



PRESIDENT
NAN ARON

CHAIR
PAULETTE MEYER

March 9, 2021

The Honorable Sheldon Whitehouse
Chairman
Senate Committee on the Judiciary
Subcommittee on Federal Courts, Oversight, Agency Action and Federal Rights

Dear Chairman Whitehouse,

On behalf of the Alliance for Justice (AFJ), a national association representing over 120 public interest and civil rights organizations, I write to thank you for holding the hearing, “*What’s Wrong with the Supreme Court: The Big-Money Assault on Our Judiciary*,” concerning longstanding efforts by the wealthy and powerful to capture our federal courts in order to erode rights and legal protections. Particularly after the damage done to the rule of law, our Constitution, and our rights by the Trump Administration, it is critically important to draw attention to this threat to our justice system.

While this hearing is particularly timely, the issue is longstanding. As you know, since at least the “[Powell memo](#),”—in which future Justice Lewis Powell encouraged the business community to weaponize the courts in order to protect their own economic interests over the rights and interests of everyday people—ultraconservatives have been focused on packing the federal courts with the explicit goal of eroding our democracy and degrading protections for persons of color, women, LGBTQ Americans, workers, consumers, and clean air and water.

Nearly 30 years ago, in 1993, AFJ published [Justice for Sale](#), a comprehensive report detailing the sophisticated campaign to reshape the federal judiciary, elevating corporate profits over social justice and individual rights. Our report noted the major pillars of this campaign, including corporate-funded lobbying programs, efforts to “reform” the justice system by limiting Americans’ ability to sue corporations that violate their rights, and openly ideological judicial advocacy organizations like the Federalist Society that now effectively act as a judicial selection body for the Republican party.

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Decades later, the concerns we raised then have only been enhanced. Powerful corporate interests have used these tools to rig the federal court system in their favor. And, during the Trump administration, the wealthy and powerful were largely successful in putting on the bench judges with dangerous ideologies and a commitment to turn back the clock on so many of our rights and protections. Donald Trump and Senate Republicans made no secret of their desire to ram through the confirmations of ideological, and often unqualified, nominees to the federal bench, even when they needed to change Senate rules or ignore institutional norms to do so. Though the most notable example was the rushed confirmation of Amy Coney Barrett on the eve of a presidential election, the same tactics were also applied to lower court nominees. As a result, the Trump administration reshaped the federal judiciary by confirming 227 District, Circuit, and Supreme Court judges in just four years.

In many instances, these nominees were selected precisely because of their willingness and desire to strike down key legal protections for Americans. As Donald Trump’s first White House Counsel candidly admitted, the Administration had a [“coherent plan”](#) to pick federal judges who would gut federal laws, dismantle environmental protections, roll back civil rights, and diminish worker and consumer protections. In line with this plan, as AFJ catalogued, Trump’s nominees had established records [on the issues](#) of working to protect wealthy and powerful corporate interests over the rights of all, and of actively working against federal laws that they now rule on from the bench.

As judges, these individuals have upheld their end of the bargain, helping Republicans to achieve an unpopular agenda through the courts after being unable to achieve it legislatively. Trump’s judges have authored or joined [opinion after opinion](#) rolling back hard-won protections for everyday Americans and weakening federal laws so that the legal protections that remain in place cannot be properly enforced. Even with Donald Trump gone, these judges will continue to issue rulings that harm millions of people for decades to come.

Thank you again for holding this hearing to shed further light on the genuine threat to equal justice in this country by the ongoing and concerted efforts at ideological corporate takeover. AFJ applauds your longstanding dedication to addressing court capture in the federal judiciary, and we look forward to working with you in the coming years to restore a court system truly committed to equal justice under law.

Sincerely,



Nan Aron
President