely feel that the ends justify the means. And this is as it should be, but there is no getting around the fact that this puts conservatives at a disadvantage when facing progressive holy far, especially when doing so under the weight of a hyper-partisan media."

26. Under the Judicial Council Reform and Judicial Conduct and Disability Act of 1980 (Act) (Title 28 of the US Code Chapter 16 §§ 351-364) the chief justice acting as the presiding judge of the US Judicial Conference controls the nation's policing, prosecution and punishment of criminal, fraudulent, malicious and unethical judicial conduct in federal court. The follow are the sections in the Act that govern the adjudication of complaints.

U.S. Code CHAPTER 16 (§§ 351-364)—COMPLAINTS AGAINST JUDGES AND JUDICIAL DISCIPLINE

§ 351.Complaints; judge defined

(a) Filing of Complaint by Any Person.—Any person alleging that a judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such judge is unable to discharge all the duties of office by reason of mental or physical disability, may

file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

§ 352. Review of complaint by chief judge

(a) (intentionally left blank)

(b) (intentionally left blank)

(c) Review of Orders of Chief Judge. A complainant or judge aggrieved by a final order of the chief judge under this section may petition the judicial council of the circuit for review thereof. The denial of a petition for review of the chief judge's order shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

§ 357. Review of orders and actions

(a) Review of Action of Judicial Council. A complainant or judge aggrieved by an action of the judicial council under section 354 may petition the Judicial Conference of the United States for review thereof.

(b) Action of Judicial Conference. The Judicial Conference, or the standing committee established under section 331 [of USC, Title 28, Chapter 15, "Conferences and Councils of Judges," §§331-335] may grant a petition filed by a complainant or judge under subsection (a).

(c) No Judicial Review. Except as expressly provided in this section and section 352(c), all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise

27. As President Jimmy Carter wrote in his 1980 signing statement that enacted the Conduct Act: *"Judges are human and experience has shown that if only the massive machinery of impeachment is available, some valid complaints will not be remedied"* and that the American people must be assured that a complaint filed under the Conduct Act's *"system will receive fair and serious attention throughout the process."* Notably, the federal judges took 28 years (until 2008) to finally create the system.

Weekly Compilation of Presidential Documents, vol. 16, no. 42, Oct. 15, 1980, pp. 2239–2240.

[28]. "[T]he notion that by confining the Rules to matters of 'procedure,' as the Rules Enabling Act of 1934 directed, one could somehow prevent them from having important and controversial socio-economic and political consequences outside the courtroom is **absurd** . . . it is perhaps unreasonable anachronistically to superimpose on the Congressional drafters a sophisticated understanding of how procedural choices may impact substantive policies." [Emphasis added by author.] See 356 U.S. 525, 549 (1958) (Whittaker, J., concurring in part and dissenting in part.) ("The words 'substantive' and 'procedural' are mere conceptual labels and in no sense talismanic.") and 304 U.S. 64, 91–92 (1938) (Reed, J., concurring) ("The line between procedural and substantive law is hazy ...").

The Rules Enabling Act is intended to preserve Congress' legislative power. In *The Supreme Court, The Rules Enabling Act, and the Politicization of the Federal Rules: Constitutional and Statutory Implications*, 90 MINN. L. REV. 1303, 1307–08, 1326 (2006), author Martin H. Redish wrote: "The reasoning appears to have been that where the Court merely promulgates rules of 'procedure,' it is not overstepping its constitutionally limited bounds because procedure is, by definition, internal to the operation of the judiciary; it has no impact outside the four walls of the courthouse. We now know—and probably should have known at the time of the Act's passage—that this is **political nonsense.** In numerous instances, procedural choices inevitably—and often **intentionally—impact the scope of substantive political choices**. This recognition should logically raise a concern that the Act unconstitutionally vests in the Supreme Court power that is reserved, in a constitutional democracy, for those who are representative of and accountable to the electorate."

Karen Nelson Moore, *The Supreme Court's Role in Interpreting the Federal Rules of Civil Procedure*, 44 HASTINGS L.J. 1039, 1043 (1993) ("[C]ommentators have placed recent emphasis on the relationship between Congress and the Court in the rulemaking process as the source of the restriction against affecting substantive rights."); Martin H. Redish, *The Supreme Court, The Rules Enabling Act, and the Politicization of the Federal Rules: Constitutional and Statutory Implications*, 90 MINN. L. REV. 1303, 1307–08, 1326 (2006) **("arguing that current rulemaking oversteps constitutional bounds because the committee produces substantive rules and proposing that rules falling into a 'non-housekeeping' category of procedural rules or that 'are found to implicate significant economic, social, or political dispute(s)' should require Congressional and presidential approval")**; Stephen B. Burbank, *Ignorance and Procedural Law Reform: A Call for a Moratorium*, 59 BROOK. L. REV. 841, 841–42 (1993) ("arguing that the rulemaking process should rely more heavily on empiricism and called for a moratorium on rulemaking pending further study"); Linda S. Mullenix, *Hope Over Experience: Mandatory Informal Discovery and the Politics of Rulemaking*, 69 N.C. L. REV. 795 (1991) ("arguing that the discovery proposals lacked empirical foundation and calling for reform of the rulemaking process"); Laurens Walker, *A Comprehensive Reform for Federal Civil Rulemaking*, 61 GEO. WASH. L. REV. 455, 481 (1993) ("arguing for a limit on the Committee's discretion to be accomplished through a set of administrative agency-like guidelines"); Marc S. Galanter, *The Vanishing Trial: An Examination of Trials and Related Matters in Federal and State Courts*, 1 J. EMPIRICAL LEGAL STUD. 459, 491 (2004); Professor Richard L. Marcus has noted, we have a "litigation machine that often seems indifferent to the merits." Richard L. Marcus, Of Babies and Bathwater: The Prospects for Procedural Progress, 59 BROOK. L. REV. 761, 766 (1993).

Sarah Staszak, "The Administrative Role of the Chief Justice: Law, Politics, and Procedure in the Roberts Court Era." *Laws* (ISSN 2075-471X), a peer-reviewed journal of legal systems, theory, and institutions, published quarterly online by MDPI: "The Chief Justice of the Supreme Court plays a critical role in shaping national politics and public policy. While political scientists tend to focus on the ways in which the chief affects the Court's jurisprudence, **relatively little attention has been devoted to the unique administrative aspects of the position that allow for strategic influence over political and legal outcomes**. This article examines the role of the chief justice as the head of the Judicial Conference, which is the primary policy making body for federal courts in the United States." https://www.mdpi.com/2075-471X/7/2/15/htm

Dawn M. Chutkow, "The Chief Justice as Executive: Judicial Conference Committee Appointments," *Journal of Law and Courts* 2, no. 2 (2014): 301–25. doi:10.1086/677172: "This article is the first comprehensive empirical study of chief justice appointments to the Judicial Conference committees of the US Courts, entities with influence over substantive public and legal policy. Using a newly created database of all judges appointed to serve on Judicial Conference committees between 1986 and 2012, the results indicate that a judge's partisan alignment with the chief justice matters, as do personal characteristics such as race, experience on the bench, and court level. **These results support claims that Judicial Conference committee selection, membership, and participation may present a vehicle for advancing the chief justice's individual political and policy interests."** https://www.jstor.org/stable/10.1086/677172?seq=1#page_scan_tab_contents

[29]. "extreme vigilance against **treading on contested fact issues or mixed questions of law and fact-even arguable ones-reserving them for evidentiary hearings** . . . [u]nless the parties settled, disputes regarding intent, state-of-mind, and credibility were virtually always tried, often before a jury."

Paul W. Mollica, Federal Summary Judgment at High Tide, 84 MARQ. L. REV. 141,147 (2000)

"A well-chronicled, decades-long effort ultimately led to the passage of the Rules Enabling Act of 1934 . . . The Federal Rules of Civil Procedure became law four years later . . . "the drafters of the Federal Rules wanted cases to be **resolved on the merits**" . . . those "core values of [federal] rules have **been eviscerated by judicial decisions, interred by antipathy, and eulogized** by none other than Wright and Miller" . . . **"Federal Rules were premised on the notion that, once the parties learned the relevant facts, cases would either settle or go to trial**."

Stephen N. Subrin & Thomas O. Main, The Fourth Era of American Civil Procedure, 162 U. PA. L. REV. 1839 (2014)

"In 1951, the median time from filing to disposition for tried cases was 12.2 months. In 1962, that number was sixteen months. Since 1990, the median time to disposition for all terminated cases is only seven to eight months. But as of 2012, the median time from filing to disposition remains twenty-three months in those cases where there is a trial, which, of course, these days are only one percent of all cases."

Harold Hongju Koh, The Just, Speedy, and Inexpensive Determination of Every Action? Yale Law School Faculty Scholarship (2014)

30. It was Sir John Emerich Edward Dalberg-Alton, (January 10, 1834–June 19, 1902), who in 1887 wrote that **"power corrupts, and absolute power corrupts absolutely."** He also wrote that "there is no worse heresy than that the office sanctifies the holder of it." He was referring to the medieval popes that instituted a special tribunal with special functionaries, elaborating special laws that were developed, applied, and protected by sanction, both spiritual and temporal. They used this system to inflict penalties of death and damnation on everybody who resisted.

It was in the "Letters to Bishop Mandell Creighton, the first Dixie Professorship of Ecclesiastical History of the University of Cambridge" where Sir Acton wrote about "the popes of the thirteenth and fourteenth centuries, from Innocent III down to the time of Hus. These men instituted a system of Persecution, with a special tribunal, special functionaries, special laws. They carefully elaborated, and developed, and applied it. They protected it with every sanction, spiritual and temporal. They inflicted, as far as they could, the penalties of death and damnation on everybody who resisted it. They constructed quite a new system of procedure, with unheard of cruelties, for its maintenance. They devoted to it a whole code of legislation, pursued for several generations."

In 1858, twenty-nine years before Sir Dalberg-Alton penned his most famous words, the US Supreme Court ruled that government must not "assume to regulate domestic relations of society." It spoke of this type of regulation as an "inquisitorial authority." The Court added that a state cannot give its judges any authority over its citizens' "morals and habits and affections or antipathies" without seeking the authority of the United States.

"Lord Acton was among the most illustrious historians of nineteenth-century England, a man of great learning with a deep devotion to individual liberty and a profound understanding of history."
https://www.libertyfund.org/people/acton-john-emerich-edward-dalberg

31. **Title 28 Chapter 16 U.S. Code § 355. Action by Judicial Conference.**

(a) In General.—

Upon referral or certification of any matter under section 354(b), the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in section 354(a)(1)(C) and (2), as it considers appropriate.

(b) If Impeachment Warranted.—

(1) In general.—
If the Judicial Conference concurs in the determination of the judicial council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary. Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination.

(2) In case of felony conviction.—

If a judge has been convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review

has been sought, the **Judicial Conference may**, by majority vote and without referral or certification under section 354(b), transmit to the House of Representatives a determination that consideration of impeachment may be warranted, together with appropriate court records, for whatever action the House of Representatives considers to be necessary.

Title 28 Chapter 16 U.S. Code § 360. Disclosure of information

(a) **Confidentiality of Proceedings.**—Except as provided in section 355, all papers, documents, and records of proceedings related to investigations conducted under this chapter shall be confidential and shall not be disclosed by any person in any proceeding except to the extent that—

(1) the judicial council of the circuit in its discretion releases a copy of a report of a special committee under section 353(c) to the complainant whose complaint initiated the investigation by that special committee and to the judge whose conduct is the subject of the complaint;
(2) the judicial council of the circuit, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; or
(3) such disclosure is authorized in writing by the judge who is the subject of the complaint and by the chief judge of the circuit, the Chief Justice, or the chairman of the standing committee established under section 331.

(b) Public Availability of Written Orders.—

Each written order to implement any action under section 354(a)(1)(C), which is issued by a judicial council, the Judicial Conference, or the standing committee established under section 331, shall be made available to the public through the appropriate clerk's office of the court of appeals for the circuit. Unless contrary to the interests of justice, each such order shall be accompanied by written reasons therefor.

28 U.S. Code § 354.Action by judicial council
(a)Actions Upon Receipt of Report.—
(1)Actions.—The judicial council of a circuit, upon receipt of a report filed under section 353(c)—
(C)if the complaint is not dismissed, shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit.
(2)Description of possible actions if complaint not dismissed.—
(A) In general.—Action by the judicial council under paragraph (1)(C) may include—
(i)ordering that, on a temporary basis for a time certain, no further cases be assigned to the judge whose conduct is the subject of a complaint;
(ii)censuring or reprimanding such judge by means of private communication; and
(iii)censuring or reprimanding such judge by means of public announcement.
(B) For article iii judges.—If the conduct of a judge appointed to hold office during good behavior is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include—
(i)certifying disability of the judge pursuant to the procedures and standards provided under section 372(b); and
(ii)requesting that the judge voluntarily retire, with the provision that the length of service requirements under section 371 of this title shall not apply.

32. Judge Janet DiFiore is the Chief Judge of the State of New York. Judge DiFiore is also the Chair of the New York State's Administrative Board of the Courts (ABC) that controls New York State's court rule making, and along with Andrew M. Cuomo, Governor of the State of New York, her appointer, Judge DiFiore controls a majority of the commissioners of the New York State Commission on Judicial Conduct; Lawrence K. Marks, the Chief Deputy Administrator of the Unified Court System's (UCS) Office of Court Administration; Juanita Bing Newton, the Dean and Sharon S. Townsend, the Vice Dean of the UCS Judicial Institute Family and Matrimonial Law; Sherry Klein Heitler, the UCS Chief of Policy and Planning for the UCS Office of Policy and Planning; and the UCS Advisory Committee on Judicial Ethics.

Most notably, Chief Judge DiFiore also controls Michael Magliano, the Chief of the UCS's Department of Public Safety who has a material and extraordinarily powerful impact on justice in New York State's family courts. This power is important when the State deploys guns with no process at all to take property directly from parents in Family Court. These payouts are provided to the State's political operatives. These is done under the protection of Chief Justice Roberts's DRE rules.

See (b) (6) , complaint and its supporting affidavit Document Number 1 and Motion 1 in (b) (6) at Document 12 and its supporting affidavits at Document Number 12-1.

33. New York Constitution Article 6 §28 grants the state's chief judge sole and individual power to device and promulgate administrative rules and policies that govern the internal workings of its state justice department. This is an enormous responsibility in a system of justice, but it is unregulated and unsupervised by the state's elected official or any other state agency. New York Constitution Article 6 §28 requires that the chief judge consult the four members of the administrative board of the courts. These are the leaders of each one of its appellate divisions. The members are the four Appellate Division presiding judges. Then the Chief Judge is supposed to obtain the approval of the six other judges of the Court of Appeals. There are 7 judges on the Court of Appeals. The Chief Judge is one of them. The Chief Judge is supported to obtain approval before promulgating rules throughout the UCS.18 This type of organization exists in each state. This is how an incredibly small group of judges can delegate power to state bureaucrats that affect parents federally protected due process and parental rights and authority.
https://secureserveredn.net/198.12.145.239/u5t.2b0.myftpupload.com/wp-content/uploads/2018/09/TOPSY-TURVY-DRAW-THE-CURTAIN-THE-FRAUD-IS-OVER.pdf

34. Acting as the Chair of the U.S. Judicial Conference Committee on the Judicial Branch, and on behalf of Chief Justice Roberts as a member of his Executive Committee of the U.S. Judicial Conference, and using the resources of the Administrative Office of the US Courts, the US Judicial Conference, and the Federal Judicial Center, Judge Katzmann and his deputes maintain relationships with legislatures and the Offices of the Legislative Counsel and Deputy Legislative Counsels for the US Senate and the US House of Representatives.

35. While holding high official chairmanships, committee membership and administrative positions the federal judiciary's so-called "policy making" machinery, in the US Courts, the US Judicial Conference and Judicial Council for the Second Circuit. Judge Katzmann is one of the nation's most outspoken critics of US immigration laws and is openly engaged in advocating in favor of illegal immigration.

In the area of political advocacy, Judge Katzmann organized an interdisciplinary Study Group on Immigrant Representation. This organization led to the creation of the New York Immigrant Family Unity Project, the first government funded program to provide legal counsel for detained, illegal immigrants. Judge Katzmann also founded the Immigrant Justice Corps, the country's first fellowship program for recent law school and college graduates dedicated to promoting illegal immigration into the US.

In the area of the federal judiciary's so-called "policy making" machinery, Judge Katzmann has overtly engaged political lobbying in Congress without notice or authority in favor of the reverse application of federalism (the highest purpose of the constitution, strict limitations on government) in family law and the enforcement of judicial conduct complaints.

In promoting Judge Katzmann as a nominee to the US Supreme Court, William Treanor, dean of Fordham Law School, wrote that Judge Katzmann does not "operate in an ivory tower." In fact, Judge Katzmann has only operated in an ivory tower. From 1984 to 1999, Judge Katzmann was the Walsh Professor of Government, Professor of Law and Professor of Public Policy at Georgetown University, a Fellow of the Governmental Studies Program of the Brookings Institution, and President of the Governance Institute. During this period, Judge Katzmann worked for Judge Frank M. Coffin while Judge Coffin was the Chair of the U.S. Judicial Conference Committee on the Judicial Branch. In the same interview, Dean Treanor openly commented on Judge Katzmann's use of his position to operate "an extraordinary effort that has engaged a broad spectrum of New York City's lawyers in voluntarily representing people in the immigration court system."

36. The presiding judge of the US Judicial Conference has jurisdiction over the resolution or adjudication of federal judicial conduct complaints filed at the 13 Judicial Councils of the US Circuit courts and at the US Judicial Conference Committee of Judicial Conduct. However, Chief Justice Roberts is the subject of Petitioner's judicial conduct complaint for his misconduct in not restricting Judge Katzmann and McMahon as mandatorily required by the Judicial Council Reform and Judicial Conduct and Disability Act of 1980 (Act) (Title 28 of the US Code Chapter 16 §§ 351-364) and for approving the actions Judge Katzmann took to protect Judge Abrams from complying with her mandatory obligations under all applicable codes and laws, and advisory opinions, to recuse herself from the Petitioner's DRE case. A person does not have to testify at trial to commit perjury.

37. Judicial Improvements Act of 2002. Amends the Federal judicial code to establish a new chapter regarding complaints against judges and judicial discipline. Authorizes any person alleging that a judge has engaged in specified prejudicial conduct or is unable to discharge all the duties of office by reason of mental or physical disability, to file with the clerk of the court of appeals for the circuit a written complaint.

Directs the chief judge to expeditiously review complaints. Authorizes:

(1) the chief judge to conduct a limited inquiry; and
(2) a complainant or judge aggrieved by a final order of the chief judge to **petition the judicial council of the circuit for review**. **Makes denial of a petition for review final.**

Requires the chief judge, if not entering such an order, to form a special committee to investigate the allegations. Authorizes the judicial council, upon receipt of a report by the committee, to:

(1) conduct any necessary additional investigation; and
(2) dismiss the complaint. Directs the council, if the complaint is not dismissed, **to take appropriate action to assure the effective and expeditious administration of the business of the courts within the circuit**.

Delineates possible actions by the judicial council if the complaint is not dismissed, including:

(1) ordering that, on a temporary basis for a time certain, no further cases be assigned to the judge whose conduct is the subject of a complaint; and

(2) censuring or reprimanding the judge by means of private communication or public announcement.

Includes among possible actions with respect to:

(1) Article III judges, certifying disability of the judge pursuant to specified procedures and standards, and requesting that the judge voluntarily retire, with the provision that length of service requirements not apply; and
(2) magistrate judges, directing the chief judge of the district of the magistrate judge to take appropriate action. Sets forth limitations on judicial council removals.

Provides for referral of complaints to the Judicial Conference of the United States.

Directs the Judicial Conference, if it finds **impeachment warranted**, to certify and transmit the determination and record of proceedings to the House of Representatives.

Sets forth provisions regarding:
(1) a judicial council's subpoena power;
(2) judges' petitions for review of adverse orders and actions;
(3) rules for the conduct of proceedings under this Act;
(4) restrictions on individuals who are the subject of an investigation;

(5) confidentiality of proceedings; and
(6) the effect of a felony conviction on a judge's continued service and creditable service.

https://www.Congress.gov/bill/107th-Congress/senate-bill/2713

38. Judge Abrams (b) (6), (b) (7)(C) (b) (6) who worked as an Assistant Special Counsel in the Robert Mueller investigation, share multiple close political and personal relationships with Judge DiFiore and (b) (6), (b) (7) (b) (6), (b) (7)(C). Judge Abrams is a denizen of the Democratic party. She is (b) (6), and (b) (6) (b) (6). Judge McMahon and Judge DiFiore are widely known to be best friends.

"The most important letter that Judge Colleen McMahon, U.S. district judge of the Southern District of New York, ever received sits in a frame on her desk and has since 1991. The envelope is addressed "To Mom Frum Katie." Inside the envelope is a note that says: "Dear Mom, I wish you would help me but you wote help me. Love Katie." Judge McMahon keeps this letter on her desk to remind her of the importance," http://www.fedbar.org/PDFs/Past-Judicial-Profiles/Second-Circuit_1/McMahon-Hon-Colleen.aspx

DiFiore went on to study sociology at Long Island University's C.W. Post College. Campus living lasted all but 24 hours for her. "I couldn't stand being away from home," she says. Unlike most freshmen, she didn't think she was missing out on college life. "I lived in a crazy house that my grandfather built. There was family everywhere," she says. "Every night was like a party."... Soon after, Davis Polk & Wardwell—the New York law firm where Glazer worked—wanted to relocate him to Paris. DiFiore wasn't swayed by the allure of a foreign assignment, so her response was quick and decisive: "Can my mother go?" she asked Glazer, knowing full well the answer."... With that, they stayed put, and DiFiore continued building her own career. "There's no way I would leave my family," she says.... It's clear that family is at the heart of DiFiore's life and has shaped every aspect of her career. DiFiore has learned to balance the rigors and stresses of her job ...all while prioritizing her family."
http://www.westchestermagazine.com/Westchester-Magazine/October-2016/Top-Judge/

DiFiore's husband, Dennis Glazer, is pushing their daughter for County Court judge in Westchester.. He's had meetings with Reggie LaFayette, the party chair, and has been calling local chairs telling them they should support the daughter, Alexandra DiFiore Glazer, for the spot, and if they don't, the governor will appoint her anyway... Some chairs have felt threatened by him. Folks are mad that Dennis is telling them what to do... It must certainly be unethical for the chief judge's husband to push her daughter.... Glazer has said the daughter doesn't have to be known, because either the party leaders give her the nomination, or Janet will get the governor to appoint her." https://yonkerstimes.com/another-difiore-for-westchester-county-judge/

"Dennis Glazer brought his daughter to a barbeque at Judge (Alan) Sheinkman's house on Sept. 16 and was introducing her to everyone. He's also making phone calls again to local party chair and is pressuring people. Surely there must be something improper about the chief judge's husband making phone calls to party chairs, twisting their arms to support his daughter for County Court judge.. The rumors are that she is the only ADA in the Manhattan DA's office working part-time. The party folks are really upset at his heavy-handed manner...He (Glazer) wants one of the spots for her in 2019, and he is pressuring LaFayette (Westchester Democratic Chairman Reggie LaFayette) big time. The chief judge (Janet DiFiore) even went by his office to see him, claiming she stopped in for an absentee ballot. It's really outrageous...voters in the democratic party don't want anything to do with Dennis Glazer or Chief Judge DiFiore. Remember Janet was a republican for a long time before she switched parties...County Court hopefuls dare not say a word about the efforts of Glazer and DiFiore." https://yonkerstimes.com/pressure-continues-on-dems-to-support-young-difiore-for-judge/

"sources reported that Second Department Presiding Justice Alan D. Scheinkman has also met with Westchester Democratic leaders on [Chief Judge Janet DiFiore's daughter, Alexandra DiFiore] Murphy's behalf" https://wiselawny.wordpress.com/2019/01/13/cj-difiores-daughter-an-interlopermanhattan-ada-seeks-westchester-seat/

39. Title 28 of the US Code Chapter 16 § 359

§ 359. Restrictions

(a) **Restriction on Individuals Who Are Subject of Investigation.** No judge whose conduct is the subject of an investigation under this chapter shall serve upon a special committee appointed under section 353, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331, until all proceedings under this chapter relating to such investigation have been finally terminated.

(b) **Amicus Curiae.** No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before a judicial council or the Judicial Conference under this chapter.

§ 353. Special committees

(a) **Appointment.** If the chief judge does not enter an order under section 352(b), the chief judge shall promptly—
(1) appoint himself or herself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint;
(2) certify the complaint and any other documents pertaining thereto to each member of such committee; and
(3) provide written notice to the complainant and the judge whose conduct is the subject of the complaint of the action taken under this subsection.

(b) **Change in Status or Death of Judges.** (intentionally left blank)

Investigation by Special Committee. Each committee appointed under subsection (a) shall conduct an investigation as extensive as it considers necessary and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit. Such report shall present both the findings of the investigation and the committee's recommendations for necessary and appropriate action by the judicial council of the circuit.

40. The presiding judge of the US Judicial Conference has jurisdiction over the resolution or adjudication of federal judicial conduct complaints filed at the 13 Judicial Councils of the US Circuit courts and at the US Judicial Conference Committee of Judicial Conduct. Chief Justice Roberts is the subject of Petitioner's judicial conduct complaint for his misconduct in not restricting Judge Katzmann and McMahon as mandatorily required by the Judicial Council Reform and Judicial Conduct and Disability Act of 1980 (Act) (Title 28 of the US Code Chapter 16 §§ 351-364) and for approving the actions Judge Katzmann took to protect Judge Abrams from complying with her mandatory obligations under all applicable codes and laws, and advisory opinions, to recuse herself from the Petitioner's DRE case. A person does not have to testify at trial to commit perjury. The applicable laws are:

Title 28 of the US Code Chapter 16 § 359. Restrictions

(c) **Restriction on Individuals Who Are Subject of Investigation.** No judge whose conduct is the subject of an investigation under this chapter shall serve upon a special committee appointed under section 353, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331, until all proceedings under this chapter relating to such investigation have been finally terminated.

Title 28 USC Section 455(b) (iii) states that a justice, judge or magistrate judge is required to recuse him/herself in circumstances when it is "known by the judge to have an interest that could be substantially affected by the outcome of the proceeding". As a defendant in the above captioned action Your Honor clearly has an interest that could be substantially affected by the outcome of the proceeding.

Canon 3(C) (1) (d) (i) and (iii) of the Code of Conduct for United States Judges as promulgated by the Judicial Conference of the United States' Advisory Committee on Codes of Conduct states that a judge should disqualify him/herself in instances in which the judge is a party to the proceeding or it is "known by the judge to have an interest that could be substantially affected by the outcome of the proceeding." Once again, as a defendant in the above

captioned action Your Honor is both a party to the proceeding and clearly has an interest that could be substantially affected by the outcome of the proceeding.

Further, the Judicial Conference's Advisory Opinion No. 103 of the Judicial Conference's Committee on Codes of Conduct states that "a judge must recuse if he or she is named as a defendant in a proceeding that has been assigned to the judge. Canon 3C (1) (d) (i) provides that a judge shall recuse himself or herself when the judge ... is ...a party to the proceeding."

41. Federalist Society 2019. "I deeply admire the American Presidency as a political and constitutional institution. I believe it is, one of the great, and remarkable innovations in our Constitution, and has been one of the most successful features of the Constitution in protecting the liberties of the American people. More than any other branch, it has fulfilled the expectations of the Framers.

Unfortunately, over the past several decades, we have seen steady encroachment on Presidential authority by the other branches of government. This process I think has substantially weakened the functioning of the Executive Branch, to the detriment of the Nation . . .

The grammar school civics class version of our Revolution is that it was a rebellion against monarchial tyranny, and that, in framing our Constitution, one of the main preoccupations of the Founders was to keep the Executive weak. This is misguided. By the time of the Glorious Revolution of 1689, monarchical power was effectively neutered and had begun its steady decline. Parliamentary power was well on its way to supremacy and was effectively in the driver's seat. By the time of the American Revolution, the patriots well understood that their prime antagonist was an overweening Parliament. Indeed, British thinkers came to conceive of Parliament, rather than the people, as the seat of Sovereignty."

42. Federalist Society 2019. "Let me turn now to what I believe has been the prime source of the erosion of separation-of-power principles generally, and Executive Branch authority specifically. I am speaking of the Judicial Branch. . . . *the notion that politics in a free republic is all about the Legislative and Judicial branches protecting liberty by imposing restrictions on the Executive. The premise is that the greatest danger of government becoming oppressive arises from the prospect of Executive excess. So, there is a knee-jerk tendency to see the Legislative and Judicial branches as the good guys protecting society from a rapacious would-be autocrat. This prejudice is wrong-headed and atavistic."*

43. The custody history of (b) (6) , exclusively involves a routine, minor post-divorce child custody enforcement petition dated (b) (6) . The matter could have easily been resolved without delay or costly burdensome legal proceedings under an April 30, 2013 divorce settlement, which was incorporated into a Judgment of Divorce that was ratified by New York State's Supreme Court and Appellate Division (JOD). There are three dates of most import in the DRE case.

44. Neither Congress nor judges have the power to govern fundamental liberties simply because they cannot be prescribed by law, statute, rule, policies, codes or judged by neutral principles. "The neutrality principle" forbids courts to **"mak[e] law or policy out of whole cloth**, [or] . . . to impose substantive judicial judgments on disputes not capable of resolution through the application of neutral principles to sharply defined sets of facts." Richard H. Fallon, Jr., *Reflections on the Hart and Wechsler Paradigm*, 47 Vand. L. Rev. 953, 976 (1994); neither judges nor Congress can govern, "**at all, no matter what process is provided**" (*Washington v. Glucksberg*, 521 U.S. 702, 719–21, 117 S. Ct. 2258, 2267–68, 138 L. Ed. 2d 772 [1997]); the very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections . . . Nor does our duty to apply the Bill of Rights to assertions of official authority depend

upon our possession of marked competence in the field where the invasion of rights occurs. True, the task of translating the majestic generalities of the Bill of Rights, conceived as part of the pattern of liberal government in the eighteenth century, into concrete restraints on officials dealing with the problems of the twentieth century, is one to disturb self-confidence. **These principles grew in soil which also produced a philosophy that the individual was the center of society, that his liberty was attainable through mere absence of governmental restraints, and that government should be entrusted with few controls and only the mildest supervision over men's affairs.** We must transplant these rights to a soil in which the laissez-faire concept or principle of non-interference has withered..." *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 637, 63 S.Ct. 1178, 1185, 87 L.Ed. 1628 (1943); **The identification and protection of fundamental rights is an enduring part of the judicial duty to interpret the Constitution.** See *Obergefell v. Hodges*, 135 S.Ct. 2584, 2597–98, 192 L.Ed. 2d 609 (2015).

45. Victims of domestic violence are more prone than other crime victims to recant or refuse to cooperate after initially providing information to the police. Recent evidence suggests that 80 to 85 percent of battered women will recant at some point. Tom Lininger, *Prosecuting Batterers After Crawford,* 91 VA. L. REv. 747, 768 (2005)

Recantation and failure to appear is "an epidemic in domestic violence cases" Douglas E. Beloof & Joel Shapiro, *Let the Truth Be Told: Proposed Hearsay Exceptions to Admit Domestic Violence Victims' Out of Court Statements As Substantive Evidence,* 11 COLUM. J. GENDER & L. 1, 3(2002)

"[V]ictims of domestic violence are uncooperative in approximately eighty to ninety percent of cases." Lisa Marie De Sanctis, *Bridging the Gap Between the Rules of Evidence & Justice for Victims of Domestic Violence,* 8 Yale J. L. & Feminism, 359, 367-68 (1996)

"The actual behavior of many domestic violence victims, however, is quite different from the public's expectations. Specifically, victims often stay with their abusers, regularly minimize their abuse, recant, request the dismissal of charges against their batterers, refuse to testify for the prosecution, or testify on behalf of their batterers." Jennifer Gentile Long, *Explaining Counterintuitive Victim Behavior in Domestic Violence and Sexual Assault Cases,* 40 PROSECUTOR 12, 14 (Nov./Dec. 2006).

"Feminist legal scholars who argue for victim autonomy frequently ignore the empowerment that is experienced by a witness who testifies truthfully and knows she has the support of the system behind her . . . [t]here is . . . a consensus in the literature that recanting is a significant problem in domestic violence cases .Perjurious testimony poses one of the greatest threats to the judicial system. . . . The predominant response to false statements in domestic violence cases is to turn a blind eye. After all, few prosecutors' offices want to face the criticism generated from prosecuting a domestic violence victim . . . There seems to be a conflict in the law about how to handle the person who decides to lie in a domestic violence case. Prosecutors receive little guidance in handling this difficult scenario; consequently, the uncertainty of when and if a domestic violence victim should be charged leads to capricious consequences for victims who commit perjury . . . Although perjury charges would seem a logical and uncontroversial solution for addressing false statements, the issue becomes murky when false statements arise in domestic violence cases. Expressing frustration over domestic violence cases generally, Judge Atlas commented, **"[i]t** is simply unacceptable for our process to turn a blind eye to the dangers of such abuse by shrugging our shoulders and saying that nothing can be done within the framework of existing law." False statements in domestic violence cases are a significant problem and considered an epidemic with an estimated 40 to 90 percent of domestic violence victims recanting. Because recanting involves an attempt to withdraw a prior statement, it almost always involves falsity in either the original or latter statement. Turning a blind eye to perjury suggests that every domestic violence victim is incapable of obeying the law or facing the consequences of her decision. If domestic violence victims are treated differently, it should not be because of stereotypes and arbitrary decisions. Rather, legislation is necessary to set the proper parameters of when perjury should be excused. Providing guidance may also help prosecutors proceed with perjury and related charges when warranted. Hopefully, the proposed domestic violence defense to perjury will afford some protection to victims who retract their false statement. Instead of turning a blind eye, perjury in domestic violence cases must be dealt with head-on. Turning A Blind Eye: Perjury In Domestic Violence Cases Njeri Mathis Rutledge. The paper was discussed that the Southeastern and Mid-Atlantic People of Color Scholarship Conferences, and the Lutie A. Lytle Black Women.

[46]. "Across a wide range of jurisdictions, the estimates are that mothers receive primary custody 68-88% of the time, fathers receive primary custody 8-14%, and equal residential custody is awarded in only 2-6% of the cases . . . Are Custody Decisions Biased in Favor of Mothers? Robert Hughes, Jr. Professor of Human Development, University of Illinois at Urbana-Champaign June 9, 2011 Huffington Post. "Figures from the U.S. Census Bureau showed that in 1995, the latest year available, women had residential custody of children in 85 percent of cases and men in 15 percent." Who Gets Custody? Ross Werland, Chicago Tribune April 16, 2000 "One of every six custodial parents (17.5 percent) were fathers.' US Census Bureau, Current Population Report, Timothy Grall January 2016.

47. In the US Supreme Court case titled *Olmstead v. United States*, Justice Brandeis wrote, "Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. *If the* ***government becomes a lawbreaker****, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means -- to declare that the government may commit crimes in order to secure the conviction of a private criminal -- would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face." [Italics added by author.]*

U.S. Department of Justice
Office of Professional Responsibility
Policies and Procedures

Introduction

The Office of Professional Responsibility (OPR) was established by order of the Attorney General to ensure that Department of Justice (DOJ) attorneys and law enforcement personnel perform their duties in accordance with the highest professional standards expected of the nation's principal law enforcement agency. Pursuant to 28 C.F.R. § 0.39a, the Counsel for OPR reports directly to the Attorney General and Deputy Attorney General. OPR is staffed by a Deputy Counsel, three Associate Counsels, and between 20-25 Assistant Counsels.

The Role and Authority of OPR

OPR has jurisdiction to investigate allegations of professional misconduct against Department attorneys that relate to the exercise of their authority to investigate, litigate or provide legal advice, including allegations of professional misconduct against Department immigration judges. OPR also has jurisdiction to investigate allegations of misconduct against Department law enforcement personnel that relate to allegations of attorney misconduct within the jurisdiction of OPR. The Office of the Inspector General has jurisdiction over all allegations of misconduct against Department attorneys that do not fall within OPR's jurisdiction.

In addition to reporting its findings and conclusions in investigative reports, OPR provides advice to the Attorney General and Deputy Attorney General concerning the need for changes in policies and procedures that become apparent during the course of OPR's investigations.

Reporting Allegations of Misconduct

Pursuant to Chapter 1-4.100 of the United States Attorneys' Manual (USAM), all Department employees have a duty to report allegations of professional misconduct against a Department attorney that relate to the exercise of the attorney's authority to investigate, litigate, or provide legal advice, as well as allegations of misconduct against Department law enforcement personnel that relate to allegations of attorney misconduct within the jurisdiction of OPR.

Department employees must report "any evidence or non-frivolous allegation of misconduct" to their supervisor. An employee may also refer the allegation directly to OPR. Supervisors are required, in turn, to report any evidence or non-frivolous allegation of serious misconduct to OPR. If the supervisor participated in the alleged misconduct, however, he or she must refer the matter to a higher-ranking official for review. Employees and supervisors are encouraged to contact OPR for assistance in determining whether a matter should be referred to OPR.

Reporting Allegations of Misconduct During the Course of Judicial Proceedings

All judicial findings of attorney misconduct must be reported to a supervisor and to OPR, regardless of whether an attorney or supervisor agrees with the findings or considers them to be serious. Any statement by a judge or magistrate judge indicating that a Department attorney has engaged in professional misconduct, and any indication by a judge or magistrate judge that the court is taking under consideration an allegation of professional misconduct, must be reported to a supervisor. The supervisor must, in turn, report to OPR "any evidence or non-frivolous allegation of serious misconduct."

Except in extraordinary cases, judicial findings of misconduct are investigated by OPR without awaiting the outcome of further judicial proceedings. Thus, findings of misconduct must be reported to OPR regardless of whether an appeal is contemplated or has already been taken.

The Review of Misconduct Allegations

OPR receives allegations against Department attorneys from a variety of sources, including U.S. Attorneys' Offices and DOJ litigating components, private individuals and attorneys, defendants and civil litigants, other federal agencies, state and local government agencies, judicial and congressional referrals, media reports, and self-referrals. OPR also regularly conducts searches of legal databases to identify opinions containing judicial findings of misconduct against Department attorneys.

OPR reviews each allegation and determines whether further review is warranted. The determination whether to close the matter or to obtain more information about the allegation is a matter of investigative judgment and involves many factors, including the nature of the allegation, its apparent credibility, its specificity, its susceptibility to verification, and its source. The majority of complaints received by OPR are determined not to warrant further review because, for example, the complaint is frivolous on its face, is outside OPR's jurisdiction, or is unsupported by any evidence. In such cases, OPR will close the matter without informing the subject attorney of the complaint.

When OPR needs more information to resolve a matter, OPR will initiate an inquiry. In such cases, OPR may request additional information from the complainant or from the subject attorney. Most inquiries are closed with no misconduct findings.

In cases that cannot be resolved based solely on the written record, OPR ordinarily initiates an investigation, which includes requesting and reviewing relevant documents and conducting interviews of witnesses and the subject attorney. The decision to conduct an investigation does not give rise to a presumption of professional misconduct. OPR makes misconduct findings only after conducting a full investigation.

Even if the subject attorney resigns or retires from the Department during the course of an investigation, OPR ordinarily completes the investigation in order to better assess the litigation impact of the alleged misconduct and to permit the Attorney General and Deputy Attorney General to assess the need for changes in Department policies or practices. In certain cases, however, the Office of the Deputy Attorney General will approve termination of such investigations if it is in the best interest of the Department.

The Investigative Process

OPR's inquiries and investigations involve a wide range of allegations, and the investigative methods used vary accordingly. In many cases, OPR initiates an inquiry because more information is needed to resolve the matter. In such cases, the first step is usually to request a written response from the attorney against whom the allegation has been made. Requests for written responses must be answered promptly and thoroughly. Supporting documentation and other relevant material should be included with responses, and other individuals with relevant information should be identified. However, the subject attorney should not interview other witnesses or ask them to prepare affidavits or written statements. In addition, the subject attorney's written response should not be edited or revised by any other Department attorney or official. If an attorney's trial schedule or other commitments preclude a timely response, an extension of time may be obtained by contacting OPR.

In requesting a written response, OPR asks the subject attorney to provide pertinent information regarding his or her professional background and experience, including his or her length of service and positions held with the Department. In order to determine what state bar rules may apply, OPR also asks the subject attorney to list each jurisdiction in which he or she maintains bar membership, regardless of his or her category of membership (*e.g.*, active, inactive, associate, or some other membership category).

If OPR determines based on its review of the record that there is no reasonable likelihood of a professional misconduct finding, the subject attorney and the United States Attorney or component head are notified that further inquiry is unwarranted, and the matter is closed.

In cases that cannot be resolved based on a review of the written record, OPR initiates an investigation of the alleged misconduct. Interviews are ordinarily conducted by two OPR attorneys. The interview of the subject attorney is transcribed by a court reporter, and the interviews of other witnesses are digitally recorded. Neither the subject nor a witness is permitted to record the interview. Co-workers are not permitted to attend interviews.

Following preparation of the transcript, the subject attorney will be given an opportunity, pursuant to a confidentiality agreement, to review the transcript and, if necessary, submit a

supplemental written response. A confidentiality agreement signed by the subject attorney requires that all copies of the transcript be returned to OPR.

All Department employees have an obligation to cooperate with OPR investigations and must respond to questions posed during the course of an investigation upon being informed that their statements will not be used to incriminate them in a criminal proceeding. Employees who refuse to cooperate with OPR investigations may be subject to formal discipline, including removal. *See* Attorney General's April 12, 2002 Memorandum, "Duty to Report Misconduct and Cooperate with Investigations."

Assistance of Counsel

The majority of OPR investigations are administrative in nature, and employees are not entitled to counsel as a matter of law. However, counsel may be permitted if counsel does not interfere with or delay the interview. Counsel must be actually retained by the employee as a legal representative, not as an observer. Counsel is not permitted access to certain confidential criminal investigative information and may not be permitted access to grand jury information.

Post-Investigation Procedures

At the conclusion of the investigation, OPR prepares a report of investigation in which it makes findings of fact and reaches conclusions as to whether the subject attorney committed professional misconduct. OPR may find the subject attorney committed professional misconduct by: (1) **intentionally** violating a clear and unambiguous obligation or standard imposed by law, applicable rule of professional conduct, or Department regulation or policy; or (2) **recklessly disregarding** his or her obligation to comply with that obligation or standard. OPR may also find that the attorney exercised poor judgment, made a mistake, or acted appropriately. A poor judgment finding may lead to disciplinary action; a mistake finding does not.

Once OPR completes its report of investigation, the subject attorney and the United States Attorney or component head are officially notified of the results of the investigation. If OPR determines that the subject attorney committed professional misconduct, prior to issuing a final report, the subject attorney, pursuant to a confidentiality agreement, and the United States Attorney or component head may review the draft report, comment on the factual findings, and offer arguments as to why OPR should alter its conclusions. OPR will consider the comments and incorporate them into the final report, to the extent OPR considers it appropriate.

OPR may include in its report information relating to management and policy issues noted in the course of the investigation for consideration by Department officials.

Pursuant to 28 C.F.R. § 0.39a and OPR's routine uses under the Privacy Act, OPR also notifies the complainant of the results of the investigation.

Departmental Review of OPR Misconduct Findings

In December 2010, the Department established the Professional Misconduct Review Unit (PMRU) to review OPR misconduct findings in matters involving Assistant United States Attorneys and Criminal Division attorneys. In 2015, the Department extended the jurisdiction of the PMRU such that it now reviews OPR's misconduct findings relating to nearly all Department attorneys. The PMRU does not review poor judgment findings, which are referred to the United States Attorney or component head for appropriate action. The PMRU will review poor judgment findings, however, if they are closely related to a misconduct finding made by OPR.

When OPR determines that an attorney who falls within PMRU's jurisdiction has committed professional misconduct, OPR provides its report of investigation directly to the PMRU for review without making a disciplinary recommendation. OPR also will provide the report of investigation to the subject attorney and the United States Attorney or the component head.

If the PMRU determines that OPR's misconduct findings are not supported by the evidence, it refers the matter to the United States Attorney or component head for action consistent with the PMRU's determination. The PMRU's determination is the Department's final ruling on the matter.

If the PMRU determines that OPR's misconduct findings are supported by the evidence, the PMRU makes a disciplinary proposal. The PMRU seeks input from the United States Attorney, and the Executive Office for United States Attorneys, or the head of the Criminal Division regarding any applicable *Douglas* factors, which must be considered in determining the appropriate disciplinary action.[1] The subject attorney then has an opportunity to provide an oral and written response contesting the proposal for discipline and its basis to the PMRU deciding official before discipline is imposed.

In matters resulting in the issuance of a reprimand, a PMRU attorney issues the reprimand, and the Chief of the PMRU serves as the grievance official. In matters resulting in a suspension of 14 days or less, a PMRU attorney generally serves as the proposing official; the PMRU Chief serves as the deciding official; and the Office of the Deputy Attorney General serves as the grievance official. In matters resulting in a suspension of more than 14 days, a PMRU attorney generally serves as the proposing official; the PMRU Chief serves as the deciding official; and the subject attorney may appeal the decision to the Merit Systems Protection Board (MSPB).

When OPR concludes that a subject attorney engaged in professional misconduct but the attorney is not employed in a component that falls under the jurisdiction of the PMRU, OPR recommends a range of discipline. The recommendation is not binding on the management

[1] The *Douglas* factors are all of the mitigating and aggravating factors, as set forth in *Douglas v. Veterans Administration*, 5 M.S.P.R. 313 (1981).

officials responsible for imposing discipline. However, if an official decides to impose discipline that is outside the range of discipline recommended by OPR (whether harsher or more lenient), the management official must notify the Office of the Deputy Attorney General before implementing that decision.

Referral of Misconduct Findings to Bar Disciplinary Authorities

At the conclusion of the disciplinary process, OPR will notify state bar authorities of misconduct findings that involve the violation of a bar rule. When the PMRU upholds an OPR finding of professional misconduct based on the violation of a state bar rule, OPR will, at the PMRU's request, notify state bar authorities of the misconduct finding within 30 days of the final disposition of the matter by the PMRU.

Routine Uses of Investigative Information

In addition to the internal uses by Department officials, OPR's findings may be disseminated for the routine uses published at 76 Fed. Reg. 66752 (10/27/11). These uses include disclosure to other government agencies and officials for law enforcement purposes; to individuals or agencies in order to elicit information relevant to the investigation or another pending proceeding; to a court, grand jury, or regulatory or administrative agency; to other federal agencies when requested in connection with the hiring or retention of an employee, the issuance of a security clearance, or the investigation of an employee; to complainants to inform them of the results of OPR's review of their complaints; and to the subjects of an inquiry or investigation.

OPR Review of Proposals to Refer Non-DOJ Attorneys to Bar Disciplinary Authorities

Pursuant to Section 1-4.150 of the USAM, allegations of misconduct by non-DOJ attorneys and judges must be reported to OPR for a determination of whether to report the allegations to appropriate disciplinary officials. The Department has established a protocol that accommodates the Department attorney's obligation to report the unethical conduct of an attorney to state bar disciplinary authorities, and the interest of the Department in protecting confidential information. *See* USAM § 1-4.150; 28 C.F.R. § 0.39(a) (9); ABA Model Rule 8.3(a). OPR will determine, in conjunction with the Department component that referred the matter to OPR, whether to report the allegations of unethical conduct of the non-Department attorney or judge to the appropriate disciplinary authorities.