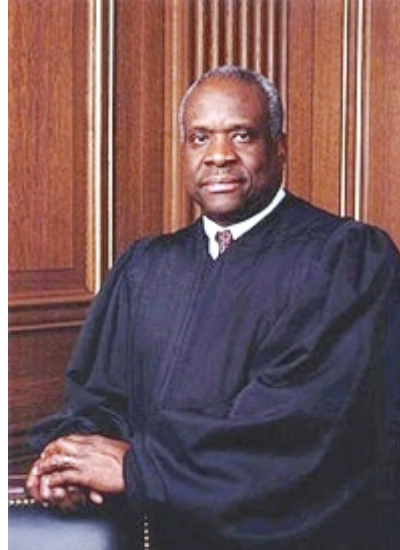




Written by [Raven Clabough](#) on May 31, 2011

Democrats: Justice Thomas Should Recuse Himself from Healthcare Case

Fearful of the potential 5-4 outcome many are suspecting will come of the Supreme Court's ruling on President Obama's signature healthcare law, Democratic lawmakers are doing their best to convince Justice Clarence Thomas to gracefully bow out of the case that is expected to come before the Supreme Court within the year. And just for safe measure, one so-called "election watchdog" has demanded an FBI investigation of Justice Thomas's 2010 campaign finance ruling.



Fox News [explains](#):

The months-long efforts to target Thomas focus on his financial disclosure forms, of which amended versions were filed earlier this month and released publicly on Friday. In them, Thomas reveals that his wife, Ginni Thomas, received a salary in 2010 from Liberty Central, a group that she helped found and which supports the repeal of the healthcare law.

Though Ginni Thomas left Liberty Central less than a year after the group's creation, IRS documents show that she earned \$150,000 from the organization.

Representative Anthony Weiner (D-N.Y.) issued a statement outlining the accusations. "We knew that Justice Thomas' family had a financial stake in opposing healthcare reform. Now we know even more. It's pretty clear the justice has one option here: recusal."

Weiner also cites Justice Thomas's income from the Heritage Foundation as enough proof that he is unable to participate in the case regarding the healthcare law.

Thomas' supporters assert that Thomas followed ethics rules by disclosing his wife's income and her employer.

Thomas's defenders also contend that those calling for Thomas to recuse himself are merely attempting to "extract rulings" — since 4-4 Supreme Court decisions force appellate decisions to be adopted.

Meanwhile, Carrie Severino, chief counsel and policy director for the Judicial Crisis Network, declares that another justice has more reason to excuse themselves from the ruling than Thomas. "If there's anyone who needs to recuse themselves from the healthcare cases it's Elena Kagan."

Severino contends that those calling for Thomas to recuse himself are simply pre-empting the inevitable call for Justice Kagan, former solicitor general for the Obama administration, to recuse herself.

"I'm not sure she will need to recuse herself, either, but there's a lot of questions out there," Severino remarked. "Already we've seen that she was involved at a supervisory level with strategizing to defend this law."

Furthermore, Severino believes that an opinionated spouse is not grounds for recusal. She said the



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situation would be different if Thomas had filed a brief on the issue, or was somehow involved in the case prior to its arrival at the Supreme Court, but having a spouse that works in a position that may be debated before the court is not sufficient evidence for recusal.

"All of them have spouses and opinions. There has to be a rational stopping point for this kind of effort," Severino concluded.

Meanwhile, as some debate whether Thomas' wife is legitimate grounds for recusal, others are calling for an investigation by the FBI.

ProtectOurElections.org, led by Kevin Zeese, issued a letter last week indicating that Thomas purposely withheld his wife's income over the past 20 years and "engaged in judicial corruption" by receiving \$100,000 in support from Citizens United during his nomination in 1991.

Fox news adds, "The group alleges that Thomas then paid up on a quid pro quo 19 years later when the court voted in favor of Citizens United in a campaign finance ruling that enable corruptions and unions to donate to candidates without naming its contributors."

According to Zeese, "The Citizens United decision has a major impact on elections by allowing unlimited funding by corporations, and the Citizens United Foundation financial support shows a conflict for Justice Thomas in a 5-4 decision."

For Severino, Zeese's assertion "is so absurd it's hard to even respond to such an exaggerated allegation." She does add, however, "They are about 30 years too late. Frankly, most of these charges are so far-fetched that they almost don't merit a response."

Additionally, ProtectOurElections.org claimed that Justice Thomas "conspired with his wife in a form of 'judicial insider trading' by providing her with information about the result of the court's decision in Citizens United prior to its issuance, which she then used to launch a new company to take financial advantage of that decision to benefit her and her husband."

The efforts advocating for Thomas to recuse himself from the healthcare case have been going on for several months. Seventy-four Democrats sent a letter to Justice Thomas in February asking him to do so.

Investors Business Daily [contends](#) that the congressional effort, led by Rep. Weiner, may be to distract from Kagan's potential conflict of interest. "On Wednesday, the activist watchdog group Judicial Watch announced it has obtained documents suggesting Supreme Court defense of the Affordable Care Act while she served as solicitor general." It adds, "The Democrats staged a preemptive strike so they'd have an argument to counter Kagan's gaping and genuine conflict of interest regarding Obamacare when it was inevitably exposed."

Whether any of the Justices will recuse themselves from the case remains to be seen, though it appears unlikely. One thing is certain, however. The Supreme Court healthcare case is proving to be just as contentious as expected, and the high court has not even begun to hear it.



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