

# Making a Majority

## Unrigging the Supreme Court: Talking Points and Messaging

### Framing

We can no longer count on courts packed with right-wing extremists to uphold our fundamental rights, or even to follow even the most basic ethical standards. We need to fight back against this extreme, right-wing Court. Our Members of Congress must do everything in their power to hold justices who engage in blatantly corrupt behavior accountable and institute structural Supreme Court reforms, like expansion.

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### **H.R. 926: Supreme Court Ethics, Recusal, and Transparency Act (SCERT)**

Sponsor: Rep. Hank Johnson, GA-4

SCERT creates meaningful and enforceable ethical guidelines for SCOTUS as well as a binding code of conduct for all justices.

### Bill Details:

- Requires the Supreme Court to adopt a code of conduct for Justices and establish a process to investigate complains of judicial misconduct
- SCOTUS must also adopt rules for disclosure of gifts, travel, and income received by Justices that are similar, if not more rigorous, than Congressional disclosure rules
- All parties in SCOTUS cases must disclose any gift, income, or reimbursement they provided to Justices

### Talking Points:

- Some right-wing Supreme Court Justices have engaged in highly questionable and sometimes blatantly corrupt behavior off the bench, such as:
  - Accepted lavish gifts – including school tuition and free rent for family members – and free trips on private planes and yachts from billionaire MAGA donors (Thomas)
  - Accepted free luxury trips paid for by a billionaire hedge fund manager with business interests pending in front of the Court – and then later ruled in favor of that hedge fund manager (Alito)

- Leaked Supreme Court decisions (Hobby Lobby) to anti-abortion activists before they were public (Alito)
  - Entered into a multimillion dollar land deal with the head of a law firm with business in front of the Court (Gorsuch)
  - Mysteriously had their debts paid off by an unnamed benefactor ahead of their confirmation hearings (Kavanaugh)
  - The Court is supposed to be fair arbiters of the law and constitution, but these unethical and corrupt actions betray the public's trust in their impartiality and fairness. .
  - How can we trust that Justices made fair decisions when they're accepting gifts from the parties involved in cases they are hearing and are beholden to billionaire MAGA donors?
  - The Supreme Court is not untouchable. They are subject to congressional oversight just like every other branch of government and every other federal agency.
  - In fact, Congress has a constitutional duty to perform oversight over the Court and reform it as necessary; refusing to do so only emboldens corruption.
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## [H.R. 3422](#): **Judiciary Act**

Sponsor: Rep. Hank Johnson (GA-4)

The Judiciary Act expands the Supreme Court to protect our constitutional and civil rights, adding four more seats to create a 13 Justice Court.

### **Talking Points:**

- The conservative majority is out of control.
- The conservative justices on the Supreme Court were hand-selected by right-wing dark money groups to attack our constitutional rights, expand corporate power, and weaken anti-discrimination laws, voting rights, workers' rights, reproductive rights, and more.
- From the bench, the MAGA justices have ignored years of legal precedent and:
  - Overturned *Roe v. Wade* and threw access to abortion into chaos in the states
  - Gutted the Voting Rights Act
  - Undermined the EPA's authority to regulate polluters to keep our air and water clean
  - Ended affirmative action in higher education as we know it
  - Blocked student debt cancellation for millions of borrowers (for now)

- Ruled that the First Amendment allows business owners to use their religion as a justification to openly discriminate against LGBTQ+ people
  - Attacked workers' rights and made it more difficult for workers to strike
- The only way to restore and protect our constitutional rights is to expand the Court.
- There's nothing magic about the number nine. Nothing in the Constitution sets the number of justices at nine or any other number. In fact, when the Supreme Court first convened in 1790, there were six justices.
- It's not radical to suggest a major structural change - it's an intervention to restore the integrity of one of our most critical institutions. The Supreme Court has already been corrupted by special interests and partisans in black robes.
- While other reforms might help bring the Court back in line (like ethics reforms), only expansion will restore legitimacy to the institution by adding 4 new justices who will actually uphold the law, the Constitution, and our democratic principles.
- **If they say:** Won't this lead to a tit-for-tat if Republicans regain power/won't Republicans just do the same thing when they get the chance?
  - **You say:** They already did! Republicans have already shattered democratic norms and undermined the legitimacy of the Court, and the need to expand the Supreme Court is a direct result of actions they have already taken. Republicans have been playing hardball on the Court for years. Mitch McConnell Scalia's seat open for months so Trump could fill it. McConnell is going to "retaliate" regardless of what we do now. He's already signaled he will block any nominee from President Biden if the GOP regains control of the Senate in 2024.
  - **You say:** Republicans are going to continue to do things that are harmful to our democracy. Our legislative plan can't be based on a fear of what they might do – we need a plan to do what's right, regardless of how Republicans might respond.
  - **You say:** Doing nothing simply isn't an option. Unless we expand the Court, we could lose out on the chance for a majority for an entire generation. One study showed that, if Democrats do nothing, [we won't regain a majority on the Court until 2065](#).
- **If they say:** Adding seats to the Supreme Court will politicize the institution and undermine its legitimacy and the public's trust.
  - **You say:** Too late! According to a [recent Quinnipiac poll](#), 70% of Americans think that Supreme Court justices are too influenced by politics. As a result, support for court expansion is growing, with a recent poll from Marquette showing 51% of Americans across party lines support expanding the Supreme Court.
- **If they say:** Won't adding seats lead to another legitimacy crisis for the Court?

- **You say:** The Court is already facing a dire legitimacy crisis because of its rulings and because of the justices' behavior off the bench. Instead of worrying about a future legitimacy crisis we should be thinking of ways to resolve the one we're in now. Doing nothing isn't an option. The Court isn't going to fix itself. We can't change the caliber of the institution unless we change the caliber of the justices.
- **You say:** It is the Court's behavior that is contributing to its legitimacy crisis. Court expansion, and four new justices committed to behaving ethically, upholding the law fairly, and protecting our democracy and fundamental rights, would only serve to improve the Court's standing in the public's eyes.
- **If they say: Isn't this just sour grapes because Democrats lost?**
  - **You say: No.** We're not advocating for Supreme Court expansion because we lost a case or two. We support the Judiciary Act because the Supreme Court is actively stripping us of our constitutional rights, and are doing so without any basis in the law or the constitution. This is about our most fundamental freedoms.