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December 11, 2017

The Honorable Chuck Grassley  
Chairman, Senate Judiciary Committee  
135 Hart Senate Office Building  
Washington, D.C. 20515

Re: S.2195 - Inspector General for the Judicial Branch

Dear Senator Grassley:

Thank you for your persistence in re-introducing a bill that addresses the judicial branch's policy of self-policing and self-regulation, a policy whose inadequacy has permitted incidents of judicial abuse to occur without penalty.

I write to acquaint you with my own experience of such abuse, including the stonewalling of attempts to call attention to and seek disciplinary action through impeachment of a federal judge whose felonious conduct remains unchallenged, unacknowledged and unpunished.

In this example, the Judicial Council of the Fifth Circuit, through the U.S. Judicial Conference, would ordinarily recommend to the House Judiciary Committee's Subcommittee on the Constitution and Civil Justice whether an impeachment inquiry should be initiated over allegations of serious, material misconduct by the subject judge. Nevertheless, the Fifth Circuit recently adopted a doctrine that now exempts judges who retire from the bench from being investigated for past impeachable offenses.<sup>1,2</sup> Among those benefitting from this doctrine is Judge Helen "Ginger" Berrigan, who stepped down at about the time the Fifth Circuit's Judicial Council formulated its ruling.<sup>3</sup>

Inasmuch as the Fifth Circuit has consistently dismissed my complaints against this abusive judge, I undertook a formal request to the U.S. Supreme Court that simply questioned whether judges should be exempted from being investigated and prosecuted over past high crimes and misdemeanors.<sup>4,5</sup> The petition posing this question was recently denied.<sup>6</sup>

The dictum of the Fifth Circuit's Judicial Council that exempts judges from prior felonious offenses is manifestly unconstitutional, and is an issue that begs to be deliberated by Congress, which has a duty to design laws that regulate the operation of the Judicial Branch. Hence, the timeliness of your bill that would create an Office of Inspector General.

I would ask such an Office to undertake an investigation of the potentially impeachable offenses committed by the Honorable Helen "Ginger" Berrigan during her adjudication of a series of cases from 1995 to 2001 in which I was plaintiff and the Administrators of the Tulane Educational Fund was defendant.

I am enclosing a copy of my Petition for a Writ of Mandamus, which recently was denied by the U.S. Supreme Court without comment. Other documents, referenced below, provide evidence that Judge Berrigan willfully and resolutely engaged in a type of misconduct that existing federal law was designed to prevent, specifically with respect to conflict of interest. Such misconduct enabled her to favor the defendant institution, which employed (and paid) her as an adjunct professor.<sup>7</sup>

Respectfully yours,



Carl Bernofsky

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cc: Senator Dianne Feinstein, Ranking Member, Senate Judiciary Committee

Encl: In Re: Carl Bernofsky, Petition for Writ of Mandamus, Supreme Court Docket No. 17-205.

## References:

1. In Re: Complaint of Judicial Misconduct Against United States District Judge Walter S. Smith, Jr., Under the Judicial Improvements Act of 2002 (Fifth Circuit, Docket No. 05-14-90120, September 28, 2016). Reprinted at:

[http://www.tulanelink.com/pdf/Judge\\_Smith\\_Order\\_05-14-90120.pdf](http://www.tulanelink.com/pdf/Judge_Smith_Order_05-14-90120.pdf)

2. The Doctrine of Judicial Entitlement. Reprinted at:

[http://www.tulanelink.com/tulanelink/judicialentitlement\\_box.htm](http://www.tulanelink.com/tulanelink/judicialentitlement_box.htm)

3. 'Senior status' for Judge Helen 'Ginger' Berrigan opens second seat on federal bench in New Orleans, *The Advocate*, New Orleans, September 9, 2016. Reprinted at:

[http://www.tulanelink.com/tulanelink/berriganretire\\_box.htm](http://www.tulanelink.com/tulanelink/berriganretire_box.htm)

4. In Re: Carl Bernofsky, Petitioner (U.S. Supreme Court Docket No. 17-205, August 7, 2017). Petition Reprinted at:

[http://www.tulanelink.com/pdf/pet\\_mand\\_17-205.pdf](http://www.tulanelink.com/pdf/pet_mand_17-205.pdf)

Appendix Reprinted at:

[http://www.tulanelink.com/pdf/app\\_mand\\_17-205.pdf](http://www.tulanelink.com/pdf/app_mand_17-205.pdf)

5. A full version of the Petition for Writ of Mandamus is enclosed with this letter.

6. In Re: Carl Bernofsky (U.S. Supreme Court Docket No. 17-205).

Denial Reprinted at:

[http://www.tulanelink.com/pdf/Clerk\\_SupCt\\_17C\\_reply.pdf](http://www.tulanelink.com/pdf/Clerk_SupCt_17C_reply.pdf)

7. Additional information is available from links in the following PR Newswire press release:

<https://www.prnewswire.com/news-releases/us-supreme-court-dockets-request-of-former-tulane-professor-to-order-investigation-of-federal-judge-300512449.html>

See also:

[http://www.unequaljustice.com/videos/citizensforum2008b/citizensforum2008\\_vid\\_08b.htm](http://www.unequaljustice.com/videos/citizensforum2008b/citizensforum2008_vid_08b.htm)