

AFJ NOMINEE REPORT

SARAH PITLYK

U.S. District Court for the Eastern District of Missouri

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INTRODUCTION

On September 9, 2019, President Trump nominated Sarah E. Pitlyk to serve as a judge on the United States District Court for the Eastern District of Missouri. If confirmed, Pitlyk would take the seat previously held by Judge Catherine Perry, who took senior status.

Pitlyk has devoted her career to attacking reproductive freedom, and it is clear that she will be a biased jurist. Like other Trump nominees, Pitlyk meets the President's litmus test of hostility to *Roe v. Wade* and the Affordable Care Act. But, her attacks on women's rights go far beyond mere opposition to abortion. She has fought against assisted reproductive technology, like in vitro fertilization and surrogacy, and has argued that frozen embryos are human beings. More alarmingly, Pitlyk fought a law that would have prevented landlords from evicting their tenants and employers from firing their employees for using birth control or becoming pregnant before marriage. She defended David Daleiden, who orchestrated the [deceptively-edited](#) videos which claimed to expose Planned Parenthood's illegal sale of fetal tissue, a debunked myth that Pitlyk continues to spread. She also [defended](#) the [unconstitutional](#) Iowa "Heartbeat Bill,"

which would have [banned](#) abortion once a fetal heartbeat is detected, when most women do not even realize they are pregnant yet.

The fact is, Pitlyk has taken on cases, made public statements, and aligned herself with activist groups that make clear she will be anything but a fair-minded jurist. She is currently Special Counsel at Thomas More Society (TMS), a conservative, pro-life law firm, where she works on cases to restrict reproductive rights. She has also been a member of the Federalist Society since 2006.

Pitlyk has been nominated to this seat because her record demonstrates that she will advance an ideological agenda on the bench. Women who walk into her courtroom cannot have confidence that Pitlyk will fairly and correctly apply critical Supreme Court precedents and enforce essential constitutional rights.

REPRODUCTIVE RIGHTS

As a movement lawyer, Sarah Pitlyk has worked relentlessly to erode the right to reproductive healthcare and the autonomy to choose how and when to start a family.

Pitlyk strongly opposes Supreme Court precedent recognizing reproductive rights. In one of her many speeches defending Brett Kavanaugh's anti-abortion record, Pitlyk [praised](#) Kavanaugh as "precisely the sort of justice who will recognize the gross defects in the Supreme Court's thoroughly activist abortion jurisprudence, and given the opportunity, will remedy them."

Pitlyk's activism goes beyond opposing abortion. Pitlyk [authored](#) an amicus brief opposing a California statute that protects the right to assisted reproductive technology, like in vitro fertilization and gestational surrogacy. Her brief claims that "surrogacy has grave effects on society, such as diminished respect for motherhood and the unique mother-child bond; exploitation of women; commodification of gestation and of children themselves; and weakening of appropriate social mores against eugenic abortion." Pitlyk herself has gone as far as to [state](#) that, "Surrogacy is harmful to mothers and children, so it's a practice society should not be enforcing." Pitlyk's extreme activism would limit family-building options for the [1 in 6](#) U.S. couples who face infertility, and for [LGBTQ](#) couples who want to become parents.

In her work as special counsel at TMS, Pitlyk represented David Daleiden, who orchestrated the [deceptively-edited](#) sting videos which purported to expose Planned Parenthood's illegal sale of fetal tissue, a myth [debunked](#) by the

Republican-led House Oversight Committee. Representative Jason Chaffetz (R-UT) concluded the committee's extensive investigation of Planned Parenthood by [announcing](#), "Did we find any wrongdoing? The answer was no." Despite being disproven, TMS and Pitlyk have continued to use incorrect and inflammatory language like ["illegal fetal tissue trafficking"](#) and ["baby parts trafficking"](#) when describing the legal tissue donation practices of Planned Parenthood. Pitlyk has spread other false and harmful lies about Planned Parenthood. In a petition to the Seventh Circuit, Pitlyk cited dubious sources [arguing](#) that, "the modern abortion industry continues to target ethnic minorities," accusing Planned Parenthood of insidiously preying on low-income women, instead of merely locating their health center locations where the need for low-cost services tends to be highest. Further, in a mistaken mix-up of correlation and causation, she asserted that, "the correlation between increased access to abortion services and poorer health outcomes suggests that the abortion industry is harming those women."

Additionally, through her work for TMS, Pitlyk has defended the Trump Administration's "Title X Gag Rule." Under this rule, any health care provider that refers patients to abortion services would [lose](#) all federal funding.

In August, Planned Parenthood [announced](#) it would forgo federal funding, rather than comply with this restrictive and dangerous rule. Without this crucial funding, many health providers will be forced to shut down, causing women all over the country to lose vital access to contraception, cancer screenings, and STD testing.

While at RUNNYMEDE Law Group, a St. Louis-based law firm founded by Stephen Clark (who [argued](#) that “...*Roe v. Wade* gave doctors a license to kill unborn children” and “like the *Dred Scott* decision, *Roe* is BAD LAW.”) Pitlyk worked on a case [arguing](#) that frozen embryos should be considered human beings under the law. The case involved a dispute between a divorced couple. Over the objections of her ex-husband, Pitlyk’s client wanted to gain the rights to several frozen embryos created with her ex-husband during their marriage and use them to try and get pregnant. In her [brief](#), Pitlyk claimed that it is a “scientific fact” that “human life begins at the moment when a human sperm fertilizes a human egg.” After losing the case, Pitlyk [lamented](#) that “the trial court’s judgment treated the embryonic children as inanimate objects, not human beings with the same interests as other unborn children.” Pitlyk also [suggested](#) that the woman’s existing children would “have to navigate the murky psychological waters of knowing

that they had similarly-situated siblings who died at the hand of their father.”

TMS [submitted](#) an amicus brief in support of Pitlyk’s position that “science clearly demonstrates” that frozen embryos are human beings. Further, TMS’ brief compared the treatment of frozen embryos as marital property to chattel slavery. Their brief stated, “Our sorry legacy of having enslaved human beings, and our scientific knowledge that human embryos are human beings, albeit powerless ones, should raise a red flag of caution against again treating these human beings as property.” This, however, is not the only time TMS has made the outrageous comparison between embryo storage and slavery. Tom Brejcha, the president of TMS, [likened](#) the aforementioned embryo case to *Dred Scott v. Sanford*, a gravely unjust Supreme Court case holding that enslaved persons were the property of their owners. Brejcha stated, “In both situations, some humans are belittling and degrading other humans by disregarding their true scientific status, and denigrating them as if they were merely items of property which could be owned, sold, destroyed, or otherwise disposed of at the unregulated option and whim of others.”

The consequences of recognizing embryos as human beings are real and dangerous. Such “personhood” laws

give full rights to embryos and make it possible for women to be punished for giving birth to a [stillborn](#) child, [falling](#) down the stairs, being in a car [accident](#), or [taking](#) drugs prescribed by their doctors while pregnant. Several hundred women in the United States have been [prosecuted](#) for negative pregnancy outcomes in states that grant personhood rights to fetuses and embryos. Not only do personhood laws outlaw all abortions with no exceptions, but they also bring personal tragedies under the suspicion of the state. Women who suffer miscarriages or stillbirths have been criminally investigated and charged with crimes including [manslaughter](#) and [murder](#).

Pitlyk also [fought](#) a local St. Louis ordinance that barred discrimination based on “reproductive health decisions.” The law was aimed at preventing employers from hiring or firing people based on whether they use contraceptives, get pregnant outside of marriage, or have had an abortion. It also barred landlords from refusing to rent and banks from refusing to grant loans to people, based on those same criteria. Pitlyk called the law a “[sham](#),” and that the law was “[actually](#) an attempt to suppress the viewpoint of those who believe that abortion is harmful or wrong.” In reality, women have been fired for reproductive choices their employers did not agree with, including for using [in vitro fertilization](#) or

for becoming [pregnant before marriage](#). Pitlyk denies this reality and has fought against important anti-discrimination protections. Ultimately, a federal judge [enjoined](#) enforcement of the law with respect to Pitlyk’s clients.

Pitlyk also [submitted](#) an amicus brief in support of Hobby Lobby Stores in their successful effort to strike down the Affordable Care Act’s contraceptive mandate.

TMS routinely spreads dubious information about the safety and effects of abortion. For example, TMS promoted a “[study](#)” conducted by Dr. Angela Lanfranchi, an anti-abortion activist known for spreading dangerous and debunked claims that abortions [cause](#) breast cancer and that birth control pills make [women](#) “more likely to be the victim of violent assault and murder.” It bears noting that the American Cancer Society has found [no](#) causal relationship between abortion and breast cancer, and the scientific consensus [is](#) that “[o]ral contraception [is] not associated with an increased long-term risk of death[,]” and in fact may produce a net benefit in overall life expectancy.

Finally, Pitlyk omitted a public speaking engagement from her Senate Questionnaire. Pitlyk was a featured speaker at Phyllis Schlafly’s Gateway Eagle Council, where she [spoke](#)

alongside former Trump National Security Advisor and convicted felon Lt. Gen. Michael Flynn, “PizzaGate” conspiracy theorist Mike Cernovich, and far-right Congressman Steve King, among others.

HEALTH CARE

After failing to overturn the Affordable Care Act through Congress, the Trump Administration has turned to our federal courts to deprive millions of Americans of health insurance coverage. In addition to [attacking](#) the law that ensures companies cannot deny coverage to people with preexisting conditions, Trump has explicitly stated that he would nominate judges who are hostile to the Affordable Care Act, [saying](#) “my judicial appointments will do the right thing unlike Bush’s appointee John Roberts on ObamaCare.”

Pitlyk’s public statements echo this Administration’s hostility to the ACA and call into question her ability to properly enforce the law. In an opinion piece for the National Review, Pitlyk [called](#) the Supreme Court’s upholding of the ACA a “disastrous ruling” and an “unprincipled decision,” while praising then-Judge Brett Kavanaugh for “vigorously criticizing the law.”

AFFIRMATIVE ACTION

Pitlyk worked to dismantle equal opportunity in Michigan’s public employment and public education systems. In 2013, she [signed](#) an amicus brief on behalf of the Attorney General of Michigan in favor of ending affirmative action in the state. She argued that such equal opportunity programs “unjustly impose the costs of remedying past discrimination on individuals who have no personal responsibility for prior wrongs,” and that they “entrench racial prejudices, rather than alleviate them.”

BRETT KAVANAUGH

Throughout Kavanaugh’s confirmation process, Pitlyk, a former clerk of his, was a staunch defender of his record and character. In an opinion piece for FoxNews.com, Pitlyk [dismissed](#) the credible accusation of sexual assault against Kavanaugh as “direct character assassination” and a “last-ditch effort to block his path to the Supreme Court.”

Before Dr. Blasey Ford revealed her identity, Pitlyk [accused](#) opponents of Kavanaugh's confirmation of "trying to tarnish the character of a man we and so many other people admire and respect" on the basis of "a single, unsubstantiated, anonymous allegation about an alleged incident in high school – some 35 years ago."

When Dr. Blasey Ford eventually came out publicly, attaching her name and identity to her accusation against Kavanaugh, Pitlyk was asked if she still felt the same way. She [replied](#), "Yes, in a word." In reference to Dr. Blasey Ford's story, Pitlyk felt it was "[h]ard to take it seriously... in light of the transparently politically-motivated manner in which it has come to light," and that "it defies credibility to believe that it is just a coincidence."

CONCLUSION

Sarah Pitlyk has spent much of her career attacking women's rights and espousing an extreme and dangerous ideology. Her intense hostility to reproductive rights, the Affordable Care Act, and equal opportunity programs make her unlikely to be an unbiased, fair-minded jurist. Alliance for Justice strongly opposes Pitlyk's confirmation to the District Court for the Eastern District of Missouri.