



November 29, 2022

The Honorable John G. Roberts, Jr.
Chief Justice
Supreme Court of the United States
1 First Street NE
Washington, DC 20543

Submitted via U.S. mail and pio@supremecourt.gov

Dear Chief Justice Roberts:

Campaign Legal Center respectfully requests that your 2022 Year-End Report on the Federal Judiciary (“Report”) address public concern with the numerous allegations of unethical conduct related to the U.S. Supreme Court this year. Specifically, you should state whether the Court will establish a formal procedure for investigating ethical misconduct and adopt a binding code of conduct for the Justices.

The public scrutiny of the behavior of Justices this year shows that unanswered questions about substantial allegations of misconduct harm the long-term legitimacy of the institution and may fairly or unfairly place Justices under a cloud of suspicion. The Court should join the other two branches of government and the lower federal courts in mitigating these risks through internal rules and compliance procedures.

You traditionally begin your Report with relevant historical context concerning the federal courts. We submit that the history of judicial ethics reform strongly suggests that that now is the moment for the Court to shore up public confidence.

One hundred years ago, in 1922, an ethics scandal involving federal Judge Kenesaw Mountain Landis resulted in his resignation followed by the creation of the Canons of Judicial Ethics. Fifty years ago, the Department of Justice’s ethics

investigation of Justice Abe Fortas yielded the Model Code of Judicial Conduct. A little over ten years ago, public concern with Justices failing to recuse from cases with perceived conflicts of interest prompted you to confirm that the Court consults the code of conduct for federal judges. And today, ethics scandals and recusal controversies persist, requiring reform.

The only publicly known action the Court has taken in response to the deluge of ethics allegations is to direct the Court's Marshal – a position by statute that is not equipped or experienced for ethics investigations – to conduct one investigation. The Court's legal counsel released a letter on November 28, 2022, concluding that ethics allegations related to a Justice were uncorroborated. However, this conclusion is apparently based on statements in the media instead of the Court conducting a basic internal fact gathering with the relevant witnesses. The inability of the Court to meaningfully review facts surrounding substantial allegations of misconduct supports the precedent of the Department of Justice investigating Supreme Court Justices.

The Court should decrease the need for external investigations by establishing an internal ethics office and binding code of conduct. This is the reasonable and logical approach to ethics that exists in the executive branch, legislative branch, lower federal courts, and any major corporation.

The public has a right to know whether the Chief Justice intends to accept the status quo of questionable ethics practices chipping away at the Court's reputation, or if you are committed to rebuilding public trust. We ask that your Report take a step in the direction of change and state this commitment.

Sincerely,



Kedric L. Payne

Vice President, General Counsel and Senior
Director of Ethics

cc: Patricia McCabe, Public Information Officer