



Fix the Court
201 West Lake Street, Suite 153
Chicago, IL, 60606

Hon. Scott S. Harris
Clerk of the Supreme Court of the United States
One First Street NE
Washington, DC, 20543

October 22, 2015

Dear Clerk Harris:

My name is Gabe Roth, and I am executive director of [Fix the Court](#), a national nonprofit that advocates for a more open and accountable U.S. Supreme Court.

Following the oversight in *FERC v. Electric Power Supply Association* regarding Justice Breyer's wife's stock ownership, I am writing to encourage the creation of a more thorough conflict-check system or other solution to ensure the same situation, which erodes the public's trust in the judiciary, does not happen again.

Blind trusts

According to the most recently available [financial disclosure reports](#), three justices – Chief Justice Roberts and Justices Alito and Breyer – own shares in roughly 70 publicly traded companies. The remaining justices' financial assets lie in retirement accounts, money market accounts or other blended or long-term financial instruments.

In July, Fix the Court sent a petition signed by nearly 2,500 people (available at <http://tinyurl.com/BlindTrusts>) calling on the justices who own common stock to place their securities in blind trusts for the duration of their high court tenure.

We still believe such an action would bring the occurrence of stock-based conflicts at the high court to an end. Another advantage would be that cases involving a publicly traded company owned by a justice would no longer trigger a recusal and potentially yield a 4-4 tie, for which, [to quote Justice Kennedy](#), "everyone's time is wasted."

Improved internal communications

Moreover, that Justices Breyer and Alito owned shares in the *same* company in *FERC v. EPSA* brings into focus the need for greater communication among the justices or their law clerks on potential conflicts. While we do not believe any justice is willingly acting unethically, we feel this incident underscores the need for the justices to share their internal conflicts lists with their colleagues or to create a collective list internally.

Overall, we at Fix the Court believe more needs to be done to ensure a repeat of the *FERC* case does not occur again. We welcome the implementation of the suggestions noted above or of any other creative solutions you or your colleagues may have in this matter.

Sincerely,
Gabe Roth
Executive director, Fix the Court