

Congress of the United States

Washington, DC 20515

April 17, 2023

The Honorable Kevin McCarthy
Speaker of the House
U.S. House of Representatives
H-232 The Capitol
Washington, DC 20515

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Speaker McCarthy and Chairman Jordan:

We write to request that you hold hearings and bring H.R. 926, the Supreme Court Ethics, Recusal, and Transparency (SCERT) Act, to the House floor as soon as possible. The public is losing confidence in the Supreme Court, and the crisis in confidence is sinking lower by the day, as a cascade of reports show troubling and unethical behavior by Clarence Thomas, who as a Supreme Court justice holds a uniquely powerful and important position in our third branch of government.

Given the life tenure of justices, one of the few forms of accountability comes from Congressional oversight and action, and the need for both concerning Justice Thomas's actions grows by the day. Especially as the Supreme Court releases controversial rulings, it is critical that the public respects the integrity of the Supreme Court. We cannot risk the damage to our democracy if Americans stop believing that the Court is working on behalf of the people, and instead is being used as a vehicle through which officeholders only seek to enrich themselves and advance policy agendas that under our system of government, should be pursued through the legislative branch.

Earlier this month, ProPublica uncovered more than two decades of undisclosed gifts and travel received by Justice Clarence Thomas from political donor and political activist Harlan Crow. ProPublica reports that Thomas has repeatedly flown around on Crow's private jet, vacationed on his "superyacht," and spent time at Crow's private ranch and lakeside resort—with at least one trip valued at more than \$500,000.

A second ProPublica news story showed that Crow bought properties from Justice Thomas and his relatives for at least double what Justice Thomas had said those properties were worth—something which Justice Thomas again hid from the public. Although disclosure of these real estate deals was clearly required under the law, Justice Thomas failed to disclose the sale of those three properties in Savannah, Georgia. From this reporting, we now know that Crow even bought and renovated the house where Justice Thomas's mother lives, and Crow has refused to say whether he charges her rent.

This weekend, we learned about yet more alleged unethical behavior from Justice Thomas through reporting at the Washington Post. Over the last two decades, Justice Thomas has reported on disclosure forms that his family received hundreds of thousands of dollars of "rent"—between \$270,000 and \$750,000—from a firm that has not existed since 2006. The firm, which Justice Thomas valued at \$15,000 in 1990 and which was dissolved in March 2006, transferred its properties to a similarly named firm. If a justice cannot be counted on to accurately report the details of substantial financial income for a-decade-and-a-half, what business does he have in parsing the details of the laws we pass, to say nothing about the Constitution?

This is not new. In 2011, a watchdog group raised flags that Justice Thomas had for years failed to disclose employment details for his wife, Virginia "Ginni" Thomas. Despite Ms. Thomas earning more than \$686,000 from a conservative think tank and income from a conservative college, Justice Thomas checked a box labeled

“none” for his wife’s income during those years. In 2020, another watchdog group found he had failed to report reimbursements for trips to speak at law schools.

Justice Thomas is at the forefront of the news today, but any Justice could behave in the same manner since there is no enforceable ethics code at the Supreme Court, and no ethics office to monitor compliance—unlike the other two branches of government. Members of Congress are subject to strict ethical rules, and to investigation by our ethics committees when we break the rules. The executive branch and the lower court judges are also subject to ethical rules. Why is it that justices at the Supreme Court do not have a binding code of ethics, and have no guardrails on their ability to accept largess from interested parties? The Court has had ample time to address these serious breaches in conduct, but so far has failed to do so. This must be fixed immediately to restore faith in the Court.

SCERT will fix this problem and bring accountability to the Supreme Court. Under the SCERT Act, among other things, there will be:

- A code of conduct for Supreme Court justices;
- Minimum lobbying, gift, travel, and income disclosure rules;
- Disclosure of funding sources for amicus briefs;
- An investigative board composed of Circuit Court judges to review complaints submitted against Supreme Court justices, and public posting of their decisions;
- Circumstances that require recusals.

Our democracy will suffer if the highest Court in the land is subject to the lowest ethical standards. We have realized in the past that ethics rules were imperative for the Legislative and Executive Branch. It is well past time that the Supreme Court also shows the public that they are acting in the best interest of the public, rather than their own pocketbooks.

We look forward to hearings and floor action as soon as possible on this vital issue.

Sincerely,



Henry C. "Hank" Johnson, Jr.
Ranking Member
Subcommittee on Courts,
Intellectual Property, and the
Internet
Judiciary Committee



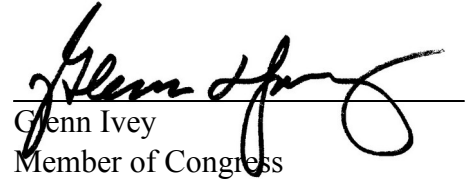
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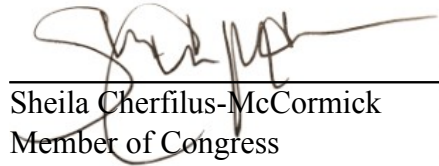
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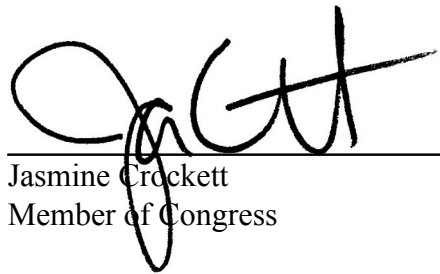
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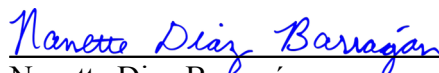
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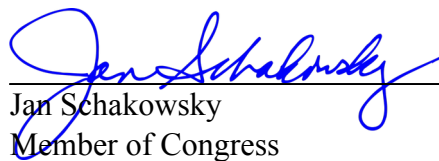
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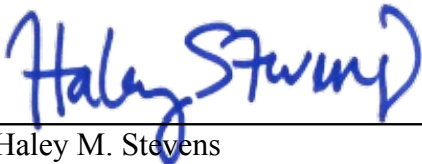
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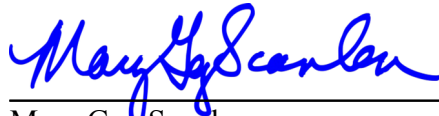
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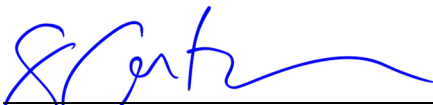
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