



# JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE  
OF THE UNITED STATES  
*Presiding*

HONORABLE ROSLYNN R. MAUSKOPF  
*Secretary*

May 15, 2023

Honorable Sheldon Whitehouse, Jr.  
Chairman  
Subcommittee on Federal Courts, Oversight,  
Agency Action, and Federal Rights  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

I write in response to your letters of April 21, 2023, April 27, 2023, and May 5, 2023, inquiring about Judicial Conference of the United States (Conference) procedures for considering alleged violations of the Ethics in Government Act of 1978, 5 U.S.C. § 13106, by members of the federal Judiciary, as well as the Conference's consideration of certain such allegations from 2011. At the outset, please know that I have forwarded your letter of May 5, 2023, which includes additional allegations of errors or omissions, to the Conference's Committee on Financial Disclosure (Committee), which is responsible for implementing the disclosure provisions of the Ethics in Government Act and addressing allegations of errors or omissions in the filing of financial disclosure reports.

In addressing your requests, I provide information about the Committee and its processes, its reporting to the Conference, as well as the Committee's and the Conference's consideration of allegations raised in 2011 by members of Congress and public interest organizations with regard to certain of Associate Justice Clarence Thomas's financial disclosure reports.

## **The Judicial Conference and its Committee on Financial Disclosure**

The Judicial Conference is the national policymaking body for the federal courts. 28 U.S.C. § 331. The Chief Justice is its presiding officer, and its 26 members include the chief judge of each regional judicial circuit, the chief judge of the Federal Circuit, a district judge from each regional judicial circuit, and the chief judge of the Court of International Trade. A bankruptcy judge and a magistrate judge are designated as Conference observers.<sup>1</sup> The Director of the Administrative Office of the United States Courts (AO) serves as Secretary to the Conference. The Conference operates through a network of committees created to address and

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<sup>1</sup> The names of the 26 members and two observers are available on the U.S. Courts web page, at <https://www.uscourts.gov/file/64110/download>.

advise on a wide variety of subjects. The Conference's Committee on Financial Disclosure is one such committee, consisting of 16 judges from across the country. Its work is supported by a professional staff from the AO.<sup>2</sup>

As is the case with most committees, the Committee on Financial Disclosure holds standing meetings twice per year to consider committee business and convenes additional meetings as needed. The Committee provides reports to the Conference on actions it has taken, which the Conference typically reviews at its own semiannual sessions, traditionally convened in March and September. The Conference may elect to take up any matter addressed by a committee.

The Conference has delegated to the Committee its authority to act for the Conference with respect to the implementation of the financial disclosure provisions of the Ethics in Government Act, including reviewing financial disclosure reports and referring matters to the Attorney General. Allegations of financial disclosure errors or omissions submitted to the Conference are referred to the Committee for review and appropriate action.

Throughout each year, the Committee is responsible for reviewing over 4,000 financial disclosure reports. The current process for such reviews is as follows. Committee staff reviews the report filed, prepares a review packet, and forwards it to the Committee member responsible for reviewing the filer's report. If during the review of a report the reviewing judge believes that additional information is required to be submitted, the filer is sent a letter of inquiry and asked to provide additional information or to amend the report. *See* 5 U.S.C. § 13108(b). The filer will typically provide an amended report or an explanation. If the reviewing judge is satisfied with the response and/or the amendment, then the report is closed. This happens routinely. The Committee's focus is to ensure that reports are timely filed and comply with the statutory requirements for disclosure.

When a public written allegation of a willful error or omission in a filer's financial disclosure report is received by the Committee, it will invoke its review process as described above. Committee staff reviews the allegation, prepares a review packet, and forwards it to the Committee member responsible for reviewing the filer's report. If warranted the reviewing judge can approve a letter of inquiry asking the filer to clarify the purported discrepancy. After the reviewing judge considers all matters related to the allegation, the reviewing judge refers all allegations of willful errors or omissions to the Committee's Subcommittee on Compliance for review, whether or not the reviewing judge finds reasonable cause to believe the errors or omissions were willful. The Subcommittee will review the allegations and the reviewing judge's findings, and it will report and recommend to the full Committee whether to accept the preliminary determination of the reviewing judge. The Committee will also report to the Conference the number and nature of any written public allegations of willful misconduct received and the action taken with respect to such allegations.

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<sup>2</sup> Additional information is available on the U.S. Courts web page, at <https://www.uscourts.gov/about-federal-courts/governance-judicial-conference>.

If the Committee has reasonable cause to believe that a filer has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported, it refers the name of the filer to the Attorney General and notifies the judicial council of the filer's circuit of the referral. 5 U.S.C. § 13106(b). Since 1983, a referral to the Attorney General requires the affirmative vote of at least 10 members of the Committee in attendance at a duly noticed regular or specially held meeting of the Committee.<sup>3</sup> The Committee has in the past referred the names of individuals to the Attorney General for failure to file the required financial disclosure reports. It has not to date referred the name of a filer to the Attorney General for willfully falsifying or willfully failing to file information required to be reported.

### **The Committee's 2011 Review**

In January 2011, and again in the fall of that year, the Conference received complaints from members of Congress and public interest organizations that alleged financial disclosure errors or omissions by Justice Thomas relating to the reporting of his spouse's source of income and gifts. As noted in the correspondence referring the January 2011 complaints to the Committee, the allegations relating to disclosure of the spouse's sources of income were brought to Justice Thomas's attention, and he immediately amended his reports. (Enclosures 1-2). The then-chair of the Committee, the Honorable Bobby R. Baldock, reviewed the January 2011 allegations and the amended reports and concluded that the reports were properly amended and that no further action was warranted. Under basic procedures adopted by the Committee in 1997 for resolving complaints received from members of the public alleging errors or omissions, which were in effect in 2011, if the reviewing judge did not find reasonable cause to believe an error or omission was willful, no further review was required. However, Judge Baldock took the extra step of reporting the matter to the Subcommittee on Compliance for its review, which concurred with his conclusion.

Additional complaints were received in the fall of 2011 and referred to the Committee. (Enclosures 3-10). The Honorable Joseph H. McKinley, Jr. had succeeded Judge Baldock as chair of the Committee and assumed the reviewing judge's responsibilities for Justice Thomas's reports. Again, as Judge Baldock did, Judge McKinley took additional steps beyond the procedures in effect at the time. The Subcommittee on Compliance was asked to review the issues, and the matter was discussed by the full Committee at its January 2012 meeting.<sup>4</sup>

In April 2012, the Committee reported on its actions in writing to the Honorable Thomas F. Hogan, the Director of the AO, in his capacity as Secretary to the Conference. Judge McKinley indicated based on his review of all documentation and the discussion by the Committee members that nothing had been presented to support a determination that Justice Thomas's failure to report the source of his spouse's income was willful, or that Justice Thomas willfully or improperly failed to disclose information concerning travel reimbursements. Judge Hogan, in turn, in letters dated April 30, 2012, informed the complainants of the Committee's

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<sup>3</sup> *Report of the Proceedings of the Judicial Conference of the United States*, (March 1983), at pp. 13-14, at <https://www.uscourts.gov/file/1625/download>.

<sup>4</sup> The Committee amended its procedures in 2013 consistent with the approaches taken by Judge McKinley and Judge Baldock, as discussed below.

determination. (Enclosures 11-12). Neither the AO nor the Committee received any additional inquiries after the Committee's action on this matter was reported to the Secretary to the Conference and communicated to those raising the allegations.

### **The Committee's Reports to the Judicial Conference**

At its September 11, 2012, Conference session, a Conference member moved to disapprove the Committee's most recent report to the Conference and to require the Committee to file amended reports (during the relevant timeframe) that would provide information about Committee actions taken pursuant to its delegated authority under the Ethics in Government Act with respect to the 2011 allegations regarding Justices Thomas's financial disclosure reports. The Conference, after presentations by both the moving Conference member and the Committee chair, voted to postpone consideration of the motion to allow the Committee to first consider the member's concerns and report back to the Conference.

The Committee met in January 2013, invited the moving Conference member to share with the Committee the concerns he raised at the September 2012 Conference session, and discussed the issues at considerable length. The Committee detailed the results of its meeting in its report to the March 2013 session of the Judicial Conference. The portions of the Committee's report addressing this matter are provided in full. (Enclosure 13).

As noted in its report, the Committee found that it had exercised its authority in accordance with its previously established procedures for reviewing whether the allegations of omissions in the filer's report were the result of willful misconduct. In addition, the Committee found that it had fulfilled its duty to inform the Conference of its review by communicating its findings to the Secretary to the Conference in April 2012, and therefore, did not need to amend any of its prior reports. The Committee also provided a letter to the members of the Conference (and the moving member who had since completed his term) containing an explanation of the allegations made by the public interest organizations and members of Congress and the Committee's review of those allegations. None of the recipients raised any additional concerns at the March 2013 Conference session or at any other time. As such, the March 2013 Report of Proceedings of the Judicial Conference contains no reference to the matter.<sup>5</sup>

### **The Committee's Amendment to its Procedures**

As also detailed in its March 2013 report to the Conference, the Committee amended its procedures, going forward, for reviewing public written allegations of willful errors or omissions. Consistent with the 2011 review, the Committee instituted as part of its regular process a requirement that such matters be considered by the Subcommittee on Compliance and reported to the full Committee even when the reviewing judge does not find reasonable cause to believe an error or omission was willful. In addition, the Committee reports to the Conference will include the number and nature of any written allegations of willful misconduct it receives

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<sup>5</sup> *Report of the Proceedings of the Judicial Conference of the United States* (March 2013), at <https://www.uscourts.gov/file/2154/download>.

from members of the public, and the action taken with respect to such allegations. These procedures are still in effect today.

**Additional Information**

As reflected in this letter, public written allegations of willful errors or omissions in the filing of financial disclosure reports have been and continue to be subjected to an established and deliberative review process. Committee and Conference members may express their views, make recommendations, and consider options as issues are weighed and information shared. As you can appreciate, the confidential exchange of views and information is invaluable, and confidentiality of such deliberations and communications must be maintained. Thus, to the extent any such information exists with respect to the matters discussed herein, we respectfully decline to provide it.

As a final item, I am providing Committee membership information, presently and from 2010 to 2013. (Enclosure 14).

If we may be of further assistance to you in this or any other matter, please do not hesitate to contact the Office of Legislative Affairs, at 202-502-1700

Sincerely,



Roslynn R. Mauskopf  
Secretary

Enclosures

cc: Honorable John Kennedy  
Honorable Darrell Issa  
Honorable Henry C. "Hank" Johnson  
Members of the Judicial Conference of the United States

### **List of Enclosures**

1. January 21, 2011 letter from Alliance for Justice and Common Cause to AO Director James C. Duff
2. January 24, 2011 letter from AO Director James C. Duff to Common Cause
3. September 13, 2011 letter from Alliance for Justice and Common Cause to AO Director James C. Duff
4. September 26, 2011 letter from Acting AO Director Sayenga to the Alliance for Justice and Common Cause
5. September 29, 2011 letter from Honorable Louise Slaughter and additional Members of the House of Representatives to AO Director James C. Duff
6. October 14, 2011 letter from Acting AO Director Sayenga to Honorable Louise Slaughter and additional Members of the House of Representatives
7. October 5, 2011 letter from Alliance for Justice and Common Cause to AO Director James C. Duff
8. October 14, 2011 letter from Acting AO Director Sayenga to the Alliance for Justice and Common Cause
9. November 18, 2011 letter from Honorable Louise Slaughter and additional Members of the House of Representatives to Chief Justice Roberts
10. December 22, 2011 letter from Secretary Hogan to Honorable Louise Slaughter and additional Members of the House of Representatives
11. April 30, 2012 letter from Secretary Hogan to Honorable Louise Slaughter
12. April 30, 2012 letter from Secretary Hogan to the Alliance for Justice and Common Cause
13. Relevant portions of the Report of the Committee on Financial Disclosure to the March 2013 Session of the Judicial Conference
14. Members of the Committee on Financial Disclosure, May 2023 and October 1, 2010 through October 1, 2013

Enclosure 1

For the attention of James C. Duff  
Nick Surgey  
to:  
wanda\_martinson  
01/21/2011 03:57 PM  
Please respond to "Nick Surgey"  
Show Details



January 21, 2011  
James C. Duff  
Secretary to the Judicial Conference of the United States  
Administrative Office of the United States Courts  
Suite 2-301  
One Columbus Circle, N.E.  
Washington, DC 20544

Dear Mr. Duff:

It has come to our attention that Justice Thomas has failed to disclose the non-investment income of his spouse, Virginia Thomas, for her employment at the Heritage Foundation in 2003-2007, and at Liberty Central in 2009.

According to the Heritage Foundation's Form 990s filed with the Internal Revenue Service, Ms. Thomas earned a salary in excess of \$120,000 each year between 2003 and 2007. In 2009, Ms. Thomas became the founding CEO of a new 501(c)(4) organization, Liberty Central. The current CEO, Sarah Field, told the *New York Times* that Ms. Thomas was compensated for her work at Liberty Central at a salary set by the board.

Nonetheless, for each year from 2003 to 2009, Justice Thomas checked the box for "None" for "Spouse's Non-Investment Income" on his annual disclosure forms. (See attached table and links.)

The Ethics in Government Act of 1978 requires federal officials, including Supreme Court justices, to disclose their spouse's income. See 5 U.S.C. § 102(e)(1)(A). The statute requires the Judicial Conference to refer to the Attorney General the name of any federal judge that it "has reasonable cause to believe has...willfully falsified or willfully failed to file information to be reported." 5 U.S.C. § 104.


Common Cause respectfully requests that the Judicial Conference make such a determination in the case of Justice Thomas, and if reasonable cause is found, to refer the matter to the Attorney General. Without disclosure, the public and litigants appearing before the Court do not have adequate information to assess potential conflicts of interest, and disclosure is needed to promote the public's interest in open, honest and accountable government.

Thank you for your attention to this important matter.

Sincerely,



Bob Edgar  
President and CEO



Arn H. Pearson, Esq.  
Vice President for Programs

### Supreme Court Justice Clarence Thomas's failure to disclose income of spouse

Year	Virginia Thomas's Salary	According to Justice Thomas's Disclosure*
2003	\$ 121,291 from Heritage Foundation	Recorded as 'None'
2004	\$131,316 from Heritage Foundation	Recorded as 'None'
2005	\$144,245 from Heritage Foundation	Recorded as 'None'
2006	\$144,193 from Heritage Foundation	Recorded as 'None'
2007	\$145,544 from Heritage Foundation	Recorded as 'None'
2008	Not Known	Recorded as 'None'
2009	According to Sarah Field, current Liberty Central CEO and general counsel, Virginia Thomas received a Salary from Liberty Central as founding CEO. Amount received is unknown.	Recorded as 'None'





ADMINISTRATIVE OFFICE OF THE  
UNITED STATES COURTS

JAMES C. DUFF  
Director

WASHINGTON, D.C. 20544

January 24, 2011

Mr. Bob Edgar  
President and CEO  
Arn H. Pearson, Esq.  
Vice President for Programs  
Common Cause  
1133 19<sup>th</sup> Street, N.W., 9<sup>th</sup> Floor  
Washington, D.C. 20036

Dear Messrs. Edgar and Pearson:

Thank you for your letter of January 21, 2011, which I received late Friday afternoon by email concerning Justice Clarence Thomas' Financial Disclosure Reports. We brought the matter to Justice Thomas' attention and he immediately amended his reports. I have forwarded your letter to the appropriate Judicial Conference committee.

Sincerely,

A handwritten signature in black ink that reads "James C. Duff". The signature is written in a cursive style.

James C. Duff  
Director

## Common Cause Letters

September 13, 2011

James Duff  
Director  
Administrative Head of the United States Courts  
One Columbus Circle NE  
Washington, DC 20544

Dear Mr. Duff,

Common Cause and Alliance for Justice write jointly to request that you investigate whether Justice Clarence Thomas's apparent violations of the Ethics in Government Act necessitate referral to the Department of Justice under the Act. This issue was previously brought to the Judicial Conference's attention in a January 21, 2011, letter from Common Cause. Since then, new information has come to light that increases the need for Judicial Conference to resolve this issue.

Between 1997-2007, Justice Thomas checked the box "none" for spousal income on his annual financial disclosure forms, despite the fact that Virginia Thomas earned nearly \$700,000 from the Heritage Foundation from 2003-2007 alone. Shortly after this failure was noted, Justice Thomas amended his forms and stated that he had misunderstood the reporting requirement.

More recently, a June 19, 2011, New York Times article raised questions as to whether Justice Clarence Thomas may have also failed to disclose or misreported travel reimbursements. The New York Times story indicates that Justice Thomas may have, on several occasions, benefitted from use of Harlan Crow's jets to travel to speaking engagements and other events, yet on two of those occasions Justice Thomas' forms indicate a different source of reimbursement, and on one occasion there is no reimbursement reported.

Section 104(b) of the Act requires the Judicial Conference to refer to the Attorney General any judge whom the Conference "has reasonable cause to believe has willfully falsified or willfully failed to file information required to be reported."

We respectfully request that the Judicial Conference make a public determination as to whether Justice Thomas' failure to report his wife's income, and or failing to disclose travel reimbursements, give rise to "reasonable cause" under §104, and refer the matter to the Department of Justice if appropriate.

Sincerely,

Bob Edgar  
President and CEO  
Common Cause

Nan Aron  
President  
Alliance for Justice



ADMINISTRATIVE OFFICE OF THE  
UNITED STATES COURTS

JILL C. SAYENGA  
Acting Director

WASHINGTON, D.C. 20544

September 26, 2011

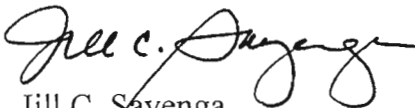
Ms. Nan Aron  
President  
Alliance for Justice  
11 Dupont Circle, 2<sup>nd</sup> Floor  
Washington, DC 20036

Mr. Bob Edgar  
President and CEO  
Common Cause  
1133 19<sup>th</sup> Street, 9<sup>th</sup> Floor  
Washington, DC 20036

Dear Ms. Aron and Mr. Edgar:

Thank you for your letter of September 13, 2011, to former Administrative Office Director James Duff concerning your request that the Judicial Conference make a public determination as to whether Justice Thomas' failure to report his wife's income and to disclose travel reimbursements gives rise to "reasonable cause" under section 104 of the Ethics in Government Act of 1978 (5 U.S.C. app. § 104) that would require referral of the matter to the Department of Justice. I have forwarded your letter to the Judicial Conference Committee on Financial Disclosure, which is responsible for implementing the disclosure provisions of the Ethics in Government Act and addressing allegations of errors or omissions in the filing of financial disclosure reports.

Sincerely,

  
Jill C. Sayenga  
Acting Director

**Congress of the United States**  
Washington, DC 20515

September 29, 2011

James C. Duff  
Secretary to the Judicial Conference of the United States  
Administrative Office of the United States Courts  
Suite 2-301  
One Columbus Circle, N.E.  
Washington, DC 20544

Dear Mr. Duff:

Widespread reporting, including a recent report in *The New York Times* titled "Friendship of Justice and Magnate Puts Focus on Ethics," raise grave concerns about the failure of Justice Clarence Thomas to meet various disclosure requirements under the Ethics in Government Act of 1978. Based upon the multiple public reports, Justice Thomas's actions may constitute a willful failure to disclose, which would warrant a referral by the Judicial Conference to the Department of Justice, so that appropriate civil or criminal actions can be taken.

Due to the simplicity of the disclosure requirements, along with Justice Thomas's high level of legal training and experience, it is reasonable to infer that his failure to disclose his wife's income for two decades was willful, and the Judicial Conference has a non-discretionary duty to refer this case to the Department of Justice.

Throughout his entire tenure on the Supreme Court, Justice Thomas checked a box titled "none" on his annual financial disclosure forms, indicating that his wife had received no income, despite the fact that his wife had in fact earned nearly \$700,000 from the Heritage Foundation from 2003-2007 alone.

Furthermore, an investigation conducted by *The New York Times* has revealed that Justice Thomas may have, on several occasions, benefited from use of a private yacht and airplane owned by Harlan Crowe, and again failed to disclose this travel as a gift or travel reimbursement on his federal disclosure forms as required by the Ethics in Government Act of 1978.

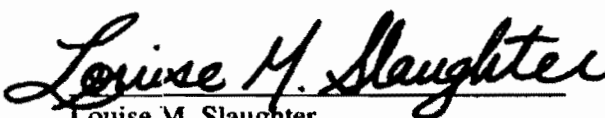
Justice Thomas's failure to disclose his wife's income for his entire tenure on the federal bench and indications that he may have failed to file additional disclosure regarding his travels require the Judicial Conference to refer this matter to the Department of Justice.


Section 104(b) of the Ethics Act requires the Judicial Conference to refer to the Attorney General of the United States any judge who the Conference "has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported." If the Judicial Conference finds reasonable cause to believe that Justice Thomas has "willfully falsified or willfully failed to file information to be reported," it must, pursuant to §104, refer the case to the Attorney General for further determination of possible criminal or civil legal sanctions.

Particularly as questions surrounding the integrity and fairness of the Supreme Court continue to grow, it is vital that the Judicial Conference actively pursue any suspicious actions by Supreme Court Justices. While we continue to advocate for the creation of binding ethical standards for the Supreme Court, it is important the Judicial Conference exercise its current powers to ensure that Supreme Court Justices are held accountable to the current law.

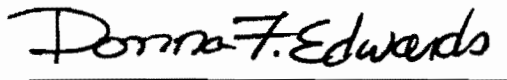
As a result, we respectfully request that the Judicial Conference follow the law and refer the matter of Justice Thomas's non-compliance with the Ethics in Government Act to the Department of Justice. We eagerly await your reply.


Sincerely,

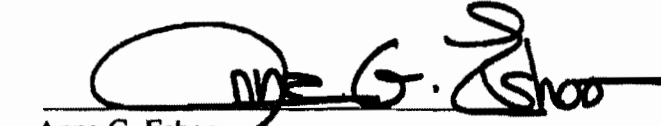
  
Louise M. Slaughter  
Member of Congress

  
Earl Blumenauer  
Member of Congress


  
John Conyers, Jr.  
Member of Congress

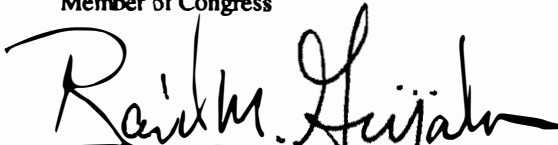
  
Donna F. Edwards  
Member of Congress

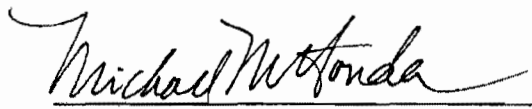
  
Keith Ellison  
Member of Congress

  
Anna G. Eshoo  
Member of Congress

  
Bob Filner  
Member of Congress

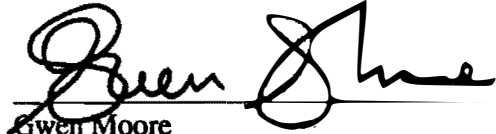
  
John Garamendi  
Member of Congress

  
Raúl M. Grijalva  
Member of Congress

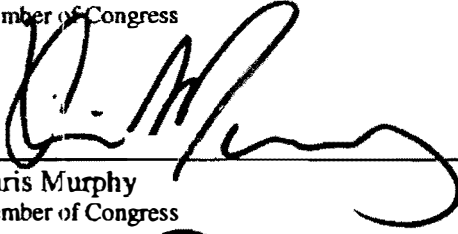
  
Mike Honda  
Member of Congress



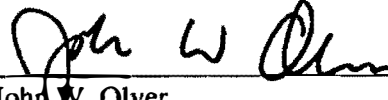
Jesse L. Jackson, Jr.  
Member of Congress



Owen Moore  
Member of Congress



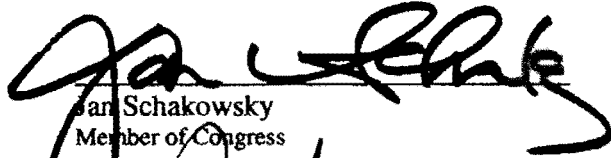
Chris Murphy  
Member of Congress



John W. Olver  
Member of Congress



Ed Perlmutter  
Member of Congress



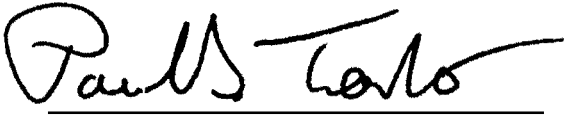
Dan Schakowsky  
Member of Congress



Jackie Speier  
Member of Congress



Pete Stark  
Member of Congress



Paul D. Tonko  
Member of Congress



Peter Welch  
Member of Congress

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OF THE  
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WASHINGTON DC 20544

ADMINISTRATIVE OFFICE OF THE  
UNITED STATES COURTS

JILL C. SAYENGA  
Acting Director

WASHINGTON, D.C. 20544

October 14, 2011

Honorable Louise M. Slaughter  
United States House of Representatives  
Washington, DC 20515

Dear Representative Slaughter:

Thank you for your letter of September 29, 2011, to former Administrative Office Director James Duff concerning your request that the Judicial Conference make a determination as to whether Justice Clarence Thomas' actions with respect to his financial disclosure reports give rise to "reasonable cause" under section 104 of the Ethics in Government Act of 1978 (5 U.S.C. app. § 104) that would require referral of the matter to the Department of Justice. I have forwarded your letter to the Judicial Conference Committee on Financial Disclosure, which is responsible for implementing the disclosure provisions of the Ethics in Government Act and addressing allegations of errors or omissions in the filing of financial disclosure reports.

If we may be of additional assistance to you, please do not hesitate to contact our Office of Legislative Affairs at (202) 502-1700.

Sincerely,



Jill C. Sayenga  
Acting Director

Identical letter sent to:

Honorable Earl Blumenauer	Honorable Gwen Moore
Honorable John Conyers, Jr.	Honorable Chris Murphy
Honorable Donna F. Edwards	Honorable John W. Olver
Honorable Keith Ellison	Honorable Ed Perlmutter
Honorable Anna G. Eshoo	Honorable Jan Schakowsky
Honorable Bob Filner	Honorable Jackie Speier
Honorable John Garamendi	Honorable Pete Stark
Honorable Raúl M. Grijalva	Honorable Paul D. Tonko
Honorable Mike Honda	Honorable Peter Welch
Honorable Jesse L. Jackson, Jr.	



Alliance for Justice  
11 Dupont Circle, 2<sup>nd</sup> Floor  
Washington, DC 20036

Common Cause  
1133 19<sup>th</sup> Street NW, 9<sup>th</sup> Floor  
Washington, DC 20036

October 5, 2011  
James Duff  
Director  
Administrative Head of the United States Courts  
One Columbus Circle, NE  
Washington, DC 20544

George Reynolds  
Counsel  
Committee on Financial Disclosure  
Administrative Office of the United States Courts  
Suite 2-301  
One Columbus Circle, NE  
Washington, DC 20544

Dear Mr. Duff and Mr. Reynolds

This letter is to follow-up on the Common Cause and Alliance for Justice letter dated September 13, 2011, requesting that the Judicial Conference take action on Justice Clarence Thomas's apparent violations of the Ethics in Government Act. The letter was forwarded to the Judicial Conference Committee on Financial Disclosure on September 26, 2011. Since then, new information has come to light that makes more clear and compelling the Judicial Conference's statutory obligation to refer the matter to the Department of Justice.

As we detailed in our previous letter, between 1997-2007 Justice Thomas checked the box "none" for spousal income on his annual financial disclosure forms, despite the fact that Virginia Thomas earned income from several organizations during this time period, including the Heritage Foundation. When the inaccurate disclosures were made public, the Justice amended his forms and stated that he had misunderstood the reporting requirement.

Since last we wrote, our organizations have learned that Justice Thomas correctly disclosed his wife's income for as many as *ten* years before he began to file inaccurate disclosure forms. Our newly discovered evidence shows that Justice Thomas properly filled out his forms and accurately disclosed his wife's income as early as 1987, while the Chair of the EEOC, continuing as a judge on the DC Circuit Court of Appeals, and for five years as a Justice on the Supreme



Court. These revelations call into question Justice Thomas' explanation that his omissions were due to a misunderstanding of the filing instructions.

Additionally, we have since learned that the amount earned by Virginia Thomas during the years that Justice Thomas failed to report her income exceeds \$1.6 million. Both of these newly discovered facts increase the gravity of the situation and make more urgent the Judicial Conference's need to take action.

Section 104(b) of the Act requires the Judicial Conference to refer to the Attorney General any judge whom the Conference "has reasonable cause to believe has willfully falsified or willfully failed to file information required to be reported." Given that Justice Thomas correctly disclosed his wife's income for a decade while serving in three federal positions before beginning to report inaccurately in 1997, we believe that Justice Thomas' omissions meet that standard.

We respectfully request that the Judicial Conference make a timely and public determination that Justice Thomas' misreporting of his wife's income, gives rise to "reasonable cause" under §104, and refer the matter to the Department of Justice.

Sincerely,



Nan Aron  
President  
Alliance for Justice



Bob Edgar  
President and CEO  
Common Cause



**FILE COPY**

ADMINISTRATIVE OFFICE OF THE  
UNITED STATES COURTS

JILL C. SAYENGA  
Acting Director

WASHINGTON, D.C. 20544

October 14, 2011

Ms. Nan Aron  
President  
Alliance for Justice  
11 Dupont Circle, 2<sup>nd</sup> Floor  
Washington, DC 20036

Mr. Bob Edgar  
President and CEO  
Common Cause  
1133 19<sup>th</sup> Street, NW, 9<sup>th</sup> Floor  
Washington, DC 20036

Dear Ms. Aron and Mr. Edgar:

Thank you for your letter of October 5, 2011, to former Administrative Office of the U.S. Courts Director James Duff providing additional information concerning Justice Clarence Thomas' financial disclosure reports. I have forwarded your letter to the Judicial Conference Committee on Financial Disclosure, which is responsible for implementing the disclosure provisions of the Ethics in Government Act and addressing allegations of errors or omissions in the filing of financial disclosure reports.

Sincerely,

A handwritten signature in cursive script that reads "Jill C. Sayenga".

Jill C. Sayenga  
Acting Director

**Congress of the United States**  
**Washington, DC 20515**

November 18, 2011

Chief Justice John Roberts  
Presiding Officer  
Judicial Conference  
One Columbus Circle, NE  
Washington, D.C. 20036

Dear Mr. Chief Justice:

We write you today in your capacity as Presiding Officer of the Judicial Conference. We call your attention to the letter sent to the Conference by members of the House of Representatives on September 29, 2011, requesting an investigation of possible violations by Justice Clarence Thomas of the Ethics in Government Act of 1978.

Evidence that Justice Thomas failed for 13 years to accurately disclose his wife's employment has been submitted to the Conference and we believe the Conference is required by law to refer the matter to the Department of Justice for further investigation.

In January, Common Cause and Alliance for Justice alerted the Judicial Conference to Justice Thomas's repeated failure to make accurate financial disclosures as required under the Ethics Act. Justice Thomas then amended 21 years of his financial disclosure forms, explaining that he had, "misunderstood the reporting instructions."

Since we sent our September 29 letter, important new information concerning this matter has come to our attention. Disclosure forms obtained by Common Cause and Alliance for Justice show that Justice Thomas accurately filed his financial disclosure forms, including his wife's employment, for as many as 10 years beginning in 1987 when he was Chair of the Equal Employment Opportunity Commission.

Justice Thomas continued to file accurate disclosure forms concerning his wife's employment when he was a judge on the United States Court of Appeals for the District of Columbia. He also accurately filed his financial disclosure forms regarding his wife's employment for the first five years he was a Justice of the Supreme Court.

In 1997 however, Justice Thomas stopped disclosing his wife's employment on his annual form, instead marking the box labeled "NONE," to indicate his wife had no employment that year. Other public documents show that Justice Thomas's wife was employed in 1997 by the Office of the U.S. House Majority Leader.

Justice Thomas continued to omit his wife's employment from his disclosures for the next 12 years, marking the 'NONE' box on his annual forms. Other publicly available documents indicate that Justice Thomas's wife did have employment in every one of those twelve years.

Her employers included the Office of the U.S. House Majority Leader, the Heritage Foundation and Hillsdale College.

Documents obtained by Common Cause and Alliance for Justice show that Justice Thomas's wife earned over \$1.6 million from these sources. We understand that Justice Thomas is not required to disclose those earnings but we include the number here to show that his wife's earnings were very substantial and that their omission is unlikely to have been a mere oversight.

It is very difficult for Justice Thomas to make a credible argument that he understood the filing instructions for ten years but then misunderstood them for the next thirteen years.

Section 104(b) of the Ethics in Government Act of 1978 requires the Judicial Conference to refer to the Attorney General any judge whom the Conference "has reasonable cause to believe has willfully falsified or willfully failed to file information required to be reported."

We believe these facts easily establish reasonable cause and therefore reiterate the request of September 29, 2011, and urge you to review these facts and make the appropriate referral to the Attorney General for further investigation.

Sincerely,



Louise M. Slaughter  
Member of Congress



Earl Blumenauer  
Member of Congress

Cc: Jill C. Sayenga

Jerroll Nader NY-8

Pete Stark

Sam Lou

Kathy Colson  
FL-11

Jim McClellan WA-7

Betty Sutton

Kim Burre

Keith Ellison

SLM  
NY-9

Bill Owens

Bob D'Amico  
Bruce Bay IA-01

Bob X KY-3

Carol Hastings

Julie  
Julie Speer

Gene Elsh

Li Ming

Paul Jones

Jim W. Jones

Jim Kim

David Beckman

Bob Filner

Conrad B. Kobayashi

Jim Moran

Michael Wood

Raul M. Grijalva

John Conyers

Wanda D. King

Jan R. Kelly

Lynn Wadley

Bunny Frank

Irene J. Moore

Hubert Johnson

Barbara Lee

Chellie P.

Ben N. Long

Frank Pallone Jr.

~~Frank Pallone Jr.~~

Paul E. Kirk

Paul D. Ryan

John M. Claitor

Andrew Conrad VA 11074

Paul Ryan (VA-3)

Donna F. Edwards

Hyd Doggett

John W. Allen

Shirley D. Clarke

Steve Cohen

John Lewis

Robert E. Miller

Signed:

1. Robert Andrews, Member of Congress
2. Karen Bass, Member of Congress
3. Earl Blumenauer, Member of Congress
4. Bruce L. Braley, Member of Congress
5. Kathy Castor, Member of Congress
6. David N. Cicilline, Member of Congress
7. Yvette D. Clarke, Member of Congress
8. James E. Clyburn, Member of Congress
9. Steve Cohen, Member of Congress
10. Gerald E. Connolly, Member of Congress
11. John Conyers Jr., Member of Congress
12. Pater A. DeFazio, Member of Congress
13. Theodore E. Deutch, Member of Congress
14. Lloyd Doggett, Member of Congress
15. Donna F. Edwards, Member of Congress
16. Keith Ellison, Member of Congress
17. Anna G. Eshoo, Member of Congress
18. Sam Farr, Member of Congress
19. Bob Filner, Member of Congress
20. Barney Frank, Member of Congress
21. Gene Green, , Member of Congress
22. Raúl M. Grijalva, Member of Congress
23. Alcee L. Hastings, Member of Congress
24. Maurice D. Hinchey, Member of Congress
25. Michael M. Honda, Member of Congress
26. Jesse L. Jackson Jr., Member of Congress
27. Henry C. "Hank" Johnson Jr. , Member of Congress
28. Barbara Lee, Member of Congress
29. John Lewis, Member of Congress
30. Ben Ray Luján, Member of Congress
31. Carolyn B. Maloney, Member of Congress
32. Jim McDermott, Member of Congress
33. James P. McGovern, Member of Congress
34. Brad Miller, Member of Congress
35. Gwen Moore, Member of Congress
36. James P. Moran, Member of Congress
37. Christopher S. Murphy, Member of Congress
38. Jerrold Nadler, Member of Congress
39. John W. Olver, Member of Congress
40. William L. Owens, Member of Congress
41. Frank Pallone Jr., Member of Congress
42. Chellie Pingree, Member of Congress
43. Jared Polis, Member of Congress
44. Steven R. Rothman, Member of Congress
45. Janice D. Schakowsky, Member of Congress
46. Louise M. Slaughter, Member of Congress
47. Jackie Speier, Member of Congress
48. Fortney Pete Stark, Member of Congress
49. Betty Sutton, Member of Congress
50. Paul Tonko, Member of Congress
51. Lynn C. Woolsey, Member of Congress
52. John A. Yarmuth, Member of Congress





# JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE  
OF THE UNITED STATES  
*Presiding*

HONORABLE THOMAS F. HOGAN  
*Secretary*

December 22, 2011

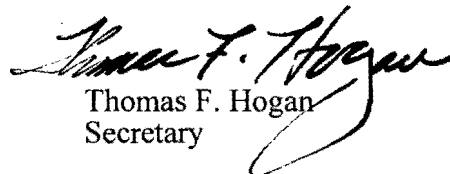
Honorable Louise M. Slaughter  
United States House of Representatives  
Washington, DC 20515

Dear Representative Slaughter:

I write in response to your letter of November 18, 2011, which has been referred to me in my capacity as Secretary of the Judicial Conference of the United States. I have forwarded your letter to the Judicial Conference Committee on Financial Disclosure, which is responsible for implementing the disclosure provisions of the Ethics in Government Act and addressing allegations of errors or omissions in the filing of financial disclosure reports.

If we may be of other assistance to you, please do not hesitate to contact our Office of Legislative Affairs at (202) 502-1700.

Sincerely,



Thomas F. Hogan  
Secretary

Identical Letter Sent to: Honorable Earl Blumenauer

cc: Honorable Robert Andrews	Honorable Barney Frank	Honorable Christopher S. Murphy
Honorable Karen Bass	Honorable Gene Green	Honorable Jerrold Nadler
Honorable Bruce L. Braley	Honorable Raúl M. Grijalva	Honorable John W. Olver
Honorable Kathy Castor	Honorable Alcee L. Hastings	Honorable William L. Owens
Honorable David N. Cicilline	Honorable Maurice D. Hinchey	Honorable Frank Pallone Jr.
Honorable Yvette D. Clarke	Honorable Michael M. Honda	Honorable Chellie Pingree
Honorable James E. Clyburn	Honorable Jesse L. Jackson Jr.	Honorable Jared Polis
Honorable Steve Cohen	Honorable Henry C. "Hank"	Honorable Steven R. Rothman
Honorable Gerald E. Connolly	Johnson Jr.	Honorable Janice Schakowsky
Honorable John Conyers Jr.	Honorable Barbara Lee	Honorable Robert Scott
Honorable Peter A. DeFazio	Honorable John Lewis	Honorable Jackie Speier
Honorable Theodore E. Deutch	Honorable Ben Ray Luján	Honorable Fortney Pete Stark
Honorable Lloyd Doggett	Honorable Carolyn B. Maloney	Honorable Betty Sutton
Honorable Donna F. Edwards	Honorable Jim McDermott	Honorable Paul Tonko
Honorable Keith Ellison	Honorable James P. McGovern	Honorable Lynn C. Woolsey
Honorable Anna G. Eshoo	Honorable Brad Miller	Honorable John A. Yarmuth
Honorable Sam Farr	Honorable Gwen Moore	
Honorable Bob Filner	Honorable James P. Moran	

Identical Letter Sent to: Honorable Earl Blumenauer

cc: Honorable Robert Andrews      Honorable John Garamendi      Honorable Jerrold Nadler  
    Honorable Karen Bass            Honorable Gene Green            Honorable John W. Olver  
    Honorable Bruce L. Braley        Honorable Raul M. Grijalva      Honorable William L. Owens  
    Honorable Kathy Castor          Honorable Alcee L. Hastings     Honorable Frank Pallone Jr.  
    Honorable David N. Cicilline     Honorable Maurice D. Hinchey    Honorable Ed Perlmutter  
    Honorable Yvette D. Clarke       Honorable Michael M. Honda      Honorable Chellie Pingree  
    Honorable James E. Clyburn       Honorable Jesse L. Jackson Jr.   Honorable Jared Polis  
    Honorable Steve Cohen            Honorable Henry C. "Hank"  
    Honorable Gerald E. Connolly     Johnson Jr.                        Honorable Steven R. Rothman  
    Honorable John Conyers Jr.       Honorable Barbara Lee            Honorable Janice Schakowsky  
    Honorable Peter A. DeFazio       Honorable John Lewis            Honorable Robert Scott  
    Honorable Theodore E. Deutch    Honorable John Lewis            Honorable Jackie Speier  
    Honorable Lloyd Doggett         Honorable Ben Ray Lujan         Honorable Fortney Pete Stark  
    Honorable Donna F. Edwards      Honorable Carolyn B. Maloney    Honorable Betty Sutton  
    Honorable Keith Ellison           Honorable Jim McDermott         Honorable Paul Tonko  
    Honorable Anna G. Eshoo         Honorable James P. McGovern    Honorable Peter Welch  
    Honorable Sam Farr               Honorable Brad Miller            Honorable Lynn C. Woolsey  
    Honorable Bob Filner              Honorable Gwen Moore            Honorable John A. Yarmuth  
    Honorable Barney Frank          Honorable James P. Moran  
    Honorable Christopher S. Murphy



JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

HONORABLE THOMAS F. HOGAN  
*Secretary*

THE CHIEF JUSTICE  
OF THE UNITED STATES  
*Presiding*

April 30, 2012

Honorable Louise M. Slaughter  
United States House of Representatives  
Washington, DC 20515

Dear Representative Slaughter:

I write in response to your September 29, 2011, letter to James Duff, former Director of the Administrative Office of the U.S. Courts, and your November 18, 2011, letter to Chief Justice John Roberts regarding Justice Clarence Thomas's financial disclosure report.

This matter has been reviewed by the Committee on Financial Disclosure of the Judicial Conference of the United States. It has concluded that nothing has been presented to support a determination that Justice Thomas's failure to report the source of his spouse's income was willful, or that Justice Thomas willfully or improperly failed to disclose information concerning travel reimbursements.

If we may be of any further assistance to you, please do not hesitate to contact our Office of Legislative Affairs at (202) 502-1700.

Sincerely,

A handwritten signature in cursive script that reads "Thomas F. Hogan".

Thomas F. Hogan  
Secretary



JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE  
OF THE UNITED STATES  
*Presiding*

HONORABLE THOMAS F. HOGAN  
*Secretary*

April 30, 2012

Ms. Nan Aron  
President  
Alliance for Justice  
11 Dupont Circle, 2<sup>nd</sup> Floor  
Washington, DC 20036

Mr. Bob Edgar  
President and CEO  
Common Cause  
1133 19<sup>th</sup> Street, NW, 9<sup>th</sup> Floor  
Washington, DC 20036

Dear Ms. Aron and Mr. Edgar:

I write in response to your October 5, 2011, letter to James Duff, former Director of the Administrative Office of the U.S. Courts, regarding Justice Clarence Thomas's financial disclosure reports.

This matter has been reviewed by the Committee on Financial Disclosure of the Judicial Conference of the United States. It has concluded that nothing has been presented to support a determination that Justice Thomas's failure to report the source of his spouse's income was willful, or that Justice Thomas willfully or improperly failed to disclose information concerning travel reimbursements.

Sincerely,

A handwritten signature in cursive script that reads "Thomas F. Hogan".

Thomas F. Hogan  
Secretary

**Relevant Portions of the Report of the Committee on Financial Disclosure  
to the March 2013 Session of the Judicial Conference**

## **REVIEW OF THE COMMITTEE'S SEPTEMBER 2012 REPORT**

At the September 2012 meeting of the Judicial Conference, Judge Mark L. Wolf (D. Mass.) sought to have the Conference discuss how it discharges its statutory duty under 5 U.S.C. app. § 104(b) to determine whether an individual has willfully failed to file a financial disclosure report, or has willfully falsified or failed to include required information in a report. Judge Wolf moved to disapprove the most recent reports of the Committee on Financial Disclosure and require the Committee to file amended reports that provide information about actions it has taken with respect to particular filers pursuant to a delegation of Conference authority under 5 U.S.C. app. § 104(b).

The Judicial Conference deferred consideration of the motion to allow the Committee to first consider the matter and report back to the Conference. As a result, the Committee was asked to review whether its September 2012 report and earlier reports should provide information to the Conference about actions taken by the Committee with respect to any allegations of filer misconduct or filer failure to properly comply with the financial disclosure filing requirements of the Ethics in Government Act of 1978 (5 U.S.C. app. §§ 101-111).

The Committee discussed the issue at considerable length and provided the opportunity for Judge Wolf to address the Committee via teleconference and explain his concerns about both the Committee's report and its exercise of its delegated authority, specifically in relation to allegations of a filer's willful omission of information made by two public interest organizations and several members of Congress. The Committee found that it had exercised its authority in accordance with its previously established procedures for reviewing whether the allegations of omissions in the filer's report were the result of willful misconduct. The Committee concluded that it had fulfilled its duty to the Conference by communicating its findings to the Director of the AO, who serves as Secretary to the Conference, by letter dated April 8, 2012.

As a result, the Committee believes that it is not necessary to amend its September 2012 report to the Conference to include additional information on this particular matter, or amend its earlier reports to include additional information on the Committee's exercise of its delegated authority. Neither the AO nor the Committee has received any additional inquiries after the Committee's action on this matter was reported to the Director and communicated to the organizations and individuals making the allegations. The Committee, however, decided that it would be helpful to the members of the Conference to receive an explanation of the allegations

made by the public interest organizations and members of Congress and the Committee's review of those allegations. To that end, it determined that the Chair should forward a letter to Conference members further addressing this matter. In addition, the Committee agreed to amend its current procedures, as outlined below, to provide additional information to the Conference whenever allegations of willful misconduct are received from the public. As a result, the Committee believes that modification of the current delegation of authority to the Committee to implement the financial disclosure provisions of the Ethics in Government Act of 1978 is not necessary.

### **REVIEW OF COMMITTEE PROCEDURES FOR PROCESSING ALLEGATIONS OF WILLFUL MISCONDUCT**

In March 1997, the Committee agreed on the basic procedures for processing allegations of errors or omissions in financial disclosure reports. Since adoption of these procedures, the Committee has received an average of one written public allegation of an error or omission every two to three years that has required a letter of inquiry requesting clarification from a filer of an item in a report. The Committee has not referred any filer to the Attorney General based on allegations that a report contained a willful error or omission. These procedures are basically the same as the procedures used to review a report, a response to a letter of inquiry, or a self-initiated amendment.

Under these procedures, when public correspondence is received alleging an error or omission in a filing, the staff reviews the allegation, prepares a review packet, and forwards it to the Committee member responsible for reviewing the filer's report. If warranted, the reviewing judge can approve a letter of inquiry asking the filer to clarify the purported discrepancy. If, after review of all matters associated with an allegation, the reviewing judge believes that the error or omission was willful, the reviewing judge will refer the matter to the chair of the



Committee's subcommittee on compliance. The subcommittee reviews the allegations and reports to the full Committee whether reasonable cause existed to believe that the filer has willfully falsified or willfully failed to file information required to be reported. Referral of the matter to the Attorney General in accordance with section 104(b) of Act requires a vote of the full Committee.

The Committee voted to modify this procedure to provide that all public written allegations of willful misconduct in the future will be forwarded to the subcommittee on compliance for review, whether or not willful misconduct is found by the reviewing judge.<sup>1</sup> The subcommittee will review the allegations and the reviewing judge's findings, and it will report and recommend to the full Committee whether to accept the preliminary determination of the reviewing judge. That review will become a part of that subcommittee's report to the full Committee at each Committee meeting. The Committee will report to the Conference the number and nature of any written public allegations of willful misconduct received and the action taken with respect to such allegations.

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<sup>1</sup> For purposes of this procedure, a written allegation will be deemed "public" if it is initiated by and received from any source outside of the Committee on Financial Disclosure and its staff.

**Judicial Conference Committee on Financial Disclosure**

May 2023

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Hon. Nannette Jolivette Brown

Hon. Raner Collins

Hon. William F. Jung

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Hon. David C. Nye

Hon. Benita Y. Pearson

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Hon. Mary Elizabeth Phillips

Hon. J. Nicholas Ranjan

Hon. David E. Rice

Hon. Steven C. Seeger

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Hon. Kara F. Stoll

Hon. Lance E. Walker

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October 1, 2012 – October 1, 2013

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Hon. Virginia M. Hernandez Covington

Hon. Michael James Davis

Hon. Mary Grace Diehl

Hon. Gary A. Fenner

Hon. Holly B. Fitzsimmons

Hon. Joseph M. Hood

Hon. Robert Clive Jones

Hon. Sim Lake III

Hon. Carlos F. Lucero

Hon. Thomas W. Phillips

Hon. Frederick J. Scullin, Jr.

Hon. Laurie Smith Camp

Hon. Anthony John Trenga

.

**Judicial Conference Committee on Financial Disclosure**

October 1, 2011 – October 1, 2012

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Hon. Carlos F. Lucero

Hon. Thomas W. Phillips

Hon. Linda R. Reade

Hon. Frederick J. Scullin, Jr.

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Hon. Anthony John Trenga

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