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**ALLEGHENY COUNTY LABOR COUNCIL
REPORT OF LEGAL COUNSEL
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THE POWER OF APPOINTMENT AND THE IMPACT OF YOUR VOTE

Healthcare...Gay marriage...Voting rights...Affirmative action... Labor rights...Immigration...Climate change....All of these issues will be or have recently been before the Supreme Court for disposition. Who sits on the Supreme Court dramatically shapes our society as it relates to these most significant issues.

The upcoming Presidential election will fundamentally alter the make-up of our Court for years to come. Indeed, appointing Supreme Court justices is one of the most significant presidential responsibilities, both because of the enormous power that resides in the court and the fact that they are lifetime appointments. The only way a Supreme Court justice leaves office is death, voluntary retirement or impeachment. Therefore, while you may find presidential term limits reassuring if you don't like the person who wins the upcoming election, their Court appointments will likely survive decades after their tenure in the White House. For example, Justice Antonin Scalia served 30 years on the court until his death and had a tremendous impact, not the least of which was the decision he authored in *District of Columbia v Heller*, which is now routinely used against gun control legislation.

This year, we have a unique situation where the Republican majority in the Senate has refused to consider any candidate for the Supreme Court nominated by the current Democratic president. This rests on the purported basis that, at the time of the Supreme Court vacancy, President Obama had only a year left in his term. There has been considerable debate about whether this action is an unconstitutional refusal to provide the advice and consent required by the Constitution or, as the Republicans argue, whether such blanket refusal is properly within the parameters of advise and consent. Either way, the effect has been to have an eight-person court for the last seven months leaving the court without a tie-breaking vote and the probability that the new President will have an immediate appointment to the court. This dynamic also underscores the importance of your Senate vote as well.

In addition to this probable immediate appointment, the newly elected President could easily have several other Supreme Court appointments given the age of some of the current justices. For example, three justices are over 75 and two, Justice Kennedy and Justice Ginsberg, are already over 80. As such, there is a very real possibility that the next President will have at least three appointments to the Supreme Court. How you vote in this election will significantly impact who sits on our Supreme Court for years to come and the impact the Court's decisions will have on your life.

Respectfully submitted,
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