

Hon. John G. Roberts, Jr.
Chief Justice of the United States
Supreme Court of the United States
One First Street NE
Washington, D.C., 20543

Feb. 3, 2022

Dear Chief Justice Roberts:

We, the undersigned legal ethics scholars, write to urge the Court to complete and adopt a Code of Conduct for the Supreme Court of the United States.

We were encouraged when, nearly three years ago, Justice Elena Kagan told a House Appropriations Subcommittee that you were “studying the question of whether to have a Code of Judicial Conduct that’s applicable only to the United States Supreme Court” and that it’s “something that’s being thought very seriously about.” To our knowledge, though, this project remains unfinished.

We do not question the integrity of any justice; nor do we write in response to any single speech, interview or other extrajudicial activity undertaken by any of the justices in recent years. We simply believe that a written Code, even if primarily aspirational, would have a broad salutary impact, assisting current and future members of the Court to transparently address potential conflicts and other issues in a way that builds public trust in the institution.

We agree, as you wrote in your 2011 Year-End Report on the Federal Judiciary, that the lower courts’ Code of Conduct for United States Judges does “not adequately answer some of the ethical considerations unique to the Supreme Court,” so simply adopting it, as some have suggested, would not suffice. And although there remain efforts in Congress to impose a formal Code for the Court, we acknowledge the view, articulated in your 2021 Year-End Report, that there is a “need for the Judiciary to manage its internal affairs, both to promote informed administration and to ensure independence of the Branch.” We prefer that the Supreme Court draft a Code of Conduct and avoid the weighty questions that might arise if Congress imposed one.

Finally, there is no question that every justice who serves on the Supreme Court faces their share of ethics challenges. We believe that in the vast majority of cases, the justices have made the right call. But at a time when public institutions are redoubling their efforts to improve the public’s trust, we maintain that a formal, written Code, offering a uniform set of principles that justices and the public alike would look to for guidance, would benefit the Court and the nation.

Sincerely,*

Richard L. Abel
*Connell Distinguished Professor of Law Emeritus and
Distinguished Research Professor*
UCLA School of Law

Swethaa S. Ballakrishnen
*Assistant Professor of Law and Faculty Co-Director, Center
for Empirical Research on the Legal Profession*
University of California Irvine School of Law

Scott Cummings
Robert Henigson Professor of Legal Ethics
UCLA School of Law

Angela J. Davis
Distinguished Professor of Law
American University Washington College of Law

Nora Freeman Engstrom
*Ernest W. McFarland Professor of Law and Co-Director,
Stanford Center on the Legal Profession*
Stanford Law School

Susan Fortney
*University Professor and Director, Program for the
Advancement of Legal Ethics*
Texas A&M University School of Law

Amanda Frost
Bronfman Professor of Law & Government
American University Washington College of Law

Bennett L. Gershman
Distinguished Professor of Law
Elisabeth Haub School of Law at Pace University

Charles Gardner Geyh
Distinguished Professor and John F. Kimberling Professor of Law
Indiana University Maurer School of Law

Stephen Gillers
Elihu Root Professor of Law
NYU School of Law

Lissa Griffin
Professor of Law
Elisabeth Haub School of Law at Pace University

Peter A. Joy
Henry Hitchcock Professor of Law
Washington University in St. Louis

Renee Knake Jefferson
Doherty Chair in Legal Ethics & Professor of Law
University of Houston Law Center

Sung Hui Kim
Professor of Law
UCLA School of Law

Leslie C. Levin
Hugh Macgill Professor of Law
University of Connecticut School of Law

David J. Luban
University Professor
Georgetown University Law Center

Steven Lubet
Williams Memorial Professor
Northwestern University Pritzker School of Law

Nancy J. Moore
Professor of Law and Nancy E. Barton Scholar
Boston University School of Law

Ellen Murphy
Professor of the Practice
Wake Forest University School of Law

Richard W. Painter
S. Walter Richey Professor of Corporate Law
University of Minnesota Law School

Russell G. Pearce
Edward & Marilyn Bellet Chair in Legal Ethics, Morality, and Religion
Fordham University School of Law

Abbe Smith
Scott K. Ginsburg Professor of Law
Georgetown University Law Center

Laurel S. Terry
H. Laddie Montague Jr. Chair in Law, Emerita and Professor of Law, Emerita
Penn State Dickinson Law

W. Bradley Wendel
Edwin H. Woodruff Professor of Law
Cornell Law School

Ellen C. Yaroshefsky
Howard Lichtenstein Distinguished Professor of Legal Ethics
Maurice A. Deane School of Law at Hofstra University

**Institutional affiliations are for identification purposes only*