



Lee Saunders
President

Elissa McBride
Secretary-Treasurer

Vice Presidents

Jody Barr
New Britain, CT

Denise Berkley
Albany, NY

Mark Bernard
Boston, MA

Ron Briggs
Latham, NY

Stacy Chamberlain
Portland, OR

Connie Derr
Albuquerque, NM

Daniel DiClemente
North Chili, NY

Shannon S. Douvier
St. Cloud, MN

Denise Duncan
San Dimas, CA

David R. Fillman
Harrisburg, PA

Craig A. Ford
Newark, NJ

Henry A. Garrido
New York, NY

R. Sean Grayson
Worthington, OH

Vicki Hall
Tallahassee, FL

J. David Henderson
Franklin, PA

Johanna Puno Hester
San Diego, CA

Danny J. Homan
Des Moines, IA

Kathryn Lybarger
Oakland, CA

Roberta Lynch
Chicago, IL

Christopher Mabe
Westerville, OH

Glenard S. Middleton Sr.
Baltimore, MD

Douglas Moore Jr.
San Diego, CA

Michael Newman
Chicago, IL

Debbie Parks
Hamilton, NJ

Randy Perreira
Honolulu, HI

Steven Quick Sr.
Indianapolis, IN

Jose Ramirez
San Juan, PR

Lawrence A. Roehrig
Lansing, MI

Joseph P. Rugola
Columbus, OH

Alan F. Shanahan
Los Angeles, CA

Paul Spink
Milwaukee, WI

Mary E. Sullivan
Albany, NY

Anthony Wells
New York, NY

Mike Yestranski
Olympia, WA

October 22, 2020

United States Senate
Washington, D.C. 20510

Dear Senator:

On behalf of the 1.4 million members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing in opposition to the nomination of Judge Amy Coney Barrett to be Associate Justice of the Supreme Court of the United States. The Supreme Court plays an essential role in our constitutional system of government. It is charged with ensuring the American people the promise of equal justice under law and it must both interpret the law and be the last resort for appeals to ensure fairness and equality, and to protect the general safety, well-being, and basic rights of all Americans. This is especially true for working families who depend on the high court to make sound decisions about fundamental issues central to our lives, our working conditions, job quality, wages, retirement, and other work-related benefits including health care.

In the last three years we have seen the high court systematically roll back union and workers' rights in case after case. In *Epic Systems Corp. v. Lewis*, for example, the court decided employers have a right to prohibit workers from taking collective action when their workplace rights are violated by requiring them to sign arbitration agreements as a condition of employment giving up rights to overtime, even when it was in violation of the Fair Labor Standards Act. In another case, *Janus v. AFSCME Council 31*, the court overturned more than 40 years of established precedent to weaken the rights of public sector workers to join together in strong unions. In both cases, justices on the court voted along conservative-liberal lines. The outcomes in these recent cases show the consequences of packing the court with judges who hold extreme judicial views outside of the mainstream and positions hostile to workers' core values.

Judge Coney Barrett, if confirmed, would increase the conservative majority on the Supreme Court. We know that she would further the efforts of the conservative court advocates and further prioritize wealthy special interests at the expense of working people, especially those in public service. In these contentious times, we deserve a justice who will be open-minded, who will adhere to precedents, and who will apply the rule of law fairly and consistently to all who come before them, regardless of position or stature of those who come before the court. Sadly, Judge Coney Barrett does not seem to be such a person. Her nomination is harmful for workers and their families.

For example, in employment cases related to the real-life impact of making sure that individuals have a reasonable opportunity to contest workplace pay discrimination,

American Federation of State, County and Municipal Employees, AFL-CIO

TEL (202) 429-1000 FAX (202) 429-1293 TDD (202) 659-0446 WEB www.afscme.org 1625 L Street, NW, Washington, DC 20036-5687

she fails on the fundamental issue of fair pay and the important role it has in enforcing workplace rights. Much like her decision in *Wallace v. Grubhub Holdings, Inc.*, where workers were denied overtime wages protected under the Fair Labor Standards Act (FLSA), many of her legal views are antithetical to the clear benefits that working families gain from getting a fair day's pay for a hard day's work. Similarly, in *Weil v. Metal Technologies, Inc.*, she authored an opinion against workers who wanted retribution for claims made against their employer for withholding pay to rent work uniforms. From these cases and writings Judge Coney Barrett makes it absolutely clear why she was handpicked by the Federalist Society and rubber stamped by President Trump.

Among other things, Judge Coney Barrett has failed to effectively distance herself from her statements on the constitutionality of the Affordable Care Act (ACA), upon which millions of Americans rely. When given the opportunity to move away from her comments that were made after the 2012 case, that the ACA is unconstitutional, she equivocated saying the new case headed to the court next month is different. Senator Chris Coons was quick to point out that the two cases are "very similar" and the central issue before the court is still "the constitutionality of the mandate." From her comments, Judge Coney Barrett still sees the ACA as unconstitutional, even though the Supreme Court disagreed in its earlier ruling. In doing so she makes it clear she sides with President Trump who selected her to gut this law in order to accomplish what he has been unable to accomplish by passing a new law.

AFSCME joins with millions of fellow Americans in their outrage that the Senate is pushing through a nominee who will not even provide them basic answers on how she views laws enacted to protect their rights and liberties and whether she will strike down those laws in ways that violate the welfare of wage earners. We are equally appalled that in the middle of a general election this nomination is being rushed through without letting the people decide who should be making the selection for this lifetime appointment. And finally, it must also be stated that it's an outrage that the Senate is pushing through this nomination in record setting time when they have been unwilling to further address the severe economic and health consequences of the still raging global pandemic, and the colossal failure to provide aid to states and localities.

AFSCME strongly opposes Judge Coney Barrett's nomination and urges a no vote on her confirmation.

Sincerely,



Bailey K. Childers
Director of Federal Government Affairs

BKC/KLS:cg