

**Senate Committee on the Judiciary**  
**Subcommittee on Federal Courts, Oversight, Agency Action and Federal Rights**  
**“What’s Wrong with the Supreme Court: The Big-Money Assault on Our**  
**Judiciary”**

**Senator Whitehouse’s Questions for Lisa Graves**

1. You said in response to a question from Senator Lee that CMD had not received “dark money” from the Open Society Institute and others. Can you please explain?

The term “dark money” is used in a variety of ways in popular discourse, and CMD uses the phrase in its journalism to describe the funding sources for significant expenditures made to influence elections, judicial nominations, ballot measures, and legislation when the sources of those funds are kept secret from the public. “Dark money” does not include all undisclosed funding for nonprofits, regardless of their activities. For example, the Red Cross is nonprofit, and it is not a dark money organization.

As CMD does not engage in those activities, aside from occasionally taking a position on measures aimed at improving transparency, voting rights, government ethics, and campaign finance regulations, the funding we receive is not “dark money” in any meaningful sense. Furthermore, CMD voluntarily discloses its major funders on its PRWatch.org website.

For decades donations to electoral candidates, political campaigns, and political parties have been required to be disclosed under federal law and in most states, including for judicial candidates running for office or in retention elections. However, since the adoption fifty years ago of the Federal Election Campaign Act (FECA), which replaced the Corrupt Practices Act, individuals and organizations have been attempting to invalidate or get around FECA’s disclosure rules and limits.

Indeed, as I documented last year, Charles Koch’s funding subsidized the Libertarian Party’s Supreme Court challenge to the FECA in the *Buckley v. Valeo* litigation.<sup>1</sup> The Libertarian Party also sought a ruling by the Federal Election Commission to allow him to give more to the Party than permitted by statute, a permission that was granted after the *Buckley* decision was issued. He then bundled funds from two of his brothers and his mother to become the then-largest donor to the Libertarian Party, and he helped underwrite other attacks it made on clean election rules under the FECA. So, his attacks on federal anti-corruption laws began more than 40 years ago.

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<sup>1</sup> Lisa Graves, “Love the Billionaire Bucks Flooding the 2020 Elections? Thank Charles Koch,” *The Guardian*, February 7, 2020, <https://www.theguardian.com/commentisfree/2020/feb/07/charles-koch-elections-billions-money-cash/>.

His brother, David, used an exception to the FECA created by *Buckley* to self-finance most of the Libertarian Party's 1980 presidential campaign, but after his family failed to win the White House, Charles Koch switched his focus to influencing the Republican Party both through donations to candidates and through an array of groups he created or has funded over the years.

In addition to underwriting much of the term limit efforts in the early 1990s, Koch family money funded a major new dark money push, dubbed Triad, to influence the outcome of a number of U.S. House races in Kansas in 1996. "The episode was a major event in modern political financing, marking the return of massive anonymous contributions to American politics after a 20-year hiatus," according to a *Wall Street Journal* reporter.<sup>2</sup>

That spending by secretive groups was investigated by the U.S. Senate, although then-Senator Fred Thompson reportedly refused to allow subpoenas to be issued to uncover the true identity of the funders during that investigation. The Senate report discussed suspicions that the money was tied to Charles Koch, ties that were documented a year later by a whistleblower who shared key materials with the press.<sup>3</sup>

That episode and other examples of dark money that was deployed to help specific candidates without giving directly to the candidate became a target of the Bipartisan Campaign Reform Act (BCRA), known as McCain-Feingold. Koch-funded groups opposed that legislation and also supported legal challenges to its provisions.

After George W. Bush's two appointments to the Supreme Court and a challenge to the law in the midst of the 2008 presidential election, the Court struck down key provisions of BCRA regulating that "outside" spending in the 5-4 *Citizens United* decision in 2010. Koch-funded groups then dramatically expanded their spending to influence election results, while keeping the public in the dark. That spending now often exceeds the spending by the candidates themselves, which is subject to limits and disclosure.

That is what is traditionally considered to be "dark money." Contrary to Senator Lee's assertion, dark money is not all money given to any non-profit group in the country. It is money that is being secretly spent around elections, often in attack ads on TV or online, that do not expressly say to vote for or against a candidate. And, more broadly, it includes money spent to influence judicial appointments and, sometimes, amicus briefs. To date, spending on ads about federal court confirmations has not been regulated like campaign spending and thus is not even subject to minimal disclosure requirements. In our view, it should be if it meets the threshold in the DISCLOSE Act and H.R. 1/S. 1 — regardless of whether the group doing the spending is "conservative" or "progressive."

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<sup>2</sup> Glenn R. Simpson, "New Data Shows That Koch Firm Funded GOP TV Ads in '96 Races," *Wall Street Journal*, June 1, 1998, <https://www.wsj.com/articles/SB896659331532085500/>.

<sup>3</sup> Bill Moyers, "Washington's Other Scandal," *Frontline*, October 6, 1998, <https://billmoyers.com/content/washingtons-scandal-campaign-finance/>.

2. Senator Lee inquired about the identity of the donor of an anonymous gift your organization received from Schwab several years ago. If that donation is different from “dark money,” as you define that term, please explain. Please also explain how you define that term.

As explained above, we do not consider money donated to CMD to be dark money, as CMD does not engage in electoral, judicial nominations, or lobbying campaigns.

In any event, Senator Lee is referring to two gifts CMD received from an account with Charles Schwab charitable investment funds several years ago. The identity of the account holder—man, woman, or child, whether living or as part of a bequest—was not known to me then or to this day. Had I known the name of that generous benefactor, I would have disclosed it on CMD’s website as I had CMD’s other major donors.

This stands in stark contrast to situations where the leader of an organization knows the identity of a donor underwriting ads to influence the outcome of an election but the public is kept in the dark.

For example, an investigation by *The Guardian* revealed that, in 2011-2012, then-Wisconsin Governor Scott Walker secretly raised millions of dollars—in the form of million-dollar checks and other substantial sums—for a group called Wisconsin Club for Growth (WCFG), even though he could not legally solicit or receive such funds for his own candidate or committee accounts when he was facing a recall election.<sup>4</sup>

Walker sought millions in funding to help him and other Wisconsin Republicans survive petitions to recall them from office after they pushed through dramatic limits on the power of workers to bargain collectively via what was known as Act 2 in 2011. Walker and his top political advisors knew exactly who was writing checks to WCFG in response to his specific requests for millions to help him win that election (and some of those checks notated that they were for “Walker’s (c)(4)” or for Walker), but the public was kept in the dark about the source of the donations that were spent to underwrite ad campaigns specifically to influence the outcome of those recall elections.

A bipartisan group of county District Attorneys launched an investigation into illegal coordination among the groups Walker secretly raised money for, at least one of which was directed by one of his long-time political advisors. Ultimately, the Wisconsin Supreme Court rejected that criminal investigation and overruled long-standing Wisconsin law regarding illegal campaign coordination—even though at least two of the judges in the majority in that ruling had benefited themselves from the spending around their elections by some of the groups under criminal investigation. (The justices refused to recuse themselves from the case, and CMD filed an amicus brief with the U.S. Supreme Court, urging it to grant certiorari in a due process appeal by the state prosecutors, which was based on the legal precedent about similarly inappropriate influence on the West Virginia Supreme Court in *Caperton v. A.T. Massey Coal Co.*)

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<sup>4</sup> Ed Pilkington and *The Guardian* US Interactive Team, “Because Scott Walker Asked,” *The Guardian*, September 14, 2016, <https://www.theguardian.com/us-news/ng-interactive/2016/sep/14/john-doe-files-scott-walker-corporate-ca-sh-american-politics>

3. Please detail what is known about the history of Leonard Leo and the Federalist Society working on judicial nominations with Brett Kavanaugh when Kavanaugh worked in George W. Bush White House Counsel's Office?

Documents provided to the Senate Judiciary Committee reveal that Brett Kavanaugh received memoranda about judicial nominations that had been stolen from the files of several staffers of U.S. Senators. Those files were taken without the permission of the authors at the behest of Manuel Miranda, a Republican staffer who was the senior advisor on nominations to Majority Leader Bill Frist. The theft, which took place from late 2001 until mid-November 2003, is the reason the Senate Judiciary Committee has a divided file server to this day, with Democratic staffers having “-dem” and Republican staffers having “-rep” as part of their email addresses for their work on the Committee.

The U.S. Sergeant-at-Arms investigated the theft of those files and referred the case to the U.S. Attorney's Office to investigate potential federal crimes, despite Miranda's denial of any wrongdoing. The George W. Bush administration declined to prosecute the GOP staffer who had aided in its efforts to get Bush judicial nominees confirmed.

One of the facts unknown to the Sergeant-at-Arms and his investigative team, which had access only to the Senate Judiciary Committee's server after the Capitol Police seized it after being alerted by Senator Ted Kennedy's Chief Counsel Jim Flug, was who Miranda was working with on nominations at the White House. That is because Miranda's communications with the White House Counsel's office occurred primarily in 2003 when he was no longer on the Committee because he had become Senator Frist's chief counsel on nominations.

In that new role, Miranda was the primary Senate staffer communicating with the White House and special interest groups on judicial nominations. Miranda was elevated to that position over other more senior Judiciary Committee staffers after a short period on the Committee. As the independent investigators discovered, he had shared some of those memos with other GOP Senate staffers. Ultimately, then-Chairman Hatch apologized that his former staffer had stolen Committee files, and Hatch's other staffers who had received some of those stolen files or were aware of their theft also apologized.

However, Miranda—who resigned in disgrace after the discovery of the thefts—refused to cooperate with the Sergeant-at-Arms investigation. And he specifically refused to tell the investigators who his main contact was in the White House Counsel's office.<sup>5</sup>

However, in 2018, the public learned that Miranda's main contact in the White House Counsel's Office on the strategies and tactics to get Bush's nominees confirmed was Brett Kavanaugh, according to documents from then that were given to the Committee.

Those documents show that my confidential analysis of crucial nomination issues that the White House Counsel's Office was intensely focused on countering, regarding the filibuster of Bush judicial nominees, was provided by Miranda to Kavanaugh.

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<sup>5</sup> U.S. Senate, *Report on the Investigation into Improper Access to the Senate Judiciary Committee's Computer System*, Senate Sergeant of Arms, March 4, 2004, <https://cryptome.org/judiciary-sys.htm>.

As the Chief Counsel for Nominations for the Senate Judiciary Committee, for the Ranking Member and former Chairman, I spearheaded the research on the history of the filibuster and the strong precedents for Senate access to Executive Branch materials written by nominees to high office. I also had all of the main memos about concerns regarding the potential unfairness of Bush judicial nominees (written by me or reviewed by me as part of managing the team working on the nominations process) in my government files that were taken without my permission at Miranda's direction. Other staffers' files were taken as well, including those of my clerk, Rachel Arfa.

Those materials provided valuable insights into our strategy and substantive arguments as the White House battled the Senate Democrats who were voting against invoking cloture to end the debate on a handful of the most controversial Bush nominees.

Miranda was the lead GOP staffer in that battle for the Senate Republicans, and he was in regular contact with Kavanaugh about tactics to try to break those filibusters.

Very few other staffers at the White House were included in emails from Miranda, other than Kavanaugh—except when large meetings were planned.

However, the documents show that a non-government official was on several emails of those emails about nominations and strategy. That person was Leonard Leo, who was a top leader of the Federalist Society and its leader on judicial appointments.

That is, Miranda was leading the Senate part of the effort to break the filibuster of Miguel Estrada and other Bush nominees. Kavanaugh was leading the White House part of the effort to try to break those filibusters. And, Leo was leading the outside group strategy to support their efforts. They were like a triumvirate on the confirmation effort.

We knew that the Federalist Society was involved in the nominations process after Bush had removed the American Bar Association from the pre-nomination evaluation of the qualifications of nominees. We also knew that a high proportion of Bush's circuit court nominees were Federalist Society members.

But until the documents were shared as part of Kavanaugh's nomination to the U.S. Supreme Court, we did not know details about how much of an insider Leo was with the Bush White House on nominations—a role that pre-dates the more recent and more public role he played in choosing the slate of judicial candidates for the Supreme Court and lower courts that Trump chose from for these lifetime appointments to the bench.

The documents show that Leo was working closely with Kavanaugh and with Miranda; that Leo even accompanied a major Republican donor to the White House to meet with Kavanaugh; that Leo had other staff at the Federalist Society working with him on coordinating the umbrella of special interest groups pressuring the Senate to approve Bush's judicial nominees; and more.

We also did not know, until those documents were provided, that Kavanaugh had in fact received material stolen from the files of the staff of the Senate Judiciary Committee.

The documents provided, however, were largely incomplete. The person designated by the Bush administration to determine whether to share them with the Committee and the public was a friend of Kavanaugh, whom Kavanaugh helped get a job in the White

House. Although the GOP likes to tout that thousands of pages of files were provided, that claim obscures the reality that many more thousands of pages of files were held back and were not properly provided to the Committee, in my view.

Within those files that were withheld in Kavanaugh's rushed nomination process may very well be other files that shed more light on how many more stolen files Kavanaugh received and whether others in those nomination fights also received those stolen files.

There is no evidence in the partial files provided that Leo received stolen files, but we know for certain that Miranda did share those files with other GOP staffers and also with at least two rightwing groups that were subordinate to Leo's leadership of the umbrella group: C. Boyden Gray's Committee for Justice and Concerned Women for America. The latter are known because, when a selection of the files that Miranda had stolen were provided to the *Wall Street Journal* editorial page and press, that small sample included markings showing they had passed through the hands of those groups. It is certainly possible that Miranda shared the files only with other groups and not the leader of the coalition on judicial nominations, and it is also possible that is not the case.

This extraordinary violation of the U.S. Senate by a Senate staffer calls into question the integrity of a justice of the U.S. Supreme Court, and the Senate has a right to access the correspondence to and from Kavanaugh that was improperly denied to it. I believe the Senate should renew its requests for those withheld materials, which the former GOP Chairman of the Committee refused to insist on. The public has a right to know the full truth about this matter.

4. From early 2002 through late 2003, when you worked on then-Chairman Leahy's Judiciary Committee staff, you were a victim of an ongoing series of document thefts by a Republican staff counterpart on the committee. An investigation by the (Republican) Senate Sergeant at Arms concluded in 2004 with a referral of the perpetrator to the U.S. Attorney's Office. The documents stolen from you, some of which related to Democratic strategy on judicial nominations, ended up in the possession of Brett Kavanaugh in the Bush White House Counsel's Office. In sworn testimony under oath at two confirmation hearings, Kavanaugh has denied knowledge that the documents in his possession were the product of theft. What is your response to Kavanaugh's testimony? Do you believe it was truthful? Why or why not?

As I wrote in *Slate* in September 2018, when I watched Kavanaugh's initial testimony before the Senate Judiciary Committee, I was shocked to learn that there was documentary evidence that Kavanaugh had received material stolen from the Senate Judiciary Committee.<sup>6</sup>

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<sup>6</sup> Lisa Graves, "I Wrote Some of the Stolen Memos that Brett Kavanaugh Lied to the Senate About," *Slate*, September 7, 2018, <https://slate.com/news-and-politics/2018/09/judge-brett-kavanaugh-should-be-impeached-for-lying-during-his-confirmation-hearings.html>; And Jeremy Stahl, "The Evidence Is Clear: Brett Kavanaugh Lied to the

I knew Kavanaugh had played a significant role in nominations in George W. Bush's first term (as Associate White House Counsel), and we suspected that he and others in the thick of that battle knew about the stolen files. That is because the Sergeant-at-Arms investigation made clear that Miranda had not kept them to himself.

Accordingly, when Kavanaugh appeared before the Committee in connection with his nomination to the U.S. Court of Appeals for the D.C. Circuit, Democratic staffers prepared several questions asking him whether he had ever received any of the stolen memos, and he denied it—under oath. The Senate's investigation into the theft had begun in November 2003 and concluded in the spring of 2004 with the criminal referral. Kavanaugh's hearing was the summer of 2004, and so the issue was very fresh on Members' and staffers' minds.

Kavanaugh was not confirmed before the presidential election. When his nomination was considered by the Senate Judiciary Committee a second time in 2006, he was asked again whether he had received any of the files Miranda had stolen, and again he denied it—under oath.

During those two nominations, the Committee did not have any access to the kind of correspondence it obtained in connection with the elevation of Kavanaugh to the highest court in the country.

I was astonished during the hearing on Kavanaugh's Supreme Court nomination, not only by the evidence that he had certainly received the stolen material but also by his new claims about those files. When asked in 2018, for what was then the third time about the stolen files, he stated—under oath—that it was common to get such materials from Senate Democrats about their strategies and tactics, and he asserted that staffers often shared such materials across the aisle. That was a jaw-dropping and false claim.<sup>7</sup>

I can attest from personal experience that it was certainly not the case on the Senate Judiciary Committee for Democratic or Republican staffers to share their strategy memos on nominations with each other. In 2019, several staffers joined together in writing an op-ed denouncing Kavanaugh's testimony. The Judiciary Committee was the most contentious and bitterly contested one during that period, and the White House was centrally involved in attacking Democratic Senators. Republican Senators and the

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Senate Judiciary Committee," *Slate*, September 12, 2018, <https://slate.com/news-and-politics/2018/09/brett-kavanaugh-lies-senate-testimony-supreme-court.html>.

<sup>7</sup> See Jeremy Stahl, "The Evidence Is Clear: Brett Kavanaugh Lied to the Senate Judiciary Committee," *Slate* September 12, 2018, <https://slate.com/news-and-politics/2018/09/brett-kavanaugh-lies-senate-testimony-supreme-court.html>.

White House were furious that Democrats were blocking some of the most prized GOP nominees, people who were being groomed to be potential Supreme Court nominees.<sup>8</sup>

I also considered the possibility his statements were a potential confession that there was evidence in emails that Kavanaugh had seen more of the files stolen by Miranda and was trying to pre-emptively normalize that, should such evidence someday surface.

It is my firm belief that Kavanaugh perjured himself in his earlier confirmation hearings when he stated that he had not received any such files, because documentary evidence refutes that testimony, and also in his subsequent testimony when he claimed that receiving memos written by Democrats about controversial matters was normal. When Kavanaugh was pressed to reconcile his testimony in Questions for the Record, he refused to provide any additional answers. Salvador Rizzo, the *Washington Post's* fact checker, examined these issues in detail and found Kavanaugh's claims about the stolen memos to be not credible.<sup>9</sup> My former boss, Senator Patrick Leahy, agreed, as did several other senators, including the current chairman of the Committee.<sup>10</sup>

As I wrote in 2018 and continue to believe, Kavanaugh should be impeached.

5. Do you have any additional concerns about secretly funded amicus briefs you would like to share with the Subcommittee?

As I detailed in my written testimony, CMD is troubled by the surge in coordinated amicus briefs being filed with the Supreme Court in cases of great importance to wealthy corporate interests and right-wing ideologues, who often share common funders. The identities of most of the actual donors bankrolling these efforts are kept from the public view, leaving the American people in the dark as to their financial or personal interests in the outcome of the litigation. (See my written testimony, pages 17-23.)

Since the Subcommittee's hearing on March 10, CMD has published an investigation into the shared funders behind several amicus groups filing briefs in the *Cedar Point Nursery v. Hassid* case, which argue that a California law allowing union organizers

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<sup>8</sup> Bob Schiff, Kristine Lucius, Jeff Berman, and Lisa Graves, "Brett Kavanaugh Can't Be Trusted. We Know Because We Worked as Counsel to Senators When he Was in the Bush White House," *Time*, September 17, 2018, <https://time.com/5398191/brett-kavanaugh-supreme-court-senators/>.

<sup>9</sup> Salvador Rizzo, "Brett Kavanaugh's Unlikely Story about Democrats' Stolen Documents," *The Washington Post*, September 20, 2018, <https://www.washingtonpost.com/politics/2018/09/20/brett-kavanaughs-unlikely-story-about-democrats-stolen-documents>.

<sup>10</sup> Patrick Leahy, "Brett Kavanaugh Mised the Senate Under Oath. I Cannot Support his Nomination," *The Washington Post*, September 13, 2018, [https://www.washingtonpost.com/opinions/brett-kavanaugh-mised-the-senate-under-oath-i-cannot-support-his-nomination/2018/09/13/ea75c740-b77d-11e8-b79f-f6e31e555258\\_story.html](https://www.washingtonpost.com/opinions/brett-kavanaugh-mised-the-senate-under-oath-i-cannot-support-his-nomination/2018/09/13/ea75c740-b77d-11e8-b79f-f6e31e555258_story.html).



onto growers' property amounts to an unconstitutional regulatory taking under the Fifth Amendment. The case could also have sweeping implications for the government's ability to inspect property for health and safety violations under a variety of laws.<sup>11</sup>

I would also like to bring to the Committee's attention two related issues regarding amicus briefs. The first is the troubling way in which the Republican Attorneys General Association coordinates amicus briefs on behalf of sovereign states while simultaneously selling access to Attorneys General and their staff to its private sector funders—whose donations are then spent to bolster their reelection campaigns. This practice creates the strong appearance, if not the reality, that many of those briefs are advancing the private interests of the RAGA donors that help them win the powerful public offices they hold. There are numerous examples of this sort of alignment, and perhaps the most significant one is how RAGA Attorneys General attacked the Obama Administration's Clean Power Plan in accordance with the policy agenda of the RAGA's fossil fuel donors.<sup>12</sup>

A second area worth further examination is the role of American Legislative Exchange Council (ALEC) in amicus briefs. As CMD has documented extensively since I launched ALECexposed.org in 2011, ALEC is a pay-to-play group where state legislators vote as equals on "model" bills with corporate lobbyists and special interest groups, without the press or public present. Koch Industries has been a major funder of ALEC for nearly 30 years and sits on its corporate board, along with Big Tobacco and other corporations.

Koch Industries and other Koch-created and -funded groups like Charles Koch's Americans for Prosperity are on ALEC Task Forces, where private sector members get an equal vote on legislation that advance their special interests. ALEC has also featured the controversial Cleeta Mitchell at its meetings, along with Hans von Spakovsky and others who have been peddling voter fraud claims that have been widely discredited.

But, what has received less public attention is the role that the corporate-funded ALEC is playing in the flotillas of amicus briefs. The late Bob Sloan did pioneering work documenting ALEC's role in filing amicus briefs and other ALEC activities.<sup>13</sup>

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<sup>11</sup> Alex Kotch, "Right-Wing Groups Rally Around Anti-Union Case Argued in Supreme Court Today," *Center for Media and Democracy* March 22, 2021, <https://www.exposedbycmd.org/2021/03/22/right-wing-groups-rally-around-anti-union-case-argued-in-supreme-court-today/>.

<sup>12</sup> See, e.g., Alex Kotch, "As GOP State Attorneys General Fight Environmental Regulations, Fossil Fuel Companies Bankroll Their Campaigns," *Center for Media and Democracy*, December 16, 2019, <https://www.exposedbycmd.org/2019/12/12/gop-state-attorneys-general-fight-environmental-regulations-fossil-fuel-companies-bankroll-campaigns/>; Andrew Perez and Lee Fang, "GOP Law Enforcement Chiefs Invited Donors to Help Set Policy Via Secret Bulletin Board," *The Intercept*, February 12, 2018, <https://theintercept.com/2018/02/12/gop-law-enforcement-chiefs-invited-donors-to-help-set-policy-via-secret-bulletin-board/>.

<sup>13</sup> Bob Sloan, "ALEC, the Koch Led CABAL and 'The Amicus Project'-Fed Court Interference," *Daily KOS*, July 24, 2012,

In more recent years, the corporate-funded ALEC has weighed in with the Supreme Court in several prominent cases as the self-described largest voluntary association of state legislators in the country.<sup>14</sup> However, dues from those legislators account for less than 2% of ALEC's revenues annually. The remaining 98% comes from corporations like Koch Industries and family foundations like Koch's and those of the Amway fortune controlled by the DeVos family. I think it is worth examining more closely the extent to which ALEC's amicus agenda reflects the financial interests and objectives of its corporate and CEO benefactors.

The Independent Women's Forum has also expanded its amicus work in recent years. While the Independent Women's Forum/Voice received substantial funding from the Leo-tied Judicial Crisis Network after Justice Scalia died, more recent filings show an increase in DonorsTrust funding. The Independent Women's Forum is a pay-to-play group that has received funding from corporations while advancing their policy agenda. For example, IWF has received funding from Juul while writing articles that minimized concerns about health risks from vaping, without disclosing to the public that it was funded by the biggest vaping company in the country. It is not clear in the amicus briefs IWF has submitted whose interests or what funder agenda it may be advancing, if any.

These are just a few of the examples of special interest groups with major funding from corporations or CEOs joining in the flotilla of amicus briefs Senator Whitehouse has described. Another is the Competitive Enterprise Institute. There are many others.

6. Can you please provide additional details about the issues surrounding judicial junkets and the history of that practice?

Yes. For many years, the expert on judicial junkets was Doug Kendall, who spearheaded deep research into the judicial education industry when he led the Community Rights Counsel. His research and the work of his colleague Jason Rylander and others led to two major 20/20 investigations on judicial junkets,<sup>15</sup> along with numerous other news stories about the problem of corporate-funded judicial education and calls on Congress to ban this practice.<sup>16</sup>

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<https://www.dailykos.com/stories/2012/7/24/1103641/-ALEC-the-Koch-Led-CABAL-The-Amicus-Project-Fed-Court-Interference>.

<sup>14</sup> See, for example, "Archive: Amicus Briefs," [alec.org](https://www.alec.org/periodical/amicus-briefs/), American Legislative Exchange Council,, <https://www.alec.org/periodical/amicus-briefs/>.

<sup>15</sup> ABC News, "20/20 Investigates Judicial Junkets," YouTube video, 6:40, [https://www.youtube.com/watch?v=N7Aw\\_FXhRqk](https://www.youtube.com/watch?v=N7Aw_FXhRqk) <https://www.youtube.com/watch?v=6io8w9vofAM>.

<sup>16</sup> For example, see letter from Jim Ward, William Samuel, et al. to Senator Reid and Senator McConnell, March 6, 2008, <http://www.communityrights.org/JunketsLetter.pdf>.

Their examination of the ways in which corporations were using “judicial education” to try to sway the rulings of judges was conducted before Charles Koch and his extreme agenda were made infamous by Jane Mayer’s blockbuster reporting in 2010 in the *New Yorker* and in her book *Dark Money*.<sup>17</sup> However, those investigations describe the early programs in the 1990s and early 2000s — some of which were later tied to funding of groups and programs by the Koch family fortune — to train judges how to think about legal and economic issues in litigation brought before them as judicial officers.<sup>18</sup>

One of the main providers of judicial training in Koch-style economic-legal analysis is right outside Washington, DC. Research shows that Charles Koch began funding George Mason University nearly 40 years ago, although any amount of funding from the privately held Koch Industries or individual trust accounts is not publicly disclosed. Only the amounts spent through the Koch family foundations can be traced. Koch’s agenda was embraced by several professors at GMU, including Henry Manne, a Koch ally who began training federal judges in the 1970s, and expanded that program when he joined George Mason’s faculty in the 1990s and became the dean of GMU’s law school.<sup>19</sup>

Meanwhile, at Kansas University in the 1990s, another law professor tied to the Koch family fortune received Koch funding to focus on training state judges. That program began with more than \$1 million in seed money from the Koch foundations, according to my research. In one four-year period in the late 1990s, as Koch Industries faced major federal and state lawsuits and regulatory actions over its pollution, the Koch foundations spent nearly 10% of their grants funding judicial education for federal and state judges.

Since then, the amount of cash Koch has invested in universities in general and George Mason University, and its law school in particular, has grown exponentially. That includes a recent \$10 million grant after Antonin Scalia died and the law school was renamed for him. The cumulative amount spent through the Koch fortune on judicial education since the first couple million dollars in the late 1990s has never been tallied.

The judicial education programs funded by Koch’s fortune have also been supported by other corporate funders, often passed through a university foundation so they are not easily visible to the public, a practice Koch’s advisors touted decades ago. Meanwhile numerous corporate lawyers — and often Federalist Society members — have acted as teachers to these federal and state judges on a range of issues including methods that limit the application of environmental laws that protect the public interest in clean air,

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<sup>17</sup> Jane Mayer, “Covert Operations: The Billionaire Brothers who are Waging a War against Obama,” *The New Yorker*, August 23, 2010, <https://www.newyorker.com/magazine/2010/08/30/covert-operations>.

<sup>18</sup> See the attached appendix “Report on Koch Foundations’ Funding of Judicial Education,” an internal report provided to me.

<sup>19</sup> See Henry N. Butler, “The Manne Programs in Economics for Federal Judges,” *Case Western Reserve Law Review* 50, no.2 (1999), <https://core.ac.uk/download/pdf/214082437.pdf>. The author, Henry Butler, was then the Fred and Mary Koch Distinguished Professor of Law and Economics and Director of the Law and Organizational Economics Center at the University of Kansas.

water, and our climate.<sup>20</sup> Over the past 25 years, thousands of judges have participated in programs funded by the Koch fortune as well as by Charles Koch's allies.

As Mr. Kendall and Mr. Rylander documented, other corporate-funded groups have also launched judicial education programs, which were sometimes held at very posh resorts. These are detailed in the Internet Archive of [communityrights.org](http://communityrights.org). Other corporations besides petro-chemical corporations and their corporate defense lawyers have also targeted judicial education, including the tobacco industry.<sup>21</sup> There are more illuminating examples in the archive of Mr. Kendall's reports, including "Nothing for Free: How Private Judicial Seminars Are Undermining Environmental Protections and Breaking the Public Trust." I would urge the Committee to examine these reports and explore more.

There is no uniform reporting of these efforts to indoctrinate judges at the state level, and the federal disclosure process is wholly inadequate. Despite having a system for "Reports of Privately Funded Seminars" administered by the Administrative Office for the U.S. Courts (the "AO"), the process the AO has created is deeply flawed. The forms filed by providers are not readily accessible to the public for all the periods in which a judge may have attended one of these events (just the most recent). Additionally, the true funders of the programs are not often revealed, just the sponsoring group. The AO also does not require disclosure in the reports filed by the organizers of these events, like George Mason University, to list the names of the federal judges who attended the trainings so that reporters, litigants, and the public can see who is being trained in what.

Only limited information is provided annually by individual judges who travel to attend such seminars, when they are required to disclose such travel reimbursements; and many do not have to travel far to attend them. What little information is disclosed in these separate annual financial disclosure reports is not accessible online, and the AO requires requesters to identify each specific judge's financial disclosure form requested. I previously served as the Deputy Chief of the Article III Judges Division of the AO, and it pains me to see such an inadequate commitment to transparency by the third branch of government on such important matters that affect the integrity of our judicial system.

The AO's system also suffers from the purposeful cloaking of donors through pass-throughs like George Mason University's foundation, which UnKoch My Campus has helped document and expose (and for which I serve as an informal advisor). Stating that a particular seminar was sponsored by George Mason University or its law school hides the identities of the true donors underwriting its operations in this area, which we know through other sources to have included substantial funding from the Koch fortune.

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<sup>20</sup> Eric Schaeffer, "Junketing Judges: A Case of Bad Science," *The Washington Post*, June 4, 2006, <https://www.washingtonpost.com/archive/opinions/2006/06/04/junketing-judges-a-case-of-bad-science/68943158-de8a-46eb-8f42-3faf39a795c1/>; Brian Ross, "Supreme Ethics Problem?" ABC News video transcript, January 23, 2006, <https://abcnews.go.com/Nightline/story?id=1541642>.

<sup>21</sup> L.C. Friedman, "Tobacco Industry Use of Judicial Seminars to Influence Rulings in Products Liability Litigation," *Tobacco Control* (2006), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2563562/>.

The public has a right to know when federal or state judges are being trained on how to interpret the law at seminars underwritten by corporations, trade groups, or CEO-led foundations and also when independent judges are trained by corporate lawyers whose firms are the business of litigation. I also think people have a right to know how Charles Koch has used his wealth to advance his corporate and personal agenda by helping to remake the law by getting judges trained to approach issues in ways he prefers. He is one of the richest men on the planet, whose petro-chemical empire was documented in Chris Leonard's book *Kochland* and whose agenda to limit democracy was detailed in Nancy MacLean's book *Democracy in Chains*, as well as in Jane Mayer's *Dark Money*.

This should not be a partisan issue, however. Any reformed mandatory disclosure would treat those who seek to train judges, whether aligned with the right or the left, equally.

7. Are there any other concerns you have about judicial travel or related matters, such as gifts from friends, you would like to describe for the Subcommittee?

I am very concerned about the lack of compliance with, and enforcement of, the family income and gift reporting requirements of the Ethics in Government Act as it applies to Supreme Court justices. I also think the gift exceptions need substantial reform. For example, as Common Cause exposed in 2011, Justice Thomas failed to report his wife's income and a variety of lavish gifts from a wealthy Texas real estate magnate.<sup>22</sup>

It is unclear if Justice Thomas, or other justices, have fully complied with Ethics Act disclosure requirements since then, and Congress should examine this important question. This is a matter that I think warrants a more complete investigation.

As you know, the Supreme Court does not have a binding code of conduct, and we agree with you that such a code is necessary. It should require the highest standards for our highest court.

8. What is your view of the issues at stake in the *Americans for Prosperity Foundation v. Becerra* case?

My views are strongly in accord with the brief filed, *sub nom.* Rodriguez, with the U.S. Supreme Court by Senators Whitehouse, Leahy, Wyden, Durbin, Klobuchar, Merkeley, Coons, Blumenthal, Baldwin, Hirono, Warren, Markey, Booker, and Van Hollen. That

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<sup>22</sup> Kim Geiger, "Clarence Thomas Failed to Report Wife's Income, Watchdog Days," *Los Angeles Times*, January 22, 2011, <https://www.latimes.com/politics/la-xpm-2011-jan-22-la-na-thomas-disclosure-20110122-story.html>; Mike McIntire, "Friendship of Justice and Magnate Puts Focus on Ethics," *New York Times*, June 18, 2011, <https://www.nytimes.com/2011/06/19/us/politics/19thomas.html>.

brief accurately and compellingly describes what is at stake in the case pending before the Court and the long-standing precedents and regulations at issue.<sup>23</sup>

I also think the briefs by Public Citizen and the Campaign Legal Center provide excellent analyses of these issues, which include and transcend the particular California state regulation being challenged by Charles Koch's primary political arm, Americans for Prosperity Foundation.<sup>24</sup>

I am worried that the new majority on the Supreme Court, which has been packed with controversial judges hand-picked by Leonard Leo for Trump's slate, will use this case to undermine the constitutionality of the disclosure rules that a previous Court majority recognized help advance important public interests.

Even though on the surface this case is about the confidential disclosure to a regulatory agency of the major donors to a tax-exempt organization, I am concerned some of the justices on the Supreme Court will use this case to take aim preemptively at the constitutionality of H.R. 1 and S. 1, comprehensive election reform legislation that is opposed by Charles Koch's political operation, which is a party in this litigation.

I believe that Koch and his operatives have been playing a long game when it comes to rewriting our Constitution to suit his tastes. He has long been an opponent of disclosure rules and campaign donation limits, dating back to his funding for the Libertarian Party when his fortune was used in part to underwrite the Party's attacks on the Federal Election Campaign Act. His groups have attacked subsequent reforms. Koch has also been a major funder of the Federalist Society and has told his fellow billionaires that his groups were working closely with the Federalist Society on his "under the dome" efforts to get the kind of judges he wants confirmed to the Supreme Court and lower courts. We also know his groups spent untold millions backing controversial Trump nominees.

We also know that Koch and his allies have waged a multi-year attack on disclosure and transparency measures. As shown by the trial testimony of a parade of Koch operatives and Koch-funded groups in this case, the Koch team has been using this

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<sup>23</sup> See Brief of U.S. Senators as Amici Curiae in Support of Respondent, *Americans for Prosperity Foundation v. Matthew Rodriguez*, No 19-251, March 31, 2021, [http://www.supremecourt.gov/DocketPDF/19/19-251/173478/20210331123251215\\_19-251%20Brief%20f%20Amici%20Curiae.pdf](http://www.supremecourt.gov/DocketPDF/19/19-251/173478/20210331123251215_19-251%20Brief%20f%20Amici%20Curiae.pdf).

<sup>24</sup> See Brief of Campaign Legal Center, Citizens for Responsibility and Ethics in Washington, Common Cause, and League of Women Voters of California as Amici Curiae in Support of Respondent, *Americans for Prosperity Foundation v. Matthew Rodriguez*, no. 19-251 and 19-255, March 31, 2021, [http://www.supremecourt.gov/DocketPDF/19/19-251/173489/20210331125611703\\_Amicus%20Brief%20Final.pdf](http://www.supremecourt.gov/DocketPDF/19/19-251/173489/20210331125611703_Amicus%20Brief%20Final.pdf); Brief of Amici Curiae Public Citizen and Public Citizen Foundation in Support of Respondent, *Americans for Prosperity Foundation v. Matthew Rodriguez*, no. 19-251 and 19-255, March 2021, [http://www.supremecourt.gov/DocketPDF/19/19-251/173539/20210331145344824\\_19-251%20bsac%20Public%20Citizen.pdf](http://www.supremecourt.gov/DocketPDF/19/19-251/173539/20210331145344824_19-251%20bsac%20Public%20Citizen.pdf).

case (and the unintended technical flaws in California's tax-exempt electronic filing system) as a weapon to try to destroy the constitutionality of disclosure laws.

Given public outrage at the outsized role Charles Koch has been playing in American elections, Koch's operatives and allies are trying to make sure the public never learns the true extent of who is really funding the groups that are spending hundreds of millions of dollars to influence elections.

Indeed, Koch's operatives know that H.R. 1 and S. 1 are very popular, as Jane Mayer revealed in her most recent reporting.<sup>25</sup> They know they cannot persuade the public to side with billionaires in their desire to dominate U.S. elections and keep the public in the dark. So, they are counting on their political allies to stop that legislation. At the same time, they are also urging the Supreme Court to effectively preempt that legislation through a broad ruling that strikes down disclosure rules that have been on the books for decades.

Lastly, I would like to add that we believe the underlying regulation, which requires providing a copy of nonprofits' IRS Form 990 Schedule B to the IRS and to state regulatory agencies, gives oversight agencies important data needed to enforce state laws governing tax-exempt groups.

There are numerous examples of how such data can be helpful to regulators committed to rooting out corruption, which were highlighted by Chairman Whitehouse and other Senators in their complaint to the IRS in response to the Trump administration's actions to eliminate the Schedule B requirement.<sup>26</sup>

9. Can you please provide additional details about the current and recent attacks on voting rights by some of the groups and people trying to capture the federal courts? Do you see a connection between them?

One group with connections to the Leonard Leo dark money network that has been very active in what many consider to be voter suppression activities is the Honest Elections Project.<sup>27</sup> A fictitious name of the 85 Fund (along with Judicial Education Project), the

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<sup>25</sup> Jane Mayer, "Inside the Koch-Backed Effort to Block the Largest Election-Reform Bill in Half a Century," *New Yorker*, March 29, 2021, <https://www.newyorker.com/news/news-desk/inside-the-koch-backed-effort-to-block-the-largest-election-reform-bill-in-half-a-century>.

<sup>26</sup> See Senators Whitehouse, Udall, Blumenthal, and Warren to Secretary Mnuchin and Commissioner Rettig, "Re" Guidance Under Section 6033 Regarding the Reporting Requirements of Exempt Organizations," December 9, 2019, <https://www.whitehouse.senate.gov/download/irs-complaint>.

<sup>27</sup> Sam Levine and Anna Massoglia, "Revealed: Conservative Group Fighting to Restrict Voting Tied to Powerful Dark Money Network," *The Guardian*, May 27, 2020, <https://www.theguardian.com/us-news/2020/may/27/honest-elections-project-conservative-voting-restrictions>.

Honest Elections Project was heavily involved in pushing restrictive voting laws in 2020, and that has continued into 2021.<sup>28</sup> This year, it released a report containing restrictive voting regulations for states to adopt.<sup>29</sup> Honest Elections Project's leader Jason Snead also regularly provides comment to the media regarding election related issues.<sup>30</sup>

Groups within Leonard Leo's dark money network have given money to rightwing groups that have become involved in rewriting the rules for our voting system this year, as Trump continues to make debunked claims of voter fraud and GOP legislators use those falsehoods as a predicate for rolling back voting rights. The Republican State Leadership Committee, the anti-choice Susan B. Anthony's List, and Tea Party Patriots all received money from the Judicial Crisis Network between 2018-2019, and have announced initiatives to support restrictive voter laws.<sup>31</sup> Susan B. Anthony's List also received money from America Engaged in 2018.<sup>32</sup> Additionally, "People United for Privacy," which was revealed to have been a part of a conference call convened by the State Policy Network regarding HR 1, received money from Rule of Law Trust, according to the group's 2019 Form 990.<sup>33</sup>

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<sup>28</sup> Nicholas Riccardi, "Conservative Group Pushes Proposals to Tighten Voting Laws," *ABC News*, March 2, 2021, <https://abcnews.go.com/Politics/wireStory/conservative-group-pushes-proposals-tighten-voting-laws-76210706>.

<sup>29</sup> See "Honest Elections Project Releases its 'Safeguarding Future Elections' Report," Honest Elections Project, March 3, 2021, <https://www.honestelections.org/news/honest-elections-project-releases-its-safeguarding-future-elections-report/>.

<sup>30</sup> Jeremy W. Peters, "In Restricting Early Voting, the Right Sees a New 'Center of Gravity'" *New York Times*, March 19, 2021, <https://www.nytimes.com/2021/03/19/us/politics/republicans-trump-voting-rights.html>; Mike McIntire, "Friendship of Justice and Magnate Puts Focus on Ethics," *New York Times*, June 18, 2011, <https://www.nytimes.com/2011/06/19/us/politics/19thomas.html>; Olivia Rubin and Lucien Bruggeman, "'A Great Clash': Mail-in Voting Emerges as Main Target in Renewed Voting-Rights Battle," *ABC News*, March 5, 2021, <https://abcnews.go.com/US/great-clash-mail-voting-emerges-main-target-renewed/story?id=76260022>.

<sup>31</sup> See Internal Revenue Service, Form 990: Return of Organization Exempt from Income Tax: Judicial Crisis Network, 2018, <https://www.documentcloud.org/documents/20407649-judicial-crisis-network-2018-990>.

<sup>32</sup> See Internal Revenue Service, Form 990: Return of Organization Exempt from Income Tax: America Engaged, 2018, <https://www.documentcloud.org/documents/6587306-America-Engaged-2018-990.html#document/p17/a540935>.

<sup>33</sup> Jane Mayer, "Inside the Koch-Backed Effort to Block the Largest Election-Reform Bill in Half a Century," *New Yorker*, March 29, 2021, <https://www.newyorker.com/news/news-desk/inside-the-koch-backed-effort-to-block-the-largest-election-reform-bill-in-half-a-century>; Robert Maguire, Twitter post, December 21, 2020, 1:45 p.m., [https://twitter.com/RobertMaguire\\_/status/1341092487704829953](https://twitter.com/RobertMaguire_/status/1341092487704829953).



Leo and some of the leading people trying to restrict voting share a connection to the law firm Holtzman Vogel Josefiak Torchinsky, PLLC. The firm is linked to several Leo affiliated entities including: BH Fund, Rule of Law Trust, America Engaged, and the now defunct JCN PAC. The firm has also been connected to the Honest Elections Project, the National Republican Senatorial Committee (which recently announced an ad buy opposing HR 1), the Republican National Committee, and Project Veritas.<sup>34</sup>

Notably, that firm was paid over \$650,000 by the Pennsylvania Senate Republican Caucus to try to limit the ability of people to cast votes during the extraordinary public health crisis caused by the deadly Covid-19 pandemic.<sup>35</sup> It also bears mentioning that Alex Vogel and Jason Torchinsky, both partners at the firm, were involved with the American Center for Voting Rights, a Bush era voter suppression organization that promoted theories about voter fraud and that, according to law professor Richard Hasen, “has infected even the Supreme Court’s thinking about voter-ID laws.”<sup>36</sup>

10. Please share with the Subcommittee if there are any parallels in state court capture with some of the groups and people trying to capture the federal courts.

Leo’s court-packing network has played an active role in judicial selection for both federal and state courts. One of the main vehicles for that effort in the states is the Republican State Leadership Committee (RSLC), which has spent millions on state Supreme Court elections via its Judicial Fairness Initiative (JFI). RSLC/JFI has been the

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<sup>34</sup> See Brief of the Honest Election Project as Amicus Curiae in Support of Defendants, *Democratic National Committee and Democratic Party of Wisconsin v. Marge Bostelmann, Julie M. Glancey, Ann S. Jacobs, Dean Knudson, Robert F. Spindell, JR. and Mark L. Thomsen*, no 3:20-cv-00249, March 30, 2021, [https://www.honestelections.org/wp-content/uploads/2020/03/HEP-Amicus-Brief-2020-03-30-17\\_55\\_45.pdf](https://www.honestelections.org/wp-content/uploads/2020/03/HEP-Amicus-Brief-2020-03-30-17_55_45.pdf); Federal Election Commission, [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00027466&recipient\\_name=Vogel&two\\_year\\_transaction\\_period=2022](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00027466&recipient_name=Vogel&two_year_transaction_period=2022); Alayna Treene, “Exclusive: NRSC Ddrops \$1M Aad Buy Targeting Democrats’ Voting Rights Bill,” *Axios*, (March. 25, 2021), <https://www.axios.com/nrsc-senate-republicans-ads-voting-elections-hr1-sb1-a95aa7c2-b0e0-460b-bc52-83c92cbdf61c.html>; Federal Election Commission, [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00003418&recipient\\_name=Vogel&two\\_year\\_transaction\\_period=2020](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00003418&recipient_name=Vogel&two_year_transaction_period=2020); Internal Revenue Service, *Form 990: Return of Organization Exempt from Income Tax: Project Veritas*, 2018, <https://projects.propublica.org/nonprofits/organizations/272894856/201921849349300017/IRS990>.

<sup>35</sup> Charles Davis, “Pennsylvania Republicans Spent \$1 Million in Tax Dollars on 2020 Election Lawsuits to Suppress Voters,” *Business Insider*, January 21, 2021, <https://www.businessinsider.com/pennsylvania-gop-spent-million-in-tax-dollars-on-election-lawsuits-2021-1>.

<sup>36</sup> See “Honest Elections Project Exposed,” FairFight.com, Fair Fight, <https://fairfight.com/honest-elections-project-exposed/>; Richard Hasen, “The Fraudulent Fraud Squad,” *Slate*, May 18, 2007, <https://slate.com/news-and-politics/2007/05/the-incredible-disappearing-american-center-for-voting-rights.html>.

subject of numerous claims that it has misled voters in state judicial elections or retention elections, which it denies.

Over the past three years alone, the Judicial Crisis Network/JCN (which is now called the Concord Fund) has given more than \$4.5M to RSLC.

Where we describe activities below that are disclosed under the IRS regulations governing “527” organizations, the spending is disclosed and the donor is disclosed, but in the case of JCN’s gifts to RLSC, the identity of the original donor is hidden by such pass-through groups. We consider that to be a form of dark money because — although JCN is technically the donor to the election campaigns around candidates seeking seats on state supreme Courts — the original donor is cloaked by JCN. Where JCN has been funded by transfers from the Wellspring Committee, for example, the original donor is cloaked twice. This allows RSLC, which is required to disclose its donors as a 527, to hide who is really underwriting its electoral activities. This is multi-level dark money.

Here are four examples of the role of JCN or RSLC, or both, in state court elections.

#### 1) Wisconsin

The Leo-tied JCN has been active in Wisconsin over the past decade. In 2011, Leonard Leo himself was specifically tapped to raise a six-figure sum to help GOP operatives focused on retaining a controversial judge, Bill Prosser, on the Wisconsin Supreme Court, as detailed by investigative reporter Ed Pilkington in *The Guardian*.<sup>37</sup> Wisconsin Club for Growth also received \$400,000 from the Wellspring Committee in 2011.

Notably, on election night, when it looked like Prosser was going to lose, a team of political operatives working with Walker’s closest advisors considered a proposal eerily reminiscent of the tactics in the 2020 election, with one writing: “Do we need to start messaging ‘widespread reports of election fraud’ so we are positively set up for the recount regardless of the final number?” Prosser was ultimately declared the winner.

Interestingly, Prosser was later touted as a key player in the Federalist Society’s State Courts Project, which was helmed by Leo and his colleague Sarah Field.<sup>38</sup>

JCN also gave \$500,000 to Wisconsin Club for Growth in 2013, which turned around and spent \$400,000 backing Pat Roggensack on the Supreme Court. The very next year, JCN gave \$825,000 to Wisconsin Manufacturers & Commerce (WMC), which has

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<sup>37</sup> Ed Pilkington, “Leaked Court Documents From ‘John Doe Investigation’ in Wisconsin Lay Bare pervasive Influence of Corporate Cash on Modern US Elections,” *The Guardian*, September 14, 2021, <https://www.theguardian.com/us-news/ng-interactive/2016/sep/14/john-doe-files-scott-walker-corporate-ca-sh-american-politics>.

<sup>38</sup> See <https://www.documentcloud.org/documents/4615111-Brett-M-Kavanaugh-12-D-Attachments-Part2>. (In early 2018, Field left the Federalist Society to become the leader of Koch’s Americans for Prosperity’s judicial project, which was anticipating a vacancy on the Supreme Court the year Justice Kennedy announced he was stepping down. I detailed Field’s earlier ties to Koch in my written testimony.)

been one of the most active special interests in Wisconsin court races. Two years later, JCN gave \$1.4 million to Wisconsin Alliance for Reform (WAR), which spent \$2.6 million on ads to help elect then-Governor Walker's preferred candidate, Rebecca Bradley.

RSLC also spent big in 2019, with a last-minute \$1.3 million ad blitz during the final week of the state's Supreme Court election, which RSLC/JFI boasted moved its judicial candidate from nearly ten points behind in the polls to narrowly winning.<sup>39</sup>

In last year's state Supreme Court race, both RSLC and WMC spent nearly \$1 million each, but their preferred state Supreme Court candidate lost his bid for retention.<sup>40</sup>

## 2) Arkansas

In Arkansas' 2018 Supreme Court race, JCN and RSLC/JFI cut very similar ads attacking Justice Courtney Goodson, which were rated false and misleading by the Arkansas Judicial Campaign Conduct and Education Committee.<sup>41</sup>

In that race, RSLC/JFI ended up spending over \$2.6 million and JCN reportedly spent over \$1.2M.<sup>42</sup> RSLC was also active in Arkansas last year, with \$225,000 in ad buys. Their money flowed in earlier races too. JCN and RSLC spent \$600,000 and \$250,000 respectively in the state in 2016, and two years earlier JCN was involved in the state primary for Attorney General, which is another trend described more fully below.<sup>43</sup>

## 3) Michigan

Michigan is another example of JCN's close coordination with state actors and here is a small snapshot of that activity. In 2012, JCN spent \$1 million during Michigan's Supreme

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<sup>39</sup> See David James, "Republican State Leadership Committee: Judge Brian Hagedorn Wins Election to Wisconsin Supreme Court," Wisconsin Politics, April 10, 2019, <https://www.wispolitics.com/2019/republican-state-leadership-committee-judge-brian-hagedorn-wins-election-to-wisconsin-supreme-court/>.

<sup>40</sup> Lisa Graves and Evan Vorpahl, "ACS on Dark Money: Who Is Capturing Our Courts (Wisconsin Edition)?" *American Constitution Society*, November 6, 2019), <https://www.acslaw.org/expertforum/acs-on-dark-money-who-is-capturing-our-courts-wisconsin-edition/>.

<sup>41</sup> Max Brantley, "Judicial Election Watchdog Blasts Ads Targeting Justice Courtney Goodson," *Arkansas Times*, October 20, 2018, <https://arktimes.com/arkansas-blog/2018/10/20/judicial-election-watchdog-blasts-ads-targeting-justice-courtney-goodson>.

<sup>42</sup> Billy Corriher, "Secret-Money Courts Group Accused of Libel in Arkansas," *Facing South*, May 18, 2018, <https://www.facingsouth.org/2018/05/secret-money-courts-group-accused-libel-arkansas>; and <https://financial-disclosures.sos.arkansas.gov/#/exploreCommitteeDetail/265797/null/0/0/null>.

<sup>43</sup> Roby Brock, "Leslie Rutledge Defeats David Sterling For Republican AG Nomination," *NPR*, June 10, 2014, <https://www.ualpublicradio.org/post/leslie-rutledge-defeats-david-sterling-republican-ag-nomination>.

Court contests.<sup>44</sup> And JCN spent another \$1 million that year to beat Circuit Court judge Phyllis McMillen. That was matched with \$1 million in spending by a group named Americans for Job Security (AJS), another group with ties to Koch's political network and which was later fined by the FEC for hiding the sources of its political ads in the 2016 election. (AJS had also previously received nearly \$350,000 from the Wellspring Committee in connection with another judicial race). According to IRS Form 990s, in 2012-13, JCN gave the "MI State Republican Party," which JCN described as a "501(c)(4)" organization, \$500,000. In 2014-15, JCN gave \$700,000 to the "Michigan State Republican Party," which it described as a "527." In that cycle, the Michigan state GOP spent more than \$3 million on three supreme court races.<sup>45</sup>

#### 4) West Virginia

RSLC has also spent massive amounts of money to elect corporate-friendly judges, in states like in West Virginia, where the RSLC spent \$1.7 million in 2020, \$1.9 million in 2018, and over \$2.6 million in 2016. JCN provided funding to RSLC in those years.

Additionally, we would be remiss if we did not mention that the Leo network has played an active role in state Attorney General races. JCN has become a major donor to the Republican Attorneys General Association (RAGA), contributing \$3 million last year, and \$1 million the year before. RAGA Attorneys General have been very active in amicus filings, and RAGA has promoted Trump's nominees for the Supreme Court from the slate handpicked by Leo. It has also signaled it may oppose Biden's judicial nominees.

RAGA spun off from RSLC in 2014 and began spending millions raised from corporate givers in exchange for access to elect right-wing attorneys general. (RAGA got its start within RSLC nearly two decades ago.) Since 2014, JCN (now known as Concord) has become by far RAGA's largest single contributor at about \$13 million.<sup>46</sup> However, as noted above, that allows the true donors underwriting those millions to be kept hidden.

RAGA's 501(c)(4) arm, the Rule of Law Defense Fund (RLDF), has also received funding from JCN. Most recently, RLDF has been embroiled in controversy over its role in promoting Trump's events on January 6, which resulted in the insurrection incited by Trump. Notably, RAGA and individual Republican AGs played significant roles in trying to overturn the results of the 2020 election and amplifying Trump's voter fraud claims.

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<sup>44</sup> See "Descending Into Dark Money: A Citizen's Guide to Michigan Campaign Finance 2012 (Michigan Campaign Finance Network, 2012), [https://mcfn.org/pdfs/reports/MCFN\\_2012\\_Cit\\_Guide\\_final\\_rev..pdf](https://mcfn.org/pdfs/reports/MCFN_2012_Cit_Guide_final_rev..pdf).

<sup>45</sup> *Buying Time 2014: Michigan* (Brennan Center for Justice, 2014), <https://www.brennancenter.org/our-work/research-reports/buying-time-2014-michigan-0>.

<sup>46</sup> Nick Surgey, "New Filing Shows Massive Dark Money Support from Judicial Crisis Network to Republican Attorneys General Association," *Documented*, October 16, 2020, <https://documented.net/2020/10/new-filing-shows-massive-dark-money-support-from-judicial-crisis-network-to-republican-attorneys-general-association/>.

These are just a few of the ways in which Leonard Leos's network is shaping both federal and state courts, as well as the top law enforcement officers in the states.

11. In your exchange with Senator Kennedy, you described how the crime of bribery is not the only way in which the judicial process can be corrupted. Please elaborate.

The Supreme Court has long recognized that money can be used in many ways other than actual bribery to exercise undue influence over politicians and create the appearance of corruption. In *Caperton v. A. T. Massey Coal Co.*, the Court held that judges are not immune to those threats. Legal experts have also long recognized that dark money spending poses a threat to judicial independence in the context of popularly elected judges.<sup>47</sup>

In the federal courts, the dynamic is more complex. The greatest threat in recent years has been the intentional bypassing of traditional norms for selecting qualified and principled jurists and the outsourcing of that process to actors bankrolled by dark money interests intent on packing the federal judiciary with judges who fit a pro-corporate and rightwing ideological mold, with a focus on nominees who are being counted on to reverse major legal precedents of the 20th century. While that form of influence is more indirect, it is equally dangerous to the integrity of the U.S. judicial system and the people's confidence in the fairness of the courts.

12. At the hearing, some claimed the *Washington Post* had not covered funding of "left" or progressive groups equally. What is your view of that claim?

Despite the assertions that the *Washington Post* has not covered dark money on the left the paper has in fact reported on dark money spending on both the left and right numerous times.<sup>48</sup>

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<sup>47</sup> Alicia Bannon, "The Rise of Dark Money is a Threat to Judicial Independence," *ABA Journal*, July 5, 2018, [https://www.abajournal.com/news/article/the\\_rise\\_of\\_dark\\_money\\_is\\_a\\_threat\\_to\\_judicial\\_independence](https://www.abajournal.com/news/article/the_rise_of_dark_money_is_a_threat_to_judicial_independence); Arn Pearson, "Conquering the Courts," *Center for Media and Democracy*, May 2018, [https://www.exposedbycmd.org/wp-content/uploads/2018/05/Conquering\\_the\\_courts\\_report-FINAL-WEB-05-10-18.pdf](https://www.exposedbycmd.org/wp-content/uploads/2018/05/Conquering_the_courts_report-FINAL-WEB-05-10-18.pdf); Lisa Graves and Evan Vorpahl, "Who is Capturing Our Courts (Wisconsin Edition)?" *Center for Media and Democracy*, November 7, 2019, <https://www.exposedbycmd.org/2019/11/07/who-is-capturing-our-courts-wisconsin-edition/>.

<sup>48</sup> On left-wing dark money, see Michelle Ye Hee Lee, "Liberal Activists Embrace 'Dark Money' in Supreme Court Fight," *The Washington Post*, July 27, 2018, [https://www.washingtonpost.com/politics/liberal-activists-embrace-dark-money-in-supreme-court-fight/2018/07/27/0b21582c-902a-11e8-bcd5-9d911c784c38\\_story.html](https://www.washingtonpost.com/politics/liberal-activists-embrace-dark-money-in-supreme-court-fight/2018/07/27/0b21582c-902a-11e8-bcd5-9d911c784c38_story.html); Michelle Ye Hee Lee and Ana Narayanswamy, "Wealthy Longtime Democratic Donors Boosted Biden with Big Checks in the Second Quarter," *The Washington Post*, July 16, 2020, <https://www.washingtonpost.com/politics/2020/7/16/wealthy-longtime-democratic-donors-boosted-biden-with-big-checks-second-quarter/>; Michelle Ye Hee Lee, "For Democratic Presidential Hopeful Steve Bullock, It's All About the 'Dark Money,'" *The Washington Post*, July 14, 2019,

On a related note, I would like to add that I support the restoration of the Fairness Act, which required holders of broadcast licenses to cover issues of public importance and to do so in a manner that was honest, equitable, and balanced. Koch groups and the GOP helped destroy that requirement, which had served the nation’s public interest well for nearly 40 years. In the wake of its destruction, America has witnessed the rise of outlets like FOX, which uses the phrase “fair and balanced” in its marketing but often is neither—as exemplified by its hyping of claims of voter fraud in the 2020 presidential election actions that are now the subject of a defamation lawsuit by Dominion Voting Systems.<sup>49</sup>

Newspapers were not subject to the requirements of the Fairness Doctrine, but many have remained devoted to the principles of honest, equitable, and balanced journalism—including in their provision of opinion on their editorial pages—with notable exceptions, like the editorial page of the *Wall Street Journal*.

CMD’s expertise is not in performing numerical analyses of general media coverage, but its researchers do study the substantive content of investigations published by other media outlets. CMD also investigates them from time to time, as with its examination of “Video News Releases,” where corporate-produced videos were passed off as news, and the investigation of Tucker Carlson’s Daily Caller media operations and concerns about how the nonprofit he co-founded was subsidizing his for-profit company.<sup>50</sup>

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[https://www.washingtonpost.com/politics/for-democratic-presidential-hopeful-steve-bullock-its-all-about-the-dark-money/2019/07/13/a8e6362c-9da8-11e9-b27f-ed2942f73d70\\_story.html](https://www.washingtonpost.com/politics/for-democratic-presidential-hopeful-steve-bullock-its-all-about-the-dark-money/2019/07/13/a8e6362c-9da8-11e9-b27f-ed2942f73d70_story.html). On right-wing dark money, see *supra*

<https://www.washingtonpost.com/graphics/2019/investigations/leonard-leo-federalists-society-courts/>; Michelle Ye Hee Lee, “Unnamed Donors Gave Large Sums to Conservative Nonprofit that Funded Trump Allies,” *The Washington Post*, November 27, 2019,

[https://www.washingtonpost.com/politics/secret-donors-gave-large-sums-to-conservative-nonprofit-that-funded-pro-trump-allies/2018/11/27/07667840-f266-11e8-80d0-f7e1948d55f4\\_story.html](https://www.washingtonpost.com/politics/secret-donors-gave-large-sums-to-conservative-nonprofit-that-funded-pro-trump-allies/2018/11/27/07667840-f266-11e8-80d0-f7e1948d55f4_story.html); Catherine Ho, “Conservative Group to Launch \$2 Million Ad Campaign to Block Supreme Court Nomination,” *The Washington Post*, March 18, 2016,

<https://www.washingtonpost.com/news/powerpost/wp/2016/03/18/conservative-group-to-launch-2-million-ad-campaign-to-block-supreme-court-nomination/>. The paper has also addressed both sides in Brian Slodsysko and Thomas Beaumont, “Wealthy Donors Pour Millions into Fight Over Mail-In Voting,” *The Washington Post*, (July 27, 2020),

[https://www.washingtonpost.com/politics/wealthy-donors-pour-millions-into-fight-over-mail-in-voting/2020/07/27/cb375206-cfc5-11ea-826b-cc394d824e35\\_story.html](https://www.washingtonpost.com/politics/wealthy-donors-pour-millions-into-fight-over-mail-in-voting/2020/07/27/cb375206-cfc5-11ea-826b-cc394d824e35_story.html).

<sup>49</sup> Michael Grynbaum, “Fox News Faces Second Defamation Suit Over Election Coverage,” *New York Times*, March 26, 2021, <https://www.nytimes.com/2021/03/26/business/media/fox-news-defamation-suit-dominion.html>.

<sup>50</sup> Callum Borchers, “Charity doubles as a profit stream at the Daily Caller News Foundation,” *Washington Post*, June 2, 2017, <https://www.washingtonpost.com/news/the-fix/wp/2017/06/02/charity-doubles-as-a-profit-stream-at-the-daily-caller-news-foundation/>; And Lisa Graves, “Five Facts about Tucker Carlson, FOX Host and Daily Caller Founder,” *Documented*, March 21, 2019, <https://documented.net/2019/03/five-facts-about-tucker-carlson-fox-host-and-daily-caller-founder/>.

**The Senate Committee on the Judiciary, Subcommittee on Federal Courts,  
Oversight, Agency Action and Federal Rights  
Questions for the Record from Senator John N. Kennedy  
March 10, 2021**

Hearing entitled: "What's Wrong with the Supreme Court: The Big-Money Assault on Our Judiciary."

**Questions for Lisa Graves**

1. You repeatedly said you disagree with some of Mr. Walter's claims. Which specific claims do you think are incorrect? Are any of his statistics incorrect? In your written testimony you object to Mr. Walter's claim that there are "far larger empires of 'dark money' on the Left." What is the largest empire of "dark money" on the Left?

In my opinion, many of the claims of the Capital Research Center are incorrect. A skilled rhetorician, Mr. Walter deploys arguments that may have some superficial appeal but are irrelevant to the policy questions at hand and crumble upon closer inspection, in my view. These include and are not limited to:

- Claiming falsely that "dark money is support for speech the Left wants to silence," despite the fact that the proposed disclosure legislation awaiting Judiciary Committee action would apply equally no matter the ideology of the spender.
- Using "dark money" so loosely as to include all nonprofit funding. Mr. Walter's decision to borrow from disgraced former president Richard M. Nixon to assert that the Center for Media and Democracy and his Capital Research Center are both "dark money partakers now" would be insulting if it were not meaningless due to its false assumptions. And, notably, when asked on the record by Senator Blumenthal if the public interest groups at the hearing supported stronger disclosure laws, both CMD and People for the American Way affirmed their support, but Mr. Walter, speaking for the Capital Research Center, declined.
- Equating the Ford Foundation's very public support in 1966-1969 for litigation centers to protect civil rights with the recent spate of anonymized funding of rightwing litigation to the Supreme Court and for the confirmation of judicial nominees to that Supreme Court. In this realm, no one person or small circle of secret funders has exercised the kind of influence and coordination with the White House that Leonard Leo and his nomination/confirmation operations and litigation agenda have. Moreover, as Robert O'Harrow and Shawn Boberg documented in the *Washington Post*, Leo crowed to funders at a closed-door meeting of the Council on National Policy that, due to the Supreme Court

confirmations and scores of other judicial appointments he helped shepherd through, America stands at the precipice of the “revival” of the so-called “structural constitution,” which will reverse numerous important legal precedents, harkening back to the robber baron era before the New Deal.<sup>1</sup>

- Attacking the *Washington Post* for purportedly not covering dark money groups on both sides of the aisle, despite the fact that the newspaper has investigated both<sup>2</sup> and has even editorialized against dark money activities. Nonetheless, no journalist is obligated to accept every pitch made by a special interest group, like the Capital Research Center. Journalists and editors with competing beats and sources routinely make judgments about which tips to pursue and when.
- Calling long-standing rules requiring groups that have been given the privilege of tax-exempt status to disclose their major donors confidentially to state oversight agencies a “scheme,” even though those rules have been in place for decades. Those rules have been complied with in tens of millions of charitable filings over decades, and there is zero evidence of any conspiracy by state officials to use that information to endanger the lives of major donors to nonprofit organizations.

Also, I think it is both factually and morally wrong to suggest that neutral oversight rules on disclosure of major donors to groups that engage in electoral or judicial influence activities are akin to the despicable plot of the state of

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<sup>1</sup> Robert O’Harrow, Jr., and Shawn Boburg, “A Conservative Activist’s Behind-the-Scenes Campaign to Remake the Nation’s Courts,” *The Washington Post*, May 21, 2019, <https://www.washingtonpost.com/graphics/2019/investigations/leonard-leo-federalists-society-courts/>.

<sup>2</sup> On left-wing dark money, see Michelle Ye Hee Lee, “Liberal Activists Embrace ‘Dark Money’ in Supreme Court Fight,” *The Washington Post*, July 27, 2018, [https://www.washingtonpost.com/politics/liberal-activists-embrace-dark-money-in-supreme-court-fight/2018/07/27/0b21582c-902a-11e8-bcd5-9d911c784c38\\_story.html](https://www.washingtonpost.com/politics/liberal-activists-embrace-dark-money-in-supreme-court-fight/2018/07/27/0b21582c-902a-11e8-bcd5-9d911c784c38_story.html); Michelle Ye Hee Lee and Ana Narayanswamy, “Wealthy Longtime Democratic Donors Boosted Biden with Big Checks in the Second Quarter,” *The Washington Post*, July 16, 2020, <https://www.washingtonpost.com/politics/2020/07/16/wealthy-longtime-democratic-donors-boosted-biden-with-big-checks-second-quarter/>; Michelle Ye Hee Lee, “For Democratic Presidential Hopeful Steve Bullock, It’s All About the ‘Dark Money,’” *The Washington Post*, July 14, 2019, [https://www.washingtonpost.com/politics/for-democratic-presidential-hopeful-steve-bullock-its-all-about-the-dark-money/2019/07/13/a8e6362c-9da8-11e9-b27f-ed2942f73d70\\_story.html](https://www.washingtonpost.com/politics/for-democratic-presidential-hopeful-steve-bullock-its-all-about-the-dark-money/2019/07/13/a8e6362c-9da8-11e9-b27f-ed2942f73d70_story.html).

On right-wing dark money, see Robert O’Harrow Jr. and Shawn Boburg, “A Conservative Activist’s Behind-the-Scenes Campaign to Remake the Nation’s Courts,” *The Washington Post*, May 21, 2019, <https://www.washingtonpost.com/graphics/2019/investigations/leonard-leo-federalists-society-courts/>; Michelle Ye Hee Lee, “Unnamed Donors Gave Large Sums to Conservative Nonprofit that Funded Trump Allies,” *The Washington Post*, November 27, 2019, [https://www.washingtonpost.com/politics/secret-donors-gave-large-sums-to-conservative-nonprofit-that-funded-pro-trump-allies/2018/11/27/07667840-f266-11e8-80d0-f7e1948d55f4\\_story.html](https://www.washingtonpost.com/politics/secret-donors-gave-large-sums-to-conservative-nonprofit-that-funded-pro-trump-allies/2018/11/27/07667840-f266-11e8-80d0-f7e1948d55f4_story.html); Catherine Ho, “Conservative Group to Launch \$2 Million Ad Campaign to Block Supreme Court Nomination,” *The Washington Post*, March 18, 201, <https://www.washingtonpost.com/news/powerpost/wp/2016/03/18/conservative-group-to-launch-2-million-ad-campaign-to-block-supreme-court-nomination/>.

They have also addressed both sides in Brian Slodsysko and Thomas Beaumont, “Wealthy Donors Pour Millions into Fight Over Mail-In Voting,” *The Washington Post*, July 27, 2020, [https://www.washingtonpost.com/politics/wealthy-donors-pour-millions-into-fight-over-mail-in-voting/2020/07/27/cb375206-cfc5-11ea-826b-cc394d824e35\\_story.html](https://www.washingtonpost.com/politics/wealthy-donors-pour-millions-into-fight-over-mail-in-voting/2020/07/27/cb375206-cfc5-11ea-826b-cc394d824e35_story.html).



Alabama to obtain the names of NAACP members while white supremacists were operating in tandem with some state and local officials to harass Americans seeking to secure the Fourteenth Amendment's promise of "equal protection of the laws." NAACP leaders and other activists were assassinated by Klansmen, and white supremacist leaders empowered a culture of unpunished—and even glorified—violence against Black Americans through lynchings, bombings, false imprisonments, cross burnings, and other acts of terror. The tax-exempt disclosure rules discussed at the hearing are nothing akin to that situation.

Mr. Walter notes that the NAACP has submitted an amicus brief along with a few other groups in the Supreme Court case filed by Charles Koch's Americans for Prosperity Foundation, supporting its challenge to the California regulatory disclosure rules that Mr. Walter calls a "scheme." However, that brief concedes that Supreme Court precedent provides that public disclosure can be constitutional "if substantially related to the government's interests in deterring public corruption," which is the very objective of the disclosure measures that the Chairman has championed. Indeed, a 5-4 Supreme Court majority rationalized its decision in *Citizens United* by embracing public disclosure of major donors to groups influencing elections as necessary to "enable[] the electorate to make informed decisions and give proper weight to different speakers and messages."

- Describing the fight over the nomination of Robert H. Bork to the U.S. Supreme Court as "the first eruption of judicial politicking of the ugliest sort," even though the nation was, in my view, well served by the defeat of such an ideological extremist for our nation's highest court, a man whose subsequent writings only confirmed how regressive his hardened views about the Constitution were.

Additionally, it is not accurate to equate fundraising for ads about Bob Bork by People for the American Way with the massive single secret donor to the "Wellspring Committee," which transferred most of those millions to the Leonard Leo-tied Judicial Crisis Network (JCN) to underwrite its campaign for the confirmation of President Trump's controversial nominees to the Supreme Court.

Contemporaneous reporting shows that People for the American Way raised nearly \$2 million through direct mail campaigns to ordinary people who were rightfully concerned about how Bork's extreme views would affect their rights—if the man who aided Nixon's Saturday Night Massacre and took an array of controversial positions were given a lifetime position on the Supreme Court:

"The response has been much stronger than anything we've ever had," said Arthur J. Kropp, executive director of People for the American Way, a legal rights group. After a successful test mailing to 541,000 non-members

in July, the group sent out 3.8 million more solicitations. ‘We wanted to raise \$1 million but now it looks like closer to \$2 million,’ Mr. Kropp said.”<sup>3</sup>

There are several other major flaws in Mr. Walter’s analysis, in my view.

One of those is that he conflates all of the non-profit groups that have received funding from an Arabella Advisors fund with being “dark money” groups regardless of the activities of grantees or the disclosures they make. Making significant expenditures to influence the outcome of elections, judicial nominations, ballot measures, or legislation without disclosing major funders is the focus of the congressional effort to shed light on funding that is currently in the dark. The term dark money group does not apply to all nonprofits, regardless of their activities or their funders. For example, the Red Cross is not a dark money group even though it receives some anonymous gifts.

In this regard and others, Mr. Walter’s critique of the report of the Senate Democratic Policy Committee and the Chairman is inapposite. In our view, the disclosure measures supported by the Chairman map out a workable definition of the type and magnitude of activity that warrants more sunlight for the health of our democracy.

Similarly, Mr. Walter claims that CMD “concoct[ed]” a “big scary number” in describing the money trail of attacks on labor culminating in the *Janus* decision, which reversed decades of legal precedents, and specifically complained that CMD examined ten years of funding from the Bradley Foundation. If anything, that timeframe shows how conservative that figure actually is because it does not include more recent figures or earlier data that demonstrates the concerted effort to fund a multi-pronged attack on labor rights the Bradley Foundation spearheaded with numerous groups — including groups within the State Policy Network — which actually started in 2003. In the attached document is a description of the origins of the foundation’s long-term grantmaking agenda attacking unions and examples of that agenda, from its own internal documents which became public in 2016 and which the *Milwaukee Journal Sentinel* authenticated with the Bradley Foundation. [See Attachment A.]

In fact, the Bradley Foundation boasted internally about how big of a role it was playing in the *Friedrichs* litigation that ultimately resulted in the *Janus* decision, stating that:

“The Bradley Foundation has supported the *Friedrichs* case through previous general-operations grants to the Center for Individual Rights (CIR), which represents some of the plaintiffs, and the Judicial Education Project, which has helped coordinate the preparation and filing of *amicus curiae*, or ‘friend-of-the-court,’ briefs with the Court in the case. Eleven Bradley-supported organizations submitted amicus briefs.”

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<sup>3</sup> Richard L. Berke, “Washington Talk: Fundraisers; Bork as a Bonanza,” *The New York Times*, September 11, 1987, <https://www.nytimes.com/1987/09/11/us/washington-talk-fund-raisers-bork-as-a-bonanza.html>.

Mr. Walter suggests that the money CMD tallied regarding the funding by the Bradley Foundation for groups attacking labor rights culminating in the *Janus* decision should not count if it was not earmarked for a specific legal brief, or in other words was not legally restricted by the grantmaker. Notably, Mike Hartmann — who subsequently became a fellow at the Capital Research Center — is also a leader of the Bradley Foundation, and he was listed as the grant officer on several proposal summaries in the Bradley files that specifically detailed attacks on unions, including two of the grants noted above (to the Capital Research Center and the Center for Individual Rights).

Despite Mr. Hartman’s internal description of funding for specific amicus briefs and related litigation, such funding by Bradley was not disclosed in those briefs. To be clear, the current rules do not require him or the funder to make a disclosure in those briefs; rather the rules impose a narrowly drawn disclosure obligation on the filer of briefs.

Indeed, the distinction Mr. Walter attempts to draw is precisely why any judicial rule that would limit disclosure of donors only to briefs specifically earmarked as a grant for that restricted purpose alone — versus “general support” as used by Mr. Hartmann — would allow the source of millions of dollars for such briefs to escape public disclosure.

The Bradley Foundation’s team is well aware of the Supreme Court litigation it has been funding and its grantees working on those cases are well aware of what its litigation and policy-making agenda is on labor rights, health care rights, and more. However, Supreme Court justices, other litigants, the press, and the public were not informed of that funding by the amicus brief filers in any of the briefs underwritten by the Bradley Foundation that were submitted in the *Friedrichs* case or other Supreme Court litigation.

Bradley’s funding was also not disclosed when it underwrote a specific amicus brief attacking the Affordable Care Act that was filed nominally on behalf of some of the Republican Senators on the Senate Judiciary Committee. That brief was submitted to the Supreme Court by another group tied to Leonard Leo, the Judicial Education Project, which is a sibling group of JCN. It received Bradley funding specifically for that brief — which I detailed last fall as noted in the hearing on Amy Coney Barrett’s nomination to the Supreme Court — but the source of those funds was not disclosed.<sup>4</sup>

That is one of the many reasons why the amicus disclosure rules need to be amended.

Regarding your query about Mr. Walter’s statistics and the so-called vast “empires of dark money” that Mr. Walter asserts, I disagree with his descriptions. His usage of “dark money” is absurdly broad, and in most of the election years following the 5-4 *Citizens*

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<sup>4</sup> Lisa Graves, “Snapshot of Secret Funding of Amicus Briefs Tied to Leonard Leo-Federalist Society Leader, Promoter of Amy Coney Barrett,” *Center for Media and Democracy*, October 10, 2020, <https://www.exposedbycmd.org/2020/10/10/snapshot-secret-funding-amicus-briefs-tied-leonard-leo-federalist-society-leader-promoter-amy-barrett/>.

*United* decision, the bulk of dark money spending as it is usually defined was made by rightwing organizations that favored Republican candidates. (See Question 3 below.)

Finally, I would like to make it clear, as I said at the hearing, that I disagree with many of the claims made by the Capital Research Center, which Mr. Walter leads. For example, it insinuated that the popular animated film *Frozen* was really a Communist plot.<sup>5</sup> It has also attacked advocates trying to mitigate climate change, issuing a video that asserted “climate change hysteria’s deadly results” and drew a comparison with the Unabomber, Ted Kaczynski — reprising the discredited tactic used by the climate change deniers at the Heartland Institute.<sup>6</sup> It also promoted fears of voter fraud through vote by mail, echoing claims slung by Donald Trump’s electoral operation.<sup>7</sup> I could detail many more, including numerous entries in his InfluenceWatch site, but these examples above suffice to give a flavor of the nature of the Capital Research Center’s bent and its hyperbole.

Accordingly, I think it is reasonable to be skeptical of the Capital Research Center’s claims across the board.

2. When pressed by Sen. Lee you insisted your organization has never taken “dark money,” and made reference to some “legal definition” that you did not specify. What is that “legal definition” to which you refer? Did you mean that “dark money” should only refer to legally defined 501(c)(4) funding? If so, aren’t you and Chairman Whitehouse incorrect to refer to 501(c)(3) funding from DonorsTrust and the Bradley Foundation as “dark money”?

While there is no legal definition of “dark money” per se, I was referring to the types of funding for spending to influence elections and judicial nominations that would be subject to disclosure under the DISCLOSE Act and the For the People Act.

While the term “dark money” is used in a variety of ways in popular discourse, CMD uses it in its journalism to describe the funding sources for major expenditures made to influence elections, judicial nominations, ballot measures, and legislation when the source of those funds are kept secret from the public. “Dark money” does not include all undisclosed funding for nonprofits, regardless of their activity.

As CMD does not engage in those activities, aside from occasionally taking a position on measures aimed at improving transparency, voting rights, government ethics, and

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<sup>5</sup> “Architects of Woke: Howard Zinn, Hollywood, & the Fairy Tale of American Evil,” *Capital Research Center*, January 7, 2020, <https://capitalresearch.org/article/architects-of-woke-howard-zinn-hollywood-the-fairy-tale-of-american-evil>

<sup>6</sup> Capital Research, Twitter post, March 24, 2020, 6:05 p.m., <https://twitter.com/capitalresearch/status/1242573323202068481?s=20>.

<sup>7</sup> See, e.g., Hayden Ludwig “Vote by Mail Is a Ticket to Voter Fraud in 2020,” *Capital Research Center*, April 8, 2020, <https://capitalresearch.org/article/vote-by-mail-is-a-ticket-to-voter-fraud-in-2020/>.

campaign finance regulations, the funding CMD receives is not “dark money” in any meaningful sense. Furthermore, CMD voluntarily discloses its major funders online.

I disagreed, therefore, with Senator Lee’s efforts to claim that donations CMD received from OSI and the Tides Foundation — many years ago — count as “dark money” in any way. I also disagreed because they were not “dark” and, in fact, were voluntarily disclosed by me on our website at the time.

3. Mr. Walter said it was false for the *Captured Courts* report to claim dark money was “originally a Republican political device.” Can you supply evidence that the report’s claim is true? Don’t non-Republican-aligned 501(c)(4) “dark money” groups like League of Conservation Voters predate the *Citizens United* decision?

That passage in *Captured Courts* report refers to the flood of special interest spending unleashed by the Supreme Court’s 2010 decision in *Citizens United v. FEC*, which allowed corporations — including nonprofit corporations — and CEOs to spend unlimited amounts of money to influence federal elections if the expenditures were “independent” of candidates’ campaigns.

Prior to the *Citizens United* decision and its progeny, a group like the League of Conservation Voters that wanted to influence federal elections had to create political action committees (PACs), and the donors to those committees were disclosed.

As noted above, in the years following *Citizens United*, the bulk of dark money spending was made by rightwing organizations aiding Republican candidates for public office. Of the top ten dark money groups spending more than \$610 million to influence the 2010-2018 elections, eight backed Republicans.<sup>8</sup> In the 2020 elections, however, progressive dark money groups outspent “conservatives” or libertarians by a margin of \$447 million to \$190 million.<sup>9</sup>

Nonetheless, the problem and the anti-corruption interest in solving it transcends party or ideology. CMD supports disclosure of major dark money contributors regardless of who is doing the spending.

4. What difference is there between a conservative group receiving money from donor-advised funds at DonorsTrust and your Center for Media and Democracy receiving money from donor-advised funds at the Tides Foundation?

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<sup>8</sup> See *ibid.* n. 6, Massoglia.

<sup>9</sup> See *ibid.* n. 7, Massoglia and Evers-Hillstrom.

CMD received one grant from the Tides Foundation before I became executive director in August 2009, and when I joined CMD I disclosed that grant on CMD's website.

That said, the public interest in disclosure as proposed by the DISCLOSE Act and For the People Act is the same for DonorsTrust, the Bradley Impact Fund, Donors Capital, the Tides Foundation, or any other donor-advised fund if significant funds are used on ads to influence elections or judicial confirmations. In such instances, CMD would support the disclosure of the original funder using the donor-advised fund mechanism.

5. Labor unions regularly and aggressively use their resources to influence public policy, including judicial appointments, using not just explicitly political funds but other monies they possess. For instance, your Center for Media and Democracy has received funding from the National Education Association and the American Federation of State, County, and Municipal Employees, with the latter union's forced-dues collection from Mark Janus at issue in the landmark case named for him. But the names of the dues-paying union members are not public. Do you support mandated disclosure of the names of dues-paying members to labor unions?

No, and the question is a red herring, in my view, respectfully.

There is no parallel or consistent public policy interest between the types of disclosure proposed in the DISCLOSE Act and forcing the disclosure of dues-paying union members. The DISCLOSE Act would only apply to donors contributing \$10,000 or more to an organization spending \$10,000 or more to influence judicial nominations. If, on the other hand, a union contributed \$10,000 or more to an organization engaged in that activity, that contribution would be covered by the DISCLOSE Act.

The grants that CMD has received from unions, which make up a very small percentage of its overall funding, have not been used for any electoral, judicial nomination, or lobbying activity. CMD has long investigated issues of public concern affecting the rights of workers, regardless of whether or not it receives any funding from any union.

For example, CMD detailed the more than \$70 million from DonorsTrust and more than \$135 million the Bradley Foundation spent through mid-2016 to try to undermine labor rights, including a long-term attack on "fair-share" dues, culminating in the *Janus* decision.<sup>10</sup> Even prior to *Janus*, however, in reality there was no "forced-dues collection" because all represented employees could choose not to be members and to pay only their fair share of the cost of representation. Now, however, post-*Janus* represented employees can choose not to pay their fair share of the cost of representation. (Notably,

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<sup>10</sup> See Mary Bottari, "Bradley Foundation Bankrolls Attacks on Unions," *Center for Media and Democracy*, May 8, 2017, <https://www.exposedbycmd.org/2017/05/05/bradley-foundation-bankrolls-attacks-unions/>.

Bradley also coordinated with Heather Higgins and her Randolph Foundation on tactics against unions, as grant reports by Mr. Hartmann that became public in 2016 detail.)

CMD won a journalism award from the Sidney Hillman Foundation for its investigation of these matters, published by *In These Times*.<sup>11</sup> I also wrote about additional elements of the attack on labor rights as part of the multi-decade agenda of the Koch family.<sup>12</sup>

CMD does not believe it is appropriate to require the names of all dues-paying members of a union to be disclosed to the public, because those individual members are not major donors to any advertising around elections or judicial appointments.

We do support the disclosure of major donors to any organization that spends significant money on such advertising around elections or appointments, as defined in the DISCLOSE Act and H.R. 1/S. 1. If a union were to receive a major gift from a donor to support activity that would meet the definitions in those bills, we would support the disclosure of such information.

Additionally, it is notable that some rightwing groups are not pushing for the disclosure of union members for that purpose. Some groups that are part of the Koch-funded State Policy Network have instead used open records laws to obtain the names of members of public employee unions in order to specifically target those members with campaigns to get them to stop paying dues. Some of their operatives have also boasted about how they have pulled money out of unions through such targeting.<sup>13</sup>

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<sup>11</sup> See Mary Bottari, "Behind Janus: Documents Reveal Decade-Long Plot to Kill Public-Sector Unions," *In These Times*, February 22, 2018, [https://inthesetimes.com/features/janus\\_supreme\\_court\\_unions\\_investigation.html](https://inthesetimes.com/features/janus_supreme_court_unions_investigation.html).

<sup>12</sup> See Lisa Graves, "Inside the Koch Family's 60-Year Anti-Union Campaign That Gave Us Janus," *In These Times*, July 12, 2018, <https://inthesetimes.com/article/koch-anti-union-janus-supreme-court>.

<sup>13</sup> See Lee Fang and Nick Surgey, "Right-Wing, Business-Funded Groups Are Preparing to Use the Janus Decision to Bleed Unions, Internal Documents Show," *The Intercept*, June 30, 2018, <https://theintercept.com/2018/06/30/janus-bleed-unions-state-policy-network/>.

## Report on *Friedrichs v. California Teachers Association* and recommendations

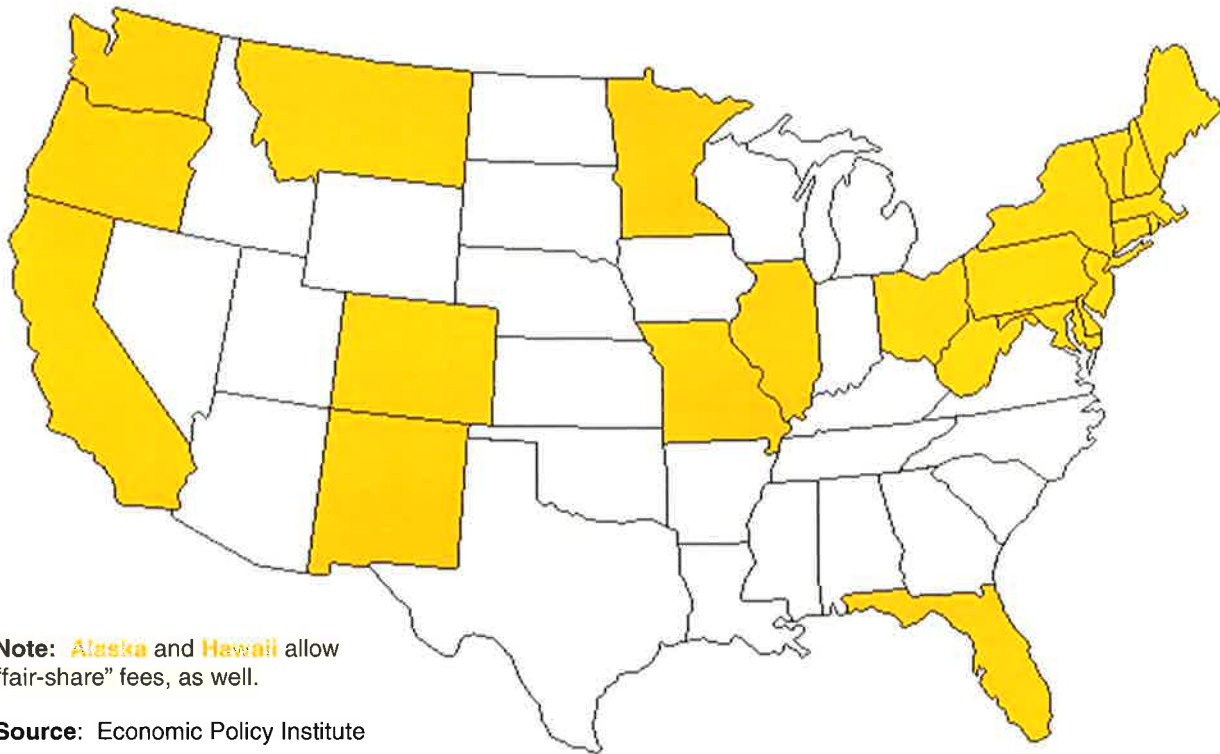
Under current labor-relations law, in an “agency shop,” an employer may hire union or non-union employees, and employees need not join the union in order to remain employed. Any non-union worker, however, can be forced to pay an “agency-shop” fee to cover the union’s collective-bargaining costs, as a condition of employment.

Where agency shops are illegal, as is common in labor law governing American public-sector unions, a “public-sector agency-shop” or “fair-share” provision may be agreed upon by the government employee and the union. If so, the non-union employees may be forced to pay a “fair share” to the union to cover its costs of collective bargaining, as a condition of employment.

### **Abod**

The U.S. Supreme Court upheld such “fair-share” fees in its 1977 *Abod v. Detroit Board of Education* decision against a challenge claiming that they violated employees’ constitutionally guaranteed First Amendment rights of speech and association. Half of the states, according to the liberal Economic Policy Institute, allow these fees, as shown in the map below.

**States that allow “fair-share” fees**



**Note:** **Alaska** and **Hawaii** allow “fair-share” fees, as well.

**Source:** Economic Policy Institute

While there were three concurrences in *Abod*, there were no dissents. No Justice on the *Abod* Court remains on the Court.

### **Harris**

In its 2014 *Harris v. Quinn* decision, by a vote of 5-4, the Supreme Court held that the collection of “fair-share” fees from home health-care providers who have chosen not to be a member of a union violated



those workers' First Amendment rights. The *Harris* majority opinion, by Justice Samuel Alito, undermined the legitimacy of the *Abood* precedent and all but invited a future request to actually outright overturn it.

More specifically, in *Harris*, Alito drew a seemingly almost-provisional legal distinction between state and local employees that it would consider to be "full-fledged" public-sector employees and workers to be considered something different from that -- "partial public employees," such as the home health-care workers looking after a patient or two or home child-care workers looking after a child in the privacy of a household -- for purposes of union organization.

Alito's opinion was joined by Chief Justice John G. Roberts and Associate Justices Antonin Scalia, Anthony Kennedy, and Clarence Thomas. A dissenting opinion was written by Justice Elena Kagan, joined by Ruth Bader Ginsburg, Stephen Breyer, and Sonia Sotomayor.

## **Friedrichs**

In January of this year, with the same lineup of Justices from *Harris*, the U.S. Supreme Court heard oral arguments in *Friedrichs v. California Teachers Association*. The plaintiffs in *Friedrichs* are 10 California public-school teachers and members of the Christian Educators Association International group who work in public schools -- all of whom would have to be considered "full-fledged" public employees. In *Friedrichs*, the Court is considering whether forcing these employees to pay "fair-share" fees to a union of which they have chosen *not* to be a member, as a condition of their employment, violates their First Amendment rights.

The plaintiff teachers in *Friedrichs* are asking the Court to:

1. overrule *Abood*, as Alito arguably asked somebody to do someday right in *Harris*; and,
2. require that non-union public employees actually outright affirmatively consent to paying any fee to a union for its collective bargaining on their behalf, through explicit written authorization.

There are approximately 6.2 million unionized state, city, county and school-district employees in America. By some estimates, if the Court decides for the plaintiffs in *Friedrichs* and one to two million of these workers stop paying union fees, public-sector unions could be out between \$500 million to \$1 billion a year. The leftist *In These Times* calls *Friedrichs* a case "that could decimate American public sector unionism."

The Bradley Foundation has supported the *Friedrichs* case through previous general-operations grants to the Center for Individual Rights (CIR), which represents some of the plaintiffs, and the Judicial Education Project, which has helped coordinate the preparation and filing of *amicus curiae*, or "friend-of-the-court," briefs with the Court in the case. Eleven Bradley-supported organizations submitted *amicus* briefs.

**Should the Supreme Court divide 4-4 in *Friedrichs*, the Ninth Circuit Court of Appeals' November 2014 decision in the case would stand. The three-judge Ninth Circuit panel affirmed a district-court finding for the defendant unions.**

The *Friedrichs* decision likely will come near the end of the Court's current term in late June or early July.

On February 13, Scalia died. Should the Supreme Court divide 4-4 in *Friedrichs*, the Ninth Circuit Court of Appeals' November 2014 decision in the case would stand. The three-judge Ninth Circuit panel affirmed a district-court finding for the defendant unions.

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Following in subtab A is a Grant Proposal Record (GPR) recommending renewed support of CIR, though still for its general operations more broadly. In subtab B's GPR, staff recommends further significant

support of the Freedom Foundation to continue its aggressive education of public-sector employees about their rights, whatever they are post-*Friedrichs*, with a new office in the heavily unionized state of California.

# GRANT PROPOSAL RECORD

## Center for Individual Rights

**ADDRESS:**

1233 Twentieth Street NW, Suite 300  
Washington, DC 20036

**CONTACT:**

Mr. Terence J. Pell

**AMOUNT REQUESTED:**

Unspecified

**STAFF RECOMMENDATION:**

\$100,000

**PROJECT TITLE:**

To support general operations

**BOARD MEMBERS AFFILIATED  
WITH REQUEST:**

George

**STAFF:**

Mike Hartmann

**MEETING DATE:**

2/23/2016

**PROPOSAL ID#:**

20160005

**BACKGROUND:** The Center for Individual Rights (CIR) in Washington, D.C., requests a grant award in renewed support of its general operations.

Founded in 1989, CIR is dedicated to the defense of individual liberties against the increasingly aggressive and unchecked authority of federal and state governments. With a small staff of four, it aggressively litigates and publicizes a handful of carefully selected cases.

Its president is Terence J. Pell, former general counsel and chief of staff at the Office of National Drug Control Policy and before that, deputy assistant secretary for civil rights in the U.S. Department of Education. Its general counsel is Michael E. Rosman.

CIR's board is chaired by George Mason Law School professor Jeremy A. Rabkin and includes Bradley Prize recipient and Princeton University president Robert P. George, William E. Simon Foundation president James Piereson, Hillsdale University president Larry Arnn, and retired Katten Muchin Rosenman lawyer Gerald Walpin.

### **Friedrichs**

It has spent almost all of its institutional energy during the past year and a half on what at least was the potentially pathbreaking *Friedrichs v. California Teachers Association* case currently pending before the U.S. Supreme Court and described in the report at the beginning of this Tab.

CIR's Rosman is joined in *Friedrichs* by Jones Day civil-rights attorney Michael A. Carvin and three of his colleagues on behalf of the plaintiffs. Carvin served on CIR's original board.

### **Other pending cases**

CIR currently has five other pending, non-*amicus curiae*, or "friend-of-the-court," cases.

#### *Sexual-assault investigations on campus*

Last May, CIR also filed a federal lawsuit challenging the one-sided procedures recently adopted by many colleges and universities to investigate and punish sexual assault. In *Doe v. Alger*, it represents a young student at James Madison University (JMU) in Harrisonburg, Va., who was found not guilty of rape by an impartial panel -- then convicted and suspended for five-plus years by a secret faculty-appeal panel on the basis of unsubstantiated and contradictory written statements concerning the victim's consumption of alcohol on the night in question.

JMU's policies and procedures to combat that which is considered by many on the Left to be a "rape culture" on campus are in accord with those pushed by the U.S. Department of Education.

#### *Race-based diversity scholarships*

Last June, CIR filed a federal lawsuit in Connecticut on behalf of University of Connecticut student Pamela Swanigan. A graduate student in English at UConn, Swanigan was not allowed to compete for a highly prestigious, merit-based scholarship despite being the top applicant the year she applied. Instead, she was routed into an academically less prestigious Multicultural Scholars Award, which is designed to increase diversity. This happened solely because of her race -- she is both African-American and white.

#### *One-race elections*

Last November, CIR moved for summary judgement in its federal class-action suit against a publicly funded race-exclusive plebiscite on whether Guam should seek independence from the U.S., statehood, or some other relationship. *Davis v. Guam* is similar to a challenge to a publicly funded race-exclusive election to determine leadership in a nativist Hawaiian political entity that is currently pending before the

U.S. Court of Appeals for the Ninth Circuit. (The Bradley-supported Public Interest Legal Foundation represented the Bradley-supported American Civil Rights Union as an *amicus*.)

*"Fair use" and copyright abuse to silence criticism*

And CIR is representing blogger Irina Chevaldina, who is being sued for copyright infringement for using a photo of real-estate developer Raanan Katz, part owner of the Miami Heat. CIR took the case to prevent the silencing of blogger criticism through a manipulative use of the copyright laws. The legal wrinkle in the case: Katz had purchased the photo from the photographer in order to *prevent* its further publication.

CIR and Chevaldina argue that its use on her blog fits within the definition of permissible "fair use" nonetheless. The U.S. Court of Appeals for the Eleventh Circuit has ruled in favor of Chevaldina, and Katz is considering his next legal move.

*Hate crimes "because of religion"*

In *Miller v. United States*, CIR client Kathryn Miller and other Amish appealed their convictions under the federal hate-crimes law for forcibly shaving the beards and cutting the hair of other Amish. The federal hate-crimes law criminalizes violent acts performed "because of religion."

In 2014, while the U.S. Court of Appeals for the Sixth Circuit recognized that religion was at least one motivation for the attacks, it held that the trial judge erred by not instructing the jury that the prosecution had to prove beyond a reasonable doubt that religion was a "but for" cause of them -- that is, that the attacks would not have happened absent the defendants' religious motivation. The court accordingly reversed the defendants' convictions and ordered a new trial, which has not yet occurred.

**Budget information:** CIR's overall 2016 expense budget is \$2,530,918.36, approximately the same as 2015's.

Its non-anonymous \$100,000+ philanthropic supporters are the Bloomfield Family, F.M. Kirby, and Sarah Scaife Foundations, and Lars E. Bader.

**STAFF RECOMMENDATION:** The "lean-and-mean" CIR did a masterful job putting together and then shepherding *Friedrichs* to its current status at the Supreme Court. Its other pending cases have some promise of shaping law in a positive direction, too.

Staff thus recommends a \$100,000 grant to CIR for its general operations. If awarded, this would be a \$25,000 increase over that last given by Bradley, in 2014.

# Center for Individual Rights

## Grant History

<b>Project Title</b>	<b>Grant Amount</b>	<b>Approved</b>	<b>Fund</b>
To support general operations	\$75,000	11/11/2014	Regular
to support general operations	\$80,000	11/12/2013	Regular
To support general operations	\$70,000	11/13/2012	Regular
To support general operations	\$80,000	11/8/2011	Regular
To support general operations	\$90,000	11/9/2010	Regular
To support general operations	\$90,000	11/10/2009	Regular
To support general operations	\$90,000	11/18/2008	Regular
To support general operations	\$90,000	11/13/2007	Regular
To support general operations	\$75,000	11/7/2006	Regular
To support general operations	\$100,000	11/8/2005	Regular
To support general operations	\$100,000	11/9/2004	Regular
To support general operations	\$100,000	11/4/2003	Regular
To support general operations	\$100,000	11/12/2002	Regular
To support general operations	\$100,000	11/13/2001	Regular
To support general operations	\$100,000	11/14/2000	Regular
To support general operations	\$100,000	11/16/1999	Regular
To support general operations	\$100,000	11/17/1998	Regular
To support general operations	\$90,000	11/18/1997	Regular
To support civil rights litigation in California	\$50,000	2/25/1997	Regular
To support general operations	\$90,000	9/23/1996	Regular
To support general operations	\$90,000	11/27/1995	Regular
To support the "Against Bureaucracy" litigation program	\$100,000	9/26/1994	Regular
To support the "Against Bureaucracy" litigation program	\$100,000	9/27/1993	Regular
To support the activities of the Academic Freedom Fund	\$200,000	6/17/1991	Regular
To support general operations	\$25,000	10/22/1990	Regular
To support general operations	\$25,000	8/28/1989	Regular
<b>Grand Totals (26 items)</b>	<b>\$2,310,000</b>		

# GRANT PROPOSAL RECORD

## Freedom Foundation

**ADDRESS:**

2403 Pacific Avenue, SE  
Olympia, WA 98501

**CONTACT:**

Mr. Tom McCabe

**AMOUNT REQUESTED:**

\$5,700,000/three years

**STAFF RECOMMENDATION:**

\$500,000/one year

**PROJECT TITLE:**

To support expansion of the Union Transparency  
and Reform Project

**BOARD MEMBERS AFFILIATED  
WITH REQUEST:**

**STAFF:**

Mike Hartmann

**MEETING DATE:**

2/23/2016

**PROPOSAL ID#:**

20151007

**BACKGROUND:** After discussions with staff, the Freedom Foundation in Olympia, Wash., requests a \$5,700,000 grant award over three years to expand its Union Transparency and Reform Project (UTRP) to California and New York.

The Freedom Foundation was founded in 1991 by Bob Williams and Lynn Harsh as the Evergreen Freedom Foundation -- other labor- and education-related projects of which, including regarding paycheck protection, were supported by Bradley from 1997 to 2009. Bradley started supporting the Freedom Foundation's UTRP in 2014. Last year, \$1,500,000 in Barder Fund support over three years expanded UTRP to Oregon.



*McCabe*

In December 2013, pugilistic Buffalo native Tom McCabe became the Freedom Foundation's chief executive officer. For 21 years, McCabe led the Building Industry Association of Washington. In 2011, the American Conservative Union awarded him its Ronald Reagan Award for his years of service to the conservative movement. During the Reagan Administration, he was director of congressional affairs for the federal Veterans Administration.

Late last year, McCabe was quite distastefully personally attacked by the Left for his Freedom Foundation work, about which see below.

Under McCabe's leadership and following up on Evergreen's previous work, UTRP aggressively exposes how the Left and Big Labor agendas hurt taxpayers, service recipients, and even unionized workers themselves. It actively engages in education of policymakers and the public, grassroots outreach, and litigation -- at both the state and municipal levels.

Well-funded Big Labor's strength in the Pacific Coast region make the area something of a leading indicators of, and to, the Left. As a region -- of three states: Washington, Oregon, and California -- the Pacific Coast would be the most-heavily unionized in the country, as shown in the list at the top of the next page. New York is the most-heavily unionized singular state in the country.

### **"Meet your neighbor, Olympia resident Tom McCabe"**

Last December, an SEIU front group calling itself the Northwest Accountability Project (NAP) mailed a hit piece about Tom McCabe and the Freedom Foundation to McCabe's neighbors, friends, church, and state legislators.

"Tom McCabe and the Freedom Foundation have long pushed a far right agenda that's out-of-step with the views of most Olympia-area residents," according to the mailer. "The Freedom Foundation is funded by out-of-state billionaires who want to keep wages low, eliminate paid sick leave and slash crucial funding for quality education. The Freedom Foundation also shares financial ties with extremist groups who target environmentalists, LGBT rights and women's health," which it then delineated.

"McCabe has a long record of opposing environmental causes and he is Treasurer of a church whose pastor claims that the Nazis held views that closely align with today's environmentalists," the piece also says.

NAP followed up on the mailer with phone calls to McCabe's neighbors, warning them that "an extremist named Tom McCabe lives in your neighborhood." The call went on to say that "Tom McCabe is not part of our community."

"These attacks, and those to come, will not intimidate me," McCabe responded. "In fact, this just fuels me. It proves the Freedom Foundation is on the right track and we are winning this epic battle."

And his wife wrote and distributed a letter to their neighbors. "I hope you can understand that this is a battle my husband believes in and that he has no intention of walking away," she wrote. "I respectfully ask you to give us the benefit of the doubt, when you receive future hit pieces with vague accusations from groups with vague names."



**A Harris-dependent “business model”**

In Washington, UTRP canvassers have been knocking on the doors of, telephoning, and e-mailing family child-care providers to educate them about the rights they have under the U.S. Supreme Court’s June 2014 *Harris v. Quinn* decision -- described in the report at the beginning of this Tab -- to opt out of paying dues to the SEIU, a principal funder of the Left in the region and nationally. As of mid-January, they visited 12,135 homes, spoken with 5,218 people, and convinced 815 to opt out.

According to union-membership reports, the overall percentage of family child-care providers in Washington paying dues to SEIU 925 fell from 100.0% in July 2014 -- the next reporting date after *Harris* -- to 46.6% in October 2015. SEIU 925, and the Left, have thus lost approximately \$1.5 million.

The current “business model” of the Freedom Foundation’s UTRP is almost entirely *Harris*-dependent.

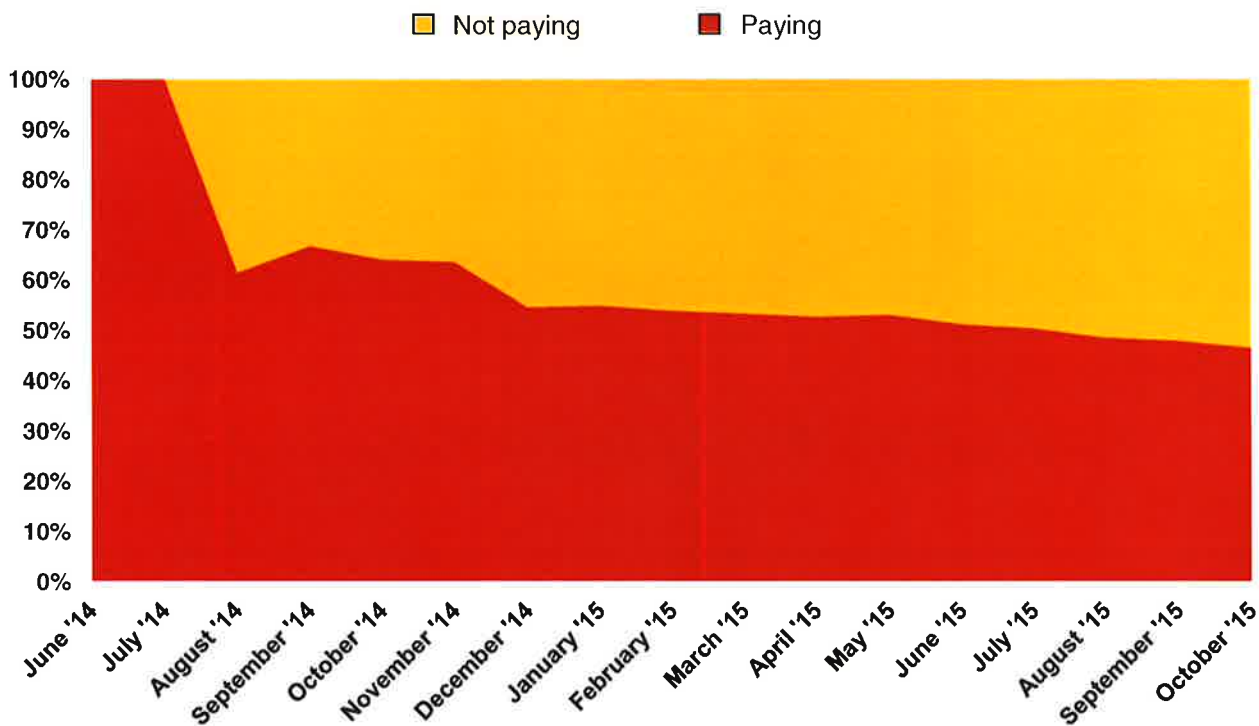
**States with 15% or more of total employees who are union members, 2014**

1. New York, 24.6%
2. Alaska, 22.8%
3. Hawaii, 21.8%
4. Washington, 16.8%
5. New Jersey, 16.5%
6. California, 16.3%
7. Oregon, 15.6%
8. Illinois, 15.1%
9. Rhode Island, 15.1%

**National union-membership rate:**  
11.1%

**Source:** U.S. Department of Labor, Bureau of Labor Statistics

**Percentage of family child-care providers in Washington paying dues to SEIU 925 since June 2014’s *Harris v. Quinn* decision**



In Oregon, which has less home health- and child-care workers than Washington, UTRP’s work began just months ago. It is targeting SEIU 503 there, and more than 200 have opted out at this writing. In the face of much legal and bureaucratic opposition, it is trying to obtain a full list of providers there.

In California, there are 397,000 unionized workers impacted by *Harris*. In New York, there are 150,000.

**Contemplating the potential benefits of Friedrichs-dependence**

As also described in the report at the beginning of this Tab, the Supreme Court’s *Friedrichs v. California Teachers Association* decision likely will come near the end of its current term in late June or early July. As contemplated in the table below, the benefits of a revised and enlarged, *Friedrichs*-dependent model could be vast.

**Potential outcomes of *Friedrichs*, and their “real-world” ramifications**

Outcome	Ramifications
<i>Status quo</i> , with <i>Harris</i> still law for home health- and child-care workers	Existing opportunities of <i>Harris</i> -dependent model would remain for home health- and child-care workers
<i>Abood v. Detroit Board of Education</i> overruled ...	Existing <i>Harris</i> -model opportunities would be greatly expanded in new <i>Friedrichs</i> -dependent model that could educate home health- and child-care workers <i>and</i> teachers, police, firefighters, and other public workers about their new right to opt out
with ability of all non-union public employees to opt out of paying “fair-share” fees, <i>Harris</i> -like	Unions themselves would have to be doing the door-knocking, telephoning, e-mailing, and other activities to educate public workers about their right to opt in
with requirement that all non-union public employees somehow explicitly opt in to paying “fair-share” fees, perhaps even through actual express written authorization	One can certainly foresee a need to aggressively rebut the substance and nature of this education

Were the Court in *Friedrichs* to overrule its old *Abood v. Detroit Board of Education* precedent *and* require that all non-union public employees somehow explicitly opt in to paying “fair-share” fees -- perhaps even through actual express written authorization -- then unions themselves would have to be doing the door-knocking, telephoning, e-mailing and other activities to education public workers about their right to opt in. If so, one can certainly foresee a need to aggressively rebut the substance and nature of this education.

**Unionized public employees potentially impacted by *Friedrichs* in Washington, Oregon, California, and New York**

	Public employees	Estimated dues impact
<b>Washington</b>	244,385	\$183 million
<b>Oregon</b>	145,076	\$109 million
<b>California</b>	1,369,069	\$1.03 billion
<b>New York</b>	1,001,275	\$751 million

As referenced in the report, millions of unionized public employees nationwide could be impacted by *Friedrichs* in this way, with billions of dollars in dues at stake. The table to the left shows the potential impact in Washington, Oregon, California, and New York.

As also covered in the report, were the Supreme Court to divide 4-4 in *Friedrichs* after Justice Antonin Scalia’s death, the Ninth Circuit Court of Appeals’ November 2014 decision in the case would stand. The three-judge Ninth Circuit panel affirmed a district-court finding for the defendant unions. The existing *Harris*-dependent business

model would remain standing, as well, for home health- and child-care workers.

**Budget information:** The Freedom Foundation’s overall annual expense budget is \$2,748,670. It is also

\* The Freedom Foundation filed an *amicus curiae*, or “friend-of-the-court,” brief in *Friedrichs*.

supported by the M. J. Murdock Charitable Trust and the Arthur N. Rupe Foundation, a longtime Bradley ally.

The ambitious three-year budget to expand UTRP to California and New York would total the fully requested \$5,700,000 -- \$2,850,000 per state. The first year budget to expand to California and New York is \$1,900,000 -- \$950,000 per state.

**STAFF RECOMMENDATION:** The largesse of Pacific Coast unions, after redistributed out of national offices in Washington, D.C., is used subsidize the Left's national agenda and obstruct the mission and program interests of the Bradley Foundation and its allies. After *Harris* and with the help of the Freedom Foundation's work, unions have not been able to essentially confiscate as much dues from workers who didn't even know they were in a union to generate this largesse. After *Friedrichs*, no matter how it turns out, there likely will continue to be a need for such help, and the Freedom Foundation's UTRP is poised to provide it.

So staff recommends a one-year, \$500,000 grant to the Freedom Foundation for expansion of its UTRP to California.

# Freedom Foundation

## Grant History

<b>Project Title</b>	<b>Grant Amount</b>	<b>Approved</b>	<b>Fund</b>
To support the Union Transparency and Reform Project	\$1,500,000	11/11/2014	Regular
To support the Union Transparency and Reform Project	\$100,000	8/19/2014	Regular
To support the Labor Policy Center	\$50,000	11/10/2009	Regular
To support the Labor Policy Center	\$40,000	8/19/2008	Regular
To support the Teachers' Paycheck Protection project	\$50,000	8/21/2007	Regular
To support the Teachers' Paycheck Protection project	\$40,000	8/22/2006	Regular
To support the Teachers Paycheck Protection project	\$75,000	8/23/2005	Regular
To support general operations	\$75,000	8/17/2004	Regular
To support general operations	\$72,500	8/26/2003	Regular
To support the Teachers' Paycheck Protection Project	\$50,000	11/12/2002	Regular
To support the Teachers' Paycheck Protection Project	\$25,000	11/13/2001	Regular
To support the Teachers' Paycheck Protection Project	\$25,000	11/14/2000	Regular
To support the Teachers' Paycheck Protection Project	\$50,000	11/16/1999	Regular
To support the Teachers Paycheck Protection Project	\$30,000	8/25/1998	Regular
To support public policy research activities	\$25,000	6/3/1997	Regular
To support education reform activities	\$3,000	1/24/1997	GCC
To support general operations	\$10,000	8/26/1996	ZZ - Small
To support general operations	\$10,000	8/28/1995	Regular
To support the Center for Political Renewal	\$60,000	2/27/1995	Regular
To support a survey of the new business elite	\$25,000	8/22/1994	Regular
To support the Foundation's "Progress Report" on National Empowerment Television	\$25,000	8/23/1993	Regular
<b>Grand Totals (21 items)</b>	<b>\$2,340,500</b>		

# GRANT PROPOSAL RECORD

## Independence Institute

**ADDRESS:**

727 East Sixteenth Avenue  
Denver, CO 80203

**CONTACT:**

Mr. Jon Caldara

**AMOUNT REQUESTED:**

\$75,000

**STAFF RECOMMENDATION:**

\$60,000

**PROJECT TITLE:**

To support the Education Labor Project

**BOARD MEMBERS AFFILIATED  
WITH REQUEST:**

**STAFF:**

Dan Schmidt

**MEETING DATE:**

2/23/2016

**PROPOSAL ID#:**

20151017

**BACKGROUND:** The Independence Institute (II) requests renewal of Bradley's support for its Education Labor Project in the amount of \$75,000.

Now, 30 years old the Independence Institute is a state think tank dedicated to pursuing public policy issues impacting on the size of government, personal liberty, and economic growth and prosperity. II has been particularly successful not only in identifying key issues in Colorado deserving of careful study, but in marketing the findings and working on the ground to implement reforms consonant with the organization's mission. Over the years II's policy analysts have worked primarily on the following issues: education and related labor issues; tax reform and fiscal responsibility at the state level; criminal justice; health care reform; and ideological discrimination on university and college campuses. Jon Caldera, Denver radio's most well-known and trusted conservative talk show hosts has led II since 1998.

Under the direction of former public school teacher, Pam Benigno, the Institute's Education Policy Center has focused on issues that challenge the educational status quo. Since 1997 the Center has analyzed in thorough fashion Colorado's education delivery system in terms of its practices and performance and, served as an organizer of grassroots activists advocating for the introduction of charters and choice for the state's parents.

Benigno and her colleagues have been devoting much of their time and energy to tracking union activities and the actions of school boards with respect to union contracts during the past several years. In particular the Education Labor Project has focused its resources on the activities of the Douglas County, Colorado school board, Colorado's teacher salary system, and providing teachers with information and strategies to challenge the political activities of the teachers' union and district collective bargaining contracts.

At the beginning of 2015 II's Education Labor Project's several years of hard work could be credited with assisting the parents of Jefferson County, Loveland-based Thompson School District, and Douglas County in placing conservative reform majorities on their school boards. Prospects were looking up for the opportunity to further reduce the political influence of the teacher unions. Unfortunately, in November of last year voters in the Loveland-based Thompson School District and in Jefferson County conservative majorities on the boards were defeated. And, in Douglas County conservatives lost 3 seats, thereby reducing their majority to 4 to 3.

Last year was a year of lessons to be learned for II in its fight with the Colorado Education Association (CEA.) Caldera, Benigno, and the members of the Education Labor Project team have learned about the importance of controlling the narrative surrounding local level reform policies. Board members must be reminded to stay on message when speaking to the public on reform initiatives. And, finally, board members must be fully informed on the structural, procedural and legal tactics the CEA is likely to employ in the maintenance of their power.

In 2016-17 II proposes to continue to prove school board leaders and activists with ongoing guidance as they attempt to navigate the policy and public relations landscape surrounding education. To that end II proposes to pursue the following activities: expand support to local school board officials with respect to information on labor reform; build narrative support for reform policies, including collective bargaining reform by using social media advertising; closer monitoring and responding to union related activities to advance pro-reform narrative; and increase teacher outreach through social media notifying them of their membership and political refund options.

A grant of \$75,000 is requested.

**BUDGET INFORMATION:** The Independence Institute's 2015-16 budget totals \$3,540,000. The Education Labor Project's estimated 2015-16 budget amounts to \$134,500.

Major contributors to II's program activities and general operations are many in number and include amongst others: the Anschutz, Coors, Daniels, Donne, El Polmar, Roe, Rupe, and Walton Foundations.

**STAFF RECOMMENDATION:** II's Education Labor Project has been at the project that the coalition of organizations, grassroots groups and individuals in Colorado working for K-12 education reform look to for ideas about strategy and tactics. In particular Jon Caldara and Pam Benigno have special expertise on the nature and scope of the activities of the Colorado Education Association in the various school districts across the state. II's knowledge in this area has been indispensable to education reforms when it comes to collective bargaining issues and district contracts.

II's outreach program to union members has proven to be successful. The Project's direct contact with teachers has persuaded many to ask for the refund of that portion of their union dues allocated for the union's political activities. II's work in this regard has been influential in several key school districts in Colorado committed to "pay for performance" programs.

A grant of \$60,000 is recommended.

# Independence Institute

## Grant History

<b>Project Title</b>	<b>Grant Amount</b>	<b>Approved Fund</b>
To support public education	\$100,000	11/10/2015   Regular
To support the Energy Policy Center	\$50,000	6/2/2015   Regular
To support the Education Labor Project	\$50,000	2/24/2015   Regular
To support the Education Labor Project	\$50,000	2/25/2014   Regular
to support the Energy Policy Center	\$75,000	11/12/2013   Regular
To support the Education Labor Project	\$30,000	2/26/2013   Regular
To support the Energy Policy Center	\$45,000	11/13/2012   Regular
To support the Education Labor Project	\$25,000	2/28/2012   Regular
To support the Education Labor Project	\$40,000	2/22/2011   Regular
To support general operations	\$100,000	10/4/2010   Regular
To support the Education Labor Project	\$50,000	2/23/2010   Regular
To support the Education Labor Project	\$50,000	2/24/2009   Regular
To support the Education Labor Project	\$100,000	2/19/2008   Regular
To support public education about "paycheck protection"	\$100,000	11/13/2007   Regular
To support the Education Labor Project	\$75,000	2/20/2007   Regular
To support the Education Labor Project	\$50,000	2/22/2006   Regular
To support the Education Labor Project	\$75,000	2/15/2005   Regular
To support the Education Labor Project	\$75,000	2/26/2004   Regular
<b>Grand Totals (18 items)</b>	<b>\$1,140,000</b>	



# GRANT PROPOSAL RECORD

## The Mackinac Center

**ADDRESS:**

140 West Main Street  
P.O. Box 568  
Midland, MI 48640-0568

**CONTACT:**

Mr. Joseph G. Lehman

**AMOUNT REQUESTED:** \$75,000

**STAFF RECOMMENDATION:** \$75,000

**PROJECT TITLE:** To support the Mackinac Center for Public Policy

**BOARD MEMBERS AFFILIATED  
WITH REQUEST:**

**STAFF:** Dan Schmidt

**MEETING DATE:** 2/23/2016

**PROPOSAL ID#:** 20151054

**BACKGROUND:** The Mackinac Center for Public Policy is seeking a renewal of Bradley's support for its general operations in the amount of \$75,000.

Established in 1987 by Lawrence Reed, now under the direction of Joe Lehman, Mackinac is one of the nation's most recognized state-level think tanks. Since its founding the organization has characterized itself as a classical liberal institution aimed at preserving limited, responsible government. Its board of directors chaired by Clifford W. Taylor, former Chief Justice of the Michigan Supreme Court, and includes individuals such as J.C. Huizenga and D. Joseph Olson.

Bradley's support for the Center's operations in the past years has been utilized by Lehman and his associates to administer its Labor and Education Project. In the coming year Bradley support would be used to assist Mackinac in helping allies in other states to bring about labor policy reform. Mackinac's involvement with other states has been much more a part of the Labor Project since Michigan adopted right-to-work in 2012.

Mackinac serves other states and organizations within the State Policy Network's orbit in several ways. Lehman, F. Vincent Vernuccio, director of labor policy, and Patrick Wright, vice president for legal affairs help allies assess the situation in their states and determine reforms that are strategic and feasible. Secondly, Mackinac works on the ground in other states through strategy session, speaking engagements, and public education programs aimed at responding to union tactics. Finally, Mackinac hosts their annual Labor Policy Training Camp offering intense instruction in labor law and reform strategies.

In the past two years Mackinac has worked in Oregon, Missouri, New Mexico, Delaware, Pennsylvania, Ohio, Illinois, Washington, Florida, and Washington, D.C. Lehman also chairs strategy meetings among 10 state think tanks most committed to labor reform convened several times a year by State Policy Network.

On education, among other things, Mackinac annually analyzes collective-bargaining agreements in Michigan to see if and if so, how, they are adhering to the teacher tenure and evaluation policy changes.

Over and above focusing on labor reform across the states, the Mackinac Center has other noteworthy program priorities in 2016. They include the following: defending school choice in Detroit; providing autoworkers with information about right-to-work; researching corporate welfare programs in Michigan such as state-sponsored tourism and the 21<sup>st</sup> Century Jobs Fund; and researching and speaking publicly about reforming public pension in the education sector by switching teacher to a defined contribution plan.

A grant of \$75,000 is requested in support of general operations.

**BUDGET INFORMATION:** Mackinac's overall 2015 budget amounts to \$5,850,000.

The Center is supported by numerous foundations, corporations and individuals. Its labor and education work in particular is funded by the Dow, Herrick and Chrysler Foundations.

**STAFF RECOMMENDATION:** The Mackinac Center is among the most aggressive state think tanks, especially in the area of labor and education reform. Its research and public education activities were key to the right-to-work victory in Michigan. Indeed, under Joe Lehman the Center has laid the ground work for advancing paycheck protection and ending illegal union forays into private, home-based businesses. The Center's work in this regard is serving as a model for strategic thinking on right-to-work and taking on the domination of public-sector unions across the nation.

A grant of \$75,000 is recommended.

# Mackinac Center

## Grant History

<b>Project Title</b>	<b>Grant Amount</b>	<b>Approved</b>	<b>Fund</b>
To support general operations	\$75,000	2/24/2015	Regular
To support a mobile-app project	\$100,000	2/24/2015	Regular
To support general operations	\$50,000	2/25/2014	Regular
To support a public-education project	\$100,000	2/25/2014	Regular
To support the Labor and Education Project	\$50,000	2/26/2013	Regular
To support the Labor and Education Project	\$50,000	2/28/2012	Regular
To support the Labor and Education Project	\$40,000	2/22/2011	Regular
To support the Labor and Education Project	\$50,000	2/23/2010	Regular
To support the Labor and Education project	\$50,000	2/24/2009	Regular
To support the Labor and Education Project	\$75,000	11/13/2007	Regular
To support the Labor and Education Project	\$75,000	8/22/2006	Regular
To support the Labor and Education Resource Center	\$100,000	11/8/2005	Regular
To support the activities of the Center's new education and labor program	\$100,000	11/9/2004	Regular
To support a feasibility study of Local-Only Teacher Unions	\$72,500	8/26/2003	Regular
To support general operations	\$40,000	11/13/2001	Regular
To support general operations and a study of school choice	\$50,000	8/29/2000	Regular
To support general operations	\$50,000	8/24/1999	Regular
To support general operations	\$50,000	2/24/1998	Regular
To support general operations	\$30,000	2/25/1997	Regular
To support education reform projects	\$30,000	1/23/1995	Regular
To support research on educational reform in Michigan	\$45,000	9/27/1993	Regular
<b>Grand Totals (21 items)</b>	<b>\$1,282,500</b>		

# GRANT PROPOSAL RECORD

## Nevada Policy Research Institute

**ADDRESS:**

7130 Placid Street  
Las Vegas, NV 89119

**CONTACT:**

Ms. Sharon J. Rossie

**AMOUNT REQUESTED:** \$50,000

**STAFF RECOMMENDATION:** \$25,000

**PROJECT TITLE:** To support National Employee Freedom Week

**BOARD MEMBERS AFFILIATED  
WITH REQUEST:**

**STAFF:** Mike Hartmann

**MEETING DATE:** 2/23/2016

**PROPOSAL ID#:** 20151056

**BACKGROUND:** The Nevada Policy Research Institute (NPRI) in Las Vegas requests a grant award of \$50,000 in first-time support of National Employee Freedom Week (NEFW).

Founded in 1991, NPRI is Nevada’s conservative state think tank. It has contributed to some success there, including in the contexts of school choice and zero-based budgeting. The state has the largest Education Savings Account program in the country.

Under the leadership of its president Sharon J. Rossie, NPRI actively participated in the Barder Fund’s state-infrastructure request-for-proposals process -- working very hard, with some success, to garner partners among other state think tanks and allies in making NEFW bigger and better.

NEFW is basically an advertising campaign to educate workers about that which they can do with their dissatisfaction about union representation -- including, if and when possible, decertification or opting out of paying certain dues portions, about which see the report on *Friedrichs v. California Teachers Association* and related recommendations at the beginning of this section of these materials.

In 2014, trying to mimic that which it saw other groups doing on other issues, NPRI provided 10 “micro-grants” of between \$1,500 and \$2,500 to some of the more-active NEFW groups to run their own public-education campaigns in their own respective states.

**States with active National Employee Freedom Week groups**

California  
Colorado  
Illinois  
Louisiana  
Michigan

North Carolina  
Pennsylvania  
Tennessee  
Washington

These campaigns consisted of websites, billboards, e-mail communications, talk-radio appearances, and social-media commentary.

**Budget information:** NPRI’s overall annual expense budgets usually exceed \$900,000.

The 2016 budget for its NEFW in particular is \$195,000.

**RECOMMENDATION:** While NEFW’s material has a little bit of a “one-size-fits-all” aspect to it, staff believes it worthy of a modest level of support -- if even only to offer encouragement to those behind it. Any help would be consistent in at least concept and motivation with that for the much more targeted, expensive, “shoe-leather” efforts of the Freedom Foundation, which is an NEFW group, too.

Staff thus recommends a \$25,000 grant to the hard-working NPRI for NEFW.

# Nevada Policy Research Institute

## Grant History

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Project Title	Grant Amount	Approved	Fund
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-- NONE --

# GRANT PROPOSAL RECORD

## Foundation for Government Accountability

**2015**  
Regarding  
Bradley Funding  
and Amicus Briefs

**ADDRESS:**

15275 Collier Blvd., Suite 201-279  
Naples, FL 34119

**CONTACT:**

Mr. Tarren Bragdon

**AMOUNT REQUESTED:** \$750,000

**STAFF RECOMMENDATION:** \$350,000

**PROJECT TITLE:** To support public education about Medicaid and a project on reducing the welfare state and restoring the working class

**BOARD MEMBERS AFFILIATED WITH REQUEST:**

**STAFF:** Mike Hartmann

**MEETING DATE:** 2/24/2015

**PROPOSAL ID#:** 20141091

**BACKGROUND:** The Foundation for Government Accountability (FGA) in Naples, Fla., requests a grant award totaling \$750,000 -- \$250,000 in renewed support of its public education about Medicaid and \$500,000 in first-time support of its special project on reducing the welfare state and restoring the working class.

Founded in 2011, FGA develops and promotes public policies that achieve limited, constitutional government and a robust economy that will be an engine for job creation across the states. It has a well-earned, good reputation in health-care policy research and prescription.

FGA's president and chief executive officer is Tarren Bragdon, former CEO of The Maine Heritage Policy Center and the youngest person ever elected to the Maine state legislature. A nationally recognized expert on health reform, with a specialty in Medicaid reform, Bragdon has served as a health-policy analyst with the Empire Center for New York State Policy of the Bradley-supported Manhattan Institute for Policy Research.

Its board of directors includes Robert A. Levy, who chairs the Cato Institute's board, and Bridgett Wagner of the Bradley-supported Heritage Foundation.

FGA's mission is national, but its strategy -- in line with much of Bradley's -- is state-based. It helps conservative state think tanks and other state-centric allies, and it works well with the several other organizations in Bradley's state-based policy-influencing portfolio.

### ***Public education about Medicaid and Obamacare***

During the past couple of years, FGA's principal project has been to educate the policymakers and the public in specifically targeted states about the benefits of rejecting Medicaid expansion under Obamacare. Obamacare's original goal was to make a total of approximately 40 million Americans dependent on the government for their care, by: 1.) trapping about 16 million adults in an expanded Medicaid; and, 2.) baiting another 24 million into exchange plans by 2016.

#### ***King v. Burwell***

On March 4, the U.S. Supreme Court will hear oral arguments in *King v. Burwell*, a legal challenge brought with Bradley support by the Competitive Enterprise Institute to an Internal Revenue Service rule allowing tax subsidies to those participating in health-care exchanges established by the federal government and not the states. There is a subsequent recommendation to support the Judicial Education Project's effort to research, write, and coordinate *amicus curiae*, or "friend-of-the-court," briefs in *King* in this section of these materials.

Should the challenge succeed, there would only be subsidies for those in the 16 state-established exchanges and not those in the 34 other states that rejected Obamacare and thus with federally run exchanges. These states are shown in the map on the next page.

Obamacare would largely be gutted. Congress would have to "start over" on health care again, and it likely would draw on conservative ideas that have been discussed for years -- including tax credits to buy insurance, high-risk pools, and allowing insurance to be sold across state lines.

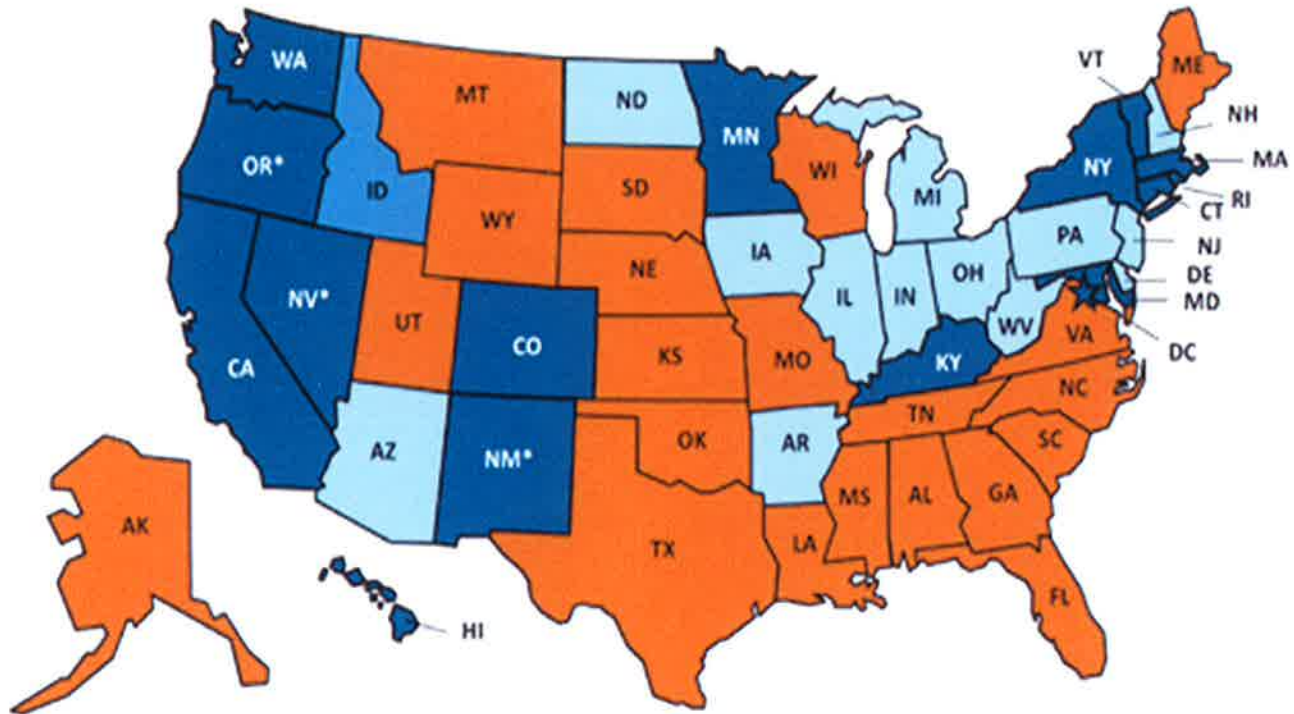
When the U.S. Supreme Court upheld Obamacare in 2012, it allowed states the option to accept or reject Medicaid expansion. Since then, 28 states have accepted expansion, according to The Henry J. Kaiser Family Foundation and as shown on the map at the top of the next page. In those 28 states, up to 8.3 million adults are projected to have enrolled in the new, bigger programs -- just 51.9% of the 16 million target. Two of these states, Arkansas and New Hampshire, had been considering repealing expansion at the end of last year.

Of the remaining 22 states, eight have outright rejected expansion and, by FGA's count, 13 were continuing to consider it. According to FGA, the states still considering expansion were Alabama, Alaska, Florida, Idaho, Missouri, Montana, Nebraska, North Carolina, Tennessee, Texas, Utah, Virginia, and Wyoming. Some of these states have applied for waivers from the U.S. Department of Health and Human Services to retool their Medicaid programs, as other states have already been able to do.



## State Medicaid-expansion and health-care exchange decisions

- Have accepted Medicaid expansion and have state-run health-care exchange (15 states and D.C.)
- Have accepted Medicaid expansion and have federally run health-care exchange (13 states)
- Has not accepted Medicaid expansion and has state-run health-care exchange (1 state; Idaho)
- Have not accepted Medicaid expansion and have federally run health-care exchange (21 states)



Source: Henry J. Kaiser Family Foundation

\* While Kaiser considers Nevada, New Mexico, and Oregon to have state-run exchanges, they are substantially federally supported.

The pending *King v. Burwell* challenge to Obamacare (about which see the previous page's sidebar) has no bearing on whether a state decides to expand Medicaid or not. Other than in those states with pending requests for waivers to retool their own programs, many still-undecided are skittish about deciding to either expand or repeal expansion of Medicaid until after the Court rules in *King*, which likely will be in June.

Hypothetically, should *King* strike down Obamacare's federal-exchange subsidies, an estimated four million people in the states with federal exchanges would lose those subsidies. Of these states, those 13 that currently have a federally run exchange *and* have expanded Medicaid might have a greater propensity to create a state exchange as a way to preserve subsidies for their residents.

By FGA's count, nine of these 13 states would have this inclination towards converting to a state exchange. They are Delaware, Illinois, Iowa, Michigan, New Jersey, North Dakota, Ohio, Pennsylvania, and West Virginia. The other four that would be inclined against state-exchange conversion are Arizona, Arkansas, Indiana, and New Hampshire.

### ***Reducing the welfare state and restoring the working class***

FGA would ambitiously also like to research and put together a book on the fiscal, political, and moral costs of the growing welfare state and in support of private civil society's efforts to eradicate poverty. Last year, it conducted a 58-question survey of 3,600 welfare recipients in California and Texas. From the poll, FGA says, it gained a better understanding of the moral and aspirational impacts of welfare, quantifying the ideological impact that government dependency has on an individual, and showing how the power of a job frees people from dependency and a big-government mindset. (Those categorized as either "poor on welfare" and "off welfare, but not working" say they voted "mostly Democrat;" those "not poor, never on welfare," "poor, but never on welfare," and "off welfare, but working now" voted "mostly Republican.")

The book would summarize the survey's results and highlight some examples of Bradley's local "New Citizenship" agenda of supporting small, private groups that fight poverty at the neighborhood level, including some from Milwaukee itself -- offering them all as antidotes to the welfare state's way of addressing the same issues. It is tentatively entitled *Dependocrats: How the Left Uses Dependency to Build Power and Trap People in Poverty, and What You Can Do About It*.

Relatedly, FGA wants to research and educate policymakers and the public about welfare fraud and the benefits of work requirements for food-stamp recipients. Last December, it held a policy summit on these ideas, with representation from 29 states.

**Budget information:** FGA's overall 2015 expense budget is \$4,100,000.

Its sources of support have included the Adolph Coors, Arthur N. Rupe, Atlas Economic Research, Beach, Dodge Jones, Ed Uihlein Family, John William Pope, Randolph, and Roe Foundations, the Searle Freedom Trust, Barre Seid (anonymously) through Donors Trust, and SPN.

The budget for its public education about Medicaid in particular is \$1,470,000. For its project on reducing the welfare state and restoring the working class, its budget is \$2,350,000.

**STAFF RECOMMENDATION:** Along with the Bradley-supported Galen Institute, Bragdon and FGA have contributed constructively to the health-care debate. Its topic-specific, in-depth focus on state-level reform has been of a piece with much of Bradley's other recent strategic grantmaking -- including, among others, to the American Legislative Exchange Council, the Center for Energy Innovation and Independence's group of state attorneys general, the Goldwater Institute's state litigation alliance, the Interstate Policy Alliance, the Manhattan Institute for Policy Research's Center for State and Local Leadership, the Sagamore Institute, Think Freely Media, the State Human Service Secretaries' Innovation Group (about which see the Work First Foundation recommendation in this section of these materials), and the State Policy Network.

Staff thus recommends a \$350,000 grant to FGA for public education about Medicaid *and* its project on reducing the welfare state and restoring the working class, which has promise to helpfully contribute to the public discourse about economic growth and poverty.

If awarded, this sum would be a \$150,000 increase over last year's grant. The grantee would retain the discretion to use any award funds for whichever of the delineated purposes.

# Foundation for Government Accountability

## Grant History

<b>Project Title</b>	<b>Grant Amount</b>	<b>Approved Organization Name</b>
To support public education about Medicaid	\$200,000	6/17/2014 Foundation for Government Accountability
To support general operations	\$25,000	8/20/2013 Foundation for Government Accountability
<b>Grand Totals (2 items)</b>	<b>\$225,000</b>	

# GRANT PROPOSAL RECORD

## Judicial Education Project

**ADDRESS:**

3220 N Street, Suite 268  
Washington, DC 20007

**CONTACT:**

Mr. Neil Corkery

**AMOUNT REQUESTED:** \$200,000

**STAFF RECOMMENDATION:** \$150,000

**PROJECT TITLE:** To support *amicus curiae* representation before the Supreme Court

**BOARD MEMBERS AFFILIATED WITH REQUEST:**

**STAFF:** Mike Hartmann

**MEETING DATE:** 2/24/2015

**PROPOSAL ID#:** 20150015

**BACKGROUND:** The Judicial Education Project (JEP) in Manassas, Va., requests a \$200,000 grant award in first-time support, for the research, writing, and coordination of *amicus curiae*, or "friend-of-the-court," briefs in two important cases pending before the U.S. Supreme Court.

The request is initiated by Bradley Prize recipient Leonard Leo of the Federalist Society for Law and Public Policy Studies (about which see the pending, separate recommendations by the Implementation & Impact Committee and earlier in these IRA materials), who works closely with JEP president Neil Corkery.

JEP is dedicated to strengthening liberty and justice in America through defending the Constitution as envisioned by its Framers -- creating a federal government of defined and limited powers, dedicated to the rule of law, and supported by a fair and impartial judiciary. JEP educates citizens about these constitutional principles, and focuses on issues such as judges' role in our democracy, how they construe the Constitution, and the impact of the judiciary on our society. Its educational efforts are conducted through various outlets, including print, broadcast, and internet media.

JEP has itself supported the preparation of *amicus* briefs in two cases before the Court -- the challenge to Obamacare's federally run health-care exchanges in *King v. Burwell* and to compulsory union dues for non-union, public-school employees in *Friedrichs v. California Teachers Association*.

The *King* statutory-interpretation case itself was brought with Bradley support by the Competitive Enterprise Institute, and the *Friedrichs* freedom-of-speech and -association case was brought with Bradley support by the Center for Individual Rights. The legal work on both cases has been done in cooperation with Jones Day attorneys.

### **Obamacare**

As briefly described in the previous recommendation for the Foundation for Government Accountability in this section of these materials, *King* specifically challenges an Internal Revenue Service rule allowing tax subsidies to those participating in health-care exchanges established by the federal government *and* not the states. The Court will hear oral arguments in the case on March 4.

Should the challenge succeed, there would only be subsidies for those in state-established exchanges and not those in the other states that rejected Obamacare and thus with federally run exchanges. Obamacare would largely be gutted. Congress would have to "start over" on health care again, and it likely would draw on conservative ideas that have been discussed for years -- including tax credits to buy insurance, high-risk pools, and allowing insurance to be sold across state lines.

Various *amici* in *King* include members of Congress, state attorneys general, leading administrative-law academics who previously clerked on the Court for key justices, and at least two other Bradley-supported organizations -- the Pacific Research Institute (PRI) and the Galen Institute.

The briefs have been put together by attorneys with Cooper & Kirk, Ogletree Deakins, Boyden Gray & Associates, and Wiley Rein, with former clerks of Supreme Court justices on most of them.

### **Compulsory union dues**

In *Friedrichs*, the Court will consider whether forcing the plaintiffs -- 10 California public-school teachers and members of the Christian Educators Association International group who work in public schools -- to pay "agency-shop" fees to a union of which they have chosen *not* to be a member, as a condition of their employment, violates their constitutionally guaranteed freedoms of speech and association.

This type of forced-payment, "agency-shop" scheme assumes that collective bargaining is "non-political," but the union's bargaining with local governments is inherently political. And the scheme's methods for non-members to opt out of contributing to the union's tens to hundreds of millions of dollars' worth of political activities, moreover, are burdensome and essentially unworkable. Teachers cannot take advantage of them.

The plaintiff teachers are asking the Court to overrule its precedents allowing states to mandate any union fees.

Various *amici* in *Friedrichs* likely will include current and former governors, state attorneys general, First Amendment scholars, and leading Bradley-supported education-reform entities -- including PRI. At this writing, two or three others may be commissioned.

Some of the briefs are being put together by attorneys with Gibson, Dunn & Crutcher and Jones Day. The additional ones may be done by Bancroft & Associates, Boyden Gray & Associates, and Kirkland & Ellis -- again, with former clerks of justices on most of them.

**Budget information:** JEP's annual overall expense budget in its fiscal-year 2015 is \$2,060,000.

Each of the two *amicus*-brief efforts costs approximately \$250,000, for a total of \$500,000.

**STAFF RECOMMENDATION:** At this highest of legal levels, it is often very important to orchestrate high-caliber *amicus* efforts that showcase respected, high-profile parties who are represented by the very best lawyers with strong ties to the Court. Such is the case here, with *King* and *Friedrichs*, even given Bradley's previous philanthropic investments in the actual, underlying legal actions.

Therefore, staff recommends a \$150,000 grant to JEP for the *amicus* representation.

# Judicial Education Project

Grant History

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Project Title	Grant Amount	Approved	Fund
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-- NONE --

**BACKGROUND:** The StudentsFirst Institute (SFI) in Valencia, Calif., requests a \$100,000 grant award in first-time support, for its federal *Bain v. California Teachers Association* lawsuit.



Rhee

Founded in 2010 by former District of Columbia schools chancellor Michelle Rhee, SFI researches and conducts public education about two public-policy reforms -- school choice and merit pay for teachers. It is the (c)(3) affiliate of the (c)(4) StudentsFirst, which supports the same policy goals and is currently pursuing them in 11 particular states where the education-reform infrastructures are in need of bolstering.

SFI's and StudentsFirst president is the experienced Jim Blew, who previously led The Walton Family Foundation's school-choice team and advised Walton family members on their own philanthropic and other giving. Before his years at Walton, when it worked very closely with Bradley, Blew worked for two Bradley-supported organizations -- the Alliance for School Choice and the American Education Reform Council.

SFI's and Students First boards are chaired by Rhee and include Rev. Floyd H. Flake, CNN's Roland S. Martin, and ABC/ESPN announcer and analyst Jalen Rose.



Bain

*Bain v. CTA* is a suit brought by teachers who are union members against their unions to stop coercive practices that compel the teachers to support the unions' political activities against their will. The three plaintiffs are all teachers in California. April Bain is a proud union member who doesn't want to be forced to choose between union membership and political causes that aren't connected to the classroom.

Her fellow plaintiff and union member Bahrain Bhakti delivered powerful testimony in California's *Vergara v. California* decision (about which see the Partnership for Educational Justice recommendation in § 2.A. of these materials), which found several state statutes unconstitutional under the state constitution there because they facilitated the retention of grossly ineffective teachers and thus denied equal protection to students assigned to those teachers. Bhakti described being laid off at the end of almost every school

year during her first nine years of teaching.

Their fellow plaintiff Clare Sobetski worked on President Barack Obama's 2008 election campaign, then became a Teach for America corps member, and is her school's union representative. She believes unions should be required to make an argument to their members about the need for and efficacy of any political contributions they all collectively make.

Their case was filed last April in the U.S. District Court for the Central District of California in Los Angeles. The plaintiffs are represented by a team led by Theodore J. Boutros, Jr., of Gibson Dunn's Los Angeles office.

The defendants in the case are local, state, and national teachers' unions, including the California Teachers Association, the National Education Association, and the American Federation of Teachers.

In September, the District Court granted the teachers' unions' motion to dismiss the case. The judge seemed to agree with much of the plaintiffs' arguments -- but then concluded that the unions are not state actors, but rather private entities acting without the blessing of the state, and that they thus cannot violate free-speech rights.

At this writing, the plaintiffs plan to appeal the decision to the Ninth Circuit Court of Appeals.

**Budget information:** SFI's 2015-17 budget for the *Bain* litigation ambitiously totals \$6,493,788. The



### ***Friedrichs and Bain***

Should *Bain* reach the U.S. Supreme Court, it would do so after another important suit from California that could also substantially reduce teachers'-union revenues. *Friedrichs v. California Teachers Association* challenges the unions' practices in 25 agency-fee states of charging *non*-union teachers a mandatory "agency fee" -- which the unions call a "fair-share fee" -- to cover the costs of representing non-union members in collective bargaining.

Bradley is already supporting the *Friedrichs* case through grants to the Center for Individual Rights and the Judicial Education Project.

It will be considered by the Supreme Court sometime during the October 2015 Term. If *Friedrichs* is fully successful, an estimated 100,000 non-union teachers across the country would no longer be required to pay mandatory agency fees. Agency fees typically run about two-thirds of membership dues and roughly range between \$500 and \$800 per year. Should the unions lose agency fees, they would lose an estimated \$60 million annually. (If given the opportunity to opt out of the union *and* not pay the agency fee, moreover, many other teachers could be expected to drop their union memberships.)

*Friedrichs* and *Bain* apply to two separate groups of teachers:

1. those who do not want to pay the agency fee (*Friedrichs*); and,
2. those who are willing to pay for membership benefits, but who do not want to be coerced to support the unions' political activity (*Bain*).

While the cases affect different groups of teachers, the combination of both cases could hypothetically be a powerful one-two punch. If both revenue streams are reduced or dried up, all that would remain to fund the unions' political apparatus would be the hard-core teacher members who embrace their leaderships' *status quo*, anti-reform policies and the politics of one party.

largest component of this is the capped legal fees either already charged or anticipated for Gibson Dunn (\$818,880 in 2015, \$974,384 in 2016, and \$363,802 in 2017). The rest is for communications and outreach, including conferences and the various normal online presences.

It has already secured commitments totaling just more than \$1 million toward litigation costs and had "soft commitments" totaling another \$400,000 to cover an appeal to the Court of Appeals and \$500,000 for any appeal to the U.S. Supreme Court.

**STAFF RECOMMENDATION:** Each year, teachers' unions in America collect an estimated total of more than \$2 billion from rank-and-file teachers, at least \$500 million of which is used to support overt political activities at all levels of government -- from local school boards to the presidency.

If *Bain* is ultimately successful, even unionized teachers would no longer be forced to fund their unions' political activities. Teachers who chose not to support and fund the unions' political activity would be allowed to pay for and receive full membership benefits. As a result, the teachers' unions would have to raise political donations the same way as everyone else — through voluntary contributions.

Staff thus recommends a \$100,000 IRA investment in SFI for its *Bain* suit.

# StudentsFirst

## Grant History

Project Title	Grant Amount	Approved	Fund
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-- NONE --

## Report: Bradley-Randolph Labor Policy Strategy Session

In September, the Bradley Foundation and The Randolph Foundation in New York City co-sponsored a half-day Labor Policy Strategy Session at the Bradley-supported Americans for Tax Reform Foundation's (ATRF's) headquarters in Washington, D.C.

ATRF president Grover Norquist was an active participant in and says he and others derived much benefit from May 2003's Bradley Working Group on Vindicating and Expanding Employee Rights. There has, in fact, actually been much meaningful vindication and expansion of employee rights in America since then.

ATRF's Center for Worker Freedom models its "First Friday" meetings of allies after the Bradley working group, it says. For some time, Norquist and Randolph's Heather Higgins have strongly expressed a desire to again convene a group of "actual doers" in the area for a discreet, invitation-only meeting at which donors or donor representatives would also be present.

The non-Bradley attendees are listed to the right. Most are from Bradley-supported organizations or projects.

During the session, they each briefly overviewed their group's past and near-future activities, after which they discussed strategies and tactics that have worked and those that have not, as well as potential common areas on which to work together moving forward. General topics included worker centers, minimum-wage proposals, right-to-work laws and their implementation, paycheck protection, and messaging surrounding all of these and other related issues.

One of the most-active and helpful participants in the event was Dan Liljenquist of the Laura and John Arnold Foundation in Houston. Liljenquist is a former Utah state Senator who successfully led aggressive public-pension reform there. With Bradley support, he wrote *Keeping the Promise: State Solutions for Government Pension Reform* for the American Legislative Exchange Council's (ALEC) Center for State Fiscal Reform.

ALEC's new chief executive officer Lisa Nelson also attended, and she was quite active and helpful.

### Bradley-Randolph Labor Policy Strategy Session attendees

Steve Allen, *Capital Research Center*  
John Byrd, *Business Coalition for Fair Competition*  
Kim Dennis, *Searle Freedom Trust*  
Diana Furtchgott-Roth, *Manhattan Institute for Policy Research*  
Larry Hart, *American Conservative Union*

Heather Higgins, *The Randolph Foundation*  
Aloysius Hogan, *Competitive Enterprise Institute*  
Carl Horowitz, *National Legal and Policy Center*  
Jim Liljenquist, *Laura and John Arnold Foundation*  
Lisa Nelson, *American Legislative Exchange Council*

Grover Norquist, *Americans for Tax Reform Foundation*  
Matt Patterson, *Americans for Tax Reform Foundation*  
Ken Phillips, *Frontier Centre for Public Policy*  
James Sherk, *Heritage Foundation*  
Cara Sullivan, *American Legislative Exchange Council*

Catherine Swift, *Canadian Federation of Independent Business*  
Glenn Taubman, *National Right to Work Legal Defense Foundation*



Nelson

# GRANT PROPOSAL RECORD

**2013**  
Regarding  
Bradley Funding  
and Amicus Briefs

## The Center for Individual Rights

**ADDRESS:**

1233 Twentieth Street NW, Suite 300  
Washington, DC 20036

**CONTACT:**

Mr. Terence J. Pell

**AMOUNT REQUESTED:** \$100,000

**STAFF RECOMMENDATION:** \$ 80,000

**PROJECT TITLE:** To support general operations

**BOARD MEMBERS AFFILIATED  
WITH REQUEST:** George

**STAFF:** Dan Schmidt

**MEETING DATE:** 11/12/2013

**PROPOSAL ID#:** 20130841

**BACKGROUND:** The Center for Individual Rights (CIR) requests a grant of \$100,000 in support of its program activities.

Since 1989 the Terry Pell-led CIR has conducted a schedule of activities annually inside the courtroom and outside in the public arena aimed at restoring principled, constitutional limits on government authority. Under Pell's direction, former Deputy Assistant Secretary of Education for Civil Rights under Bill Bennett, CIR has been particularly active in the areas of education, government contracting, and employment.

A review of CIR's past indicates that it has continued to pursue in a consistent manner its organization mission. For example, at the end of April this year CIR filed a federal suit, *Friedrichs v. CIR*, challenging California's closed shop law. The suit alleges that forced payment of union agency fees violates the First Amendment rights of individual teachers by compelling support for speech with which they may disagree. CIR continues to press ahead in a legal attack against the use of racial double standards in government employment, contracting, and education. It continues to play a key role in *Schutte v. University of Michigan*. CIR represents Eric Russell, an intervening party in the case. With Russell as an intervening party, *Shuett* offers a good opportunity for the Court to restate its traditional view favoring citizen ballot initiatives as well as to make clear that white racial preferences are legal - they are only barely legal and states are within their prerogatives to decide to restrict their use.

Of particular note in CIR's activities for the remainder of this year and next are cases in development that look beyond the Supreme Court's ruling in *Fisher v. University of Texas*. CIR has two cases in development that could push the courts to further limit the use of racial preferences to legitimate educational interests. In the first new case the practice of steering minority students to special "diversity" scholarships is going to be challenged. In the second of the two cases a major California university will be challenged on its manipulation of its admissions system to double its number of African American students. The case would be the first to challenge "cheating" by colleges in states that are subject to state laws prohibiting consideration of race.

A grant of \$100,000 is requested.

**BUDGET INFORMATION:** CIR's 2014 budget will amount to \$1,432,309. The organization's primary support is from the Kirby and Scaife Foundations as well as the Bruce Jacobs Fund.

**STAFF RECOMMENDATION:** Throughout the 90's until the present the CIR has served as a valuable legal resource for a large number of organizations engaged in the battle to limit the expansion of federal authority. In particular Pell and his colleagues have provided valuable legal counsel and legal research to Ward Connerly's ACRI and Linda Chavez's Center for Equal Opportunity in their battles over issues of racial preference in education and employment.

A grant of \$80,000 is recommended.

# Center for Individual Rights

## Grant History

<b>Project Title</b>	<b>Grant Amount</b>	<b>Approved</b>	<b>Fund</b>
To support general operations	\$70,000	11/13/2012	Regular
To support general operations	\$80,000	11/8/2011	Regular
To support general operations	\$90,000	11/9/2010	Regular
To support general operations	\$90,000	11/10/2009	Regular
To support general operations	\$90,000	11/18/2008	Regular
To support general operations	\$90,000	11/13/2007	Regular
To support general operations	\$75,000	11/7/2006	Regular
To support general operations	\$100,000	11/8/2005	Regular
To support general operations	\$100,000	11/9/2004	Regular
To support general operations	\$100,000	11/4/2003	Regular
To support general operations	\$100,000	11/12/2002	Regular
To support general operations	\$100,000	11/13/2001	Regular
To support general operations	\$100,000	11/14/2000	Regular
To support general operations	\$100,000	11/16/1999	Regular
To support general operations	\$100,000	11/17/1998	Regular
To support general operations	\$90,000	11/18/1997	Regular
To support civil rights litigation in California	\$50,000	2/25/1997	Regular
To support general operations	\$90,000	9/23/1996	Regular
To support general operations	\$90,000	11/27/1995	Regular
To support the "Against Bureaucracy" litigation program	\$100,000	9/26/1994	Regular
To support the "Against Bureaucracy" litigation program	\$100,000	9/27/1993	Regular
To support the activities of the Academic Freedom Fund	\$200,000	6/17/1991	Regular
To support general operations	\$25,000	10/22/1990	Regular
To support general operations	\$25,000	8/28/1989	Regular
<b>Grand Totals (24 items)</b>	<b>\$2,155,000</b>		

# GRANT PROPOSAL RECORD

## StudentsFirst Institute

**ADDRESS:**

28212 Kelly Johnson Pkwy., Suite 105  
Valencia, CA 91355

**CONTACT:**

Mr. Jim Blew

**AMOUNT REQUESTED:** \$100,000

**STAFF RECOMMENDATION:** \$100,000

**PROJECT TITLE:** To support litigation

**BOARD MEMBERS AFFILIATED  
WITH REQUEST:**

**STAFF:** Mike Hartmann

**MEETING DATE:** 11/10/2015

**PROPOSAL ID#:** 20150838