



**SEIU**EXPOSED.com

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# Judicial Bias?

**Fourth Circuit Appeals Court Nominee  
Could Push SEIU's Misguided Agenda**

## **Executive Summary**

Long-time Service Employees International Union (SEIU) lawyer Nicole Berner has been nominated to the U.S. Court of Appeals for the Fourth Circuit. With a history of backing the union's harmful policies and pushing policies that could force employees into union representation, it's more than likely Berner will use this position to promote the SEIU's agenda – potentially at the expense of both employees and business owners throughout the country.

In 2019, an investigation by *Payday Report* noted that Berner declined to launch a sexual harassment investigation against top union leaders – including President Dave Regan – of the SEIU United Healthcare Workers West (SEIU-UHW). Berner instead left the allegations to be investigated by the SEIU-UHW, the same union whose leadership the alleged victim was accusing of sexual misconduct.

Berner also supported sectoral bargaining in the United States. In 2019, Berner co-authored an editorial in which she supported a “national fast-food industry bargaining table.” Berner stated in the same editorial that the old model of unionizing by company/employer needed to be thrown out and that it needs to be possible to unionize by the “millions.”

Berner echoes the SEIU's radical call for “unions for all” which seeks to organize workers throughout the country by almost any means necessary – with little regard for the individual choices and freedoms of these workers. Berner has stated that “right to work” advocates are “anti-worker extremists,” and said the U.S. economy is “rigged.” She also stood against independent contractors in California.

Berner has been associated with several progressive organizations and initiatives. In 2019, Berner was recommended as a Supreme Court nominee by Demand Justice, an organization actively pushing for packing the court. Berner has also been a member of the American Constitution Society and the National Partnership for Women and Families, to name a few.

Given her track record, there's little doubt that Berner's appointment would only expand the SEIU's political influence and power across the country.

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## Career

### SEIU

#### Declined Sexual Harassment Investigation

➤ **Berner declined to investigate sexual harassment at the SEIU-UHW.**

- According to a Dec. 11, 2019, *Payday Report* article:

In a letter, obtained by *Payday Report*, sent back to Sturge [alleged victim of sexual harassment] from SEIU General Counsel Nicole Brener [sic] in November of 2018, the national union declined to meet with Sturge, saying that the matter was best left to be investigated by the SEIU-UHW, the very union's whose President she was suing for sexual misconduct.

"Because each local of SEIU employs its own staff and sets its own personnel policies and protocols, the International Union does not have a direct role in investigating allegations or concerns that may arise in local unions regarding personnel matters," wrote Berner. "Those matters are subject to the processes established by the locals themselves."

Over the period of a year, *Payday Report* attempted to get SEIU to comment on how the union was responding to allegations. SEIU declined on several occasions to comment for this story.<sup>1</sup>

➤ **Mindy Sturge, a former staffer of SEIU-UHW, had accused several employees/officers of the union of sexual harassment.**

- According to a Dec. 11, 2019, *Payday Report* article:

Regan, who also serves on the international union executive board and as the current President of United Healthcare Workers West, now faces a sexual misconduct lawsuit brought by current SEIU-UHW staffer Mindy Sturge against SEIU-UHW. The lawsuit alleges that he engaged in sexual misconduct and tolerated a frat boy culture where sexual misconduct ran rampant.

Shortly after Sturge started at the union, Sturge began receiving sexually harassing phone calls from her supervisor Michael Kervosch late at night when he appeared drunk to her.

"He would often call me late at night after I was in bed with my husband. He sometimes sounded drunk, and he would make comments about my looks and how

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<sup>1</sup> Mike Elk, "SEIU Prez Knew of Sexual Misconduct and Personally Promoted Staffer Anyway," [Payday Report](#), Dec. 11, 2019

other staff would say I must have been hired for my looks. He would also talk about his personal life,” said Sturge in an affidavit obtained by *Payday Report*.

“I put up with it because I was a relatively new employee, and the union was in a lot of turmoil. I feared for my job, which I loved,” Sturge said of the harassment.

Sturge says early on in her employment that one of her coordinators Chung Park, also harassed her, telling her that “whoever gets you is a lucky man” and asked if she enjoyed rough sex and bondage.

Sturge and others have alleged that such sexual harassment was prevalent under Regan’s leadership at SEIU. Regan and his former top lieutenant [sic], Marcus Hatcher, were known to party at union events, often drunkenly propositioning subordinates.<sup>2</sup>

### **Scott Courtney Investigation**

- **Berner had previously investigated SEIU Executive Vice President Scott Courtney for his conduct towards women.**

- According to an Oct. 23, 2017, *BuzzFeed* article:

Amid an ongoing investigation into Service Employees International Union Executive Vice President Scott Courtney, a staff member has been fired and another placed on administrative leave "as a result of information discovered through [the] investigation," SEIU President Mary Kay Henry wrote in an email to staff on Monday that was obtained by BuzzFeed News.

[...]

In the initial email, Henry said an investigation by SEIU general counsel Nicole Berner was underway. Wali said Monday "the internal investigation will continue and President Henry has taken additional steps to ensure that, across our union, all staff are respected, their contributions are valued, and their voices are heard."<sup>3</sup>

### **“Unions for All” Campaign**

- **In 2019, Berner co-authored an editorial supporting the SEIU’s “unions for all” platform.**

- According to the Aug. 21, 2019, *On Labor* editorial:

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<sup>2</sup> Mike Elk, “SEIU Prez Knew of Sexual Misconduct and Personally Promoted Staffer Anyhow,” *Payday Report*, Dec. 11, 2019

<sup>3</sup> Cora Lewis, “A Top Labor Executive Has Resigned After Complaints About His Relationships With Female Staffers,” *Buzzfeed*, Oct. 23, 2017



Today in Milwaukee, the site of the upcoming Democratic National Convention, SEIU President Mary Kay Henry laid out our union's bold vision for an inclusive labor law regime that would empower millions of workers to form unions and rebalance our economy away from entrenched corporate interests. SEIU members and the workers in the Fight for 15 and a Union movement are demanding a system where everyone has the opportunity to join a union, no matter where they work.<sup>4</sup>

➤ **Berner's editorial claimed racism still affects the right to organize and that "unions for all" should be a demand of all candidates running for office.**

○ According to the Aug. 21, 2019, *On Labor* editorial:

Under current law, workers in the fastest growing sectors of our economy are excluded from the protections of labor law due to the continuing impact of institutional racism in the 1930s. According to President Henry, our labor laws "excluded domestic workers and farm workers. They excluded care workers and service workers. They excluded all the industries dominated by women, immigrants, and people of color. And the racist consequences of those laws live on." As those of us in the labor movement are painfully aware, millions of workers across industries are effectively blocked from forming unions in their workplaces due to the steady erosion of the right to organize and the right to strike over the last 80 years.

Unions for All is SEIU's four-pronged demand of all candidates running for public office. It has the fundamental goal of bringing all workers — white, Black, brown and Asian, those who have always been excluded and those who are unable to exercise their rights — under the protection of our labor law system so that we can begin to rebuild our society and economy together and demand bold, progressive change.<sup>5</sup>

➤ **The piece demands that "every public dollar spent is used to create good, union jobs and that every federal worker and contractor makes at least \$15 an hour and has the opportunity to join a union."**

○ According to the Aug. 21, 2019, *On Labor* editorial:

Third, we must ensure that every public dollar spent is used to create good, union jobs and that every federal worker and contractor makes at least \$15 an hour and has the opportunity to join a union. Our tax dollars should never be used to fund jobs that are anything but family-sustaining jobs with a path to forming a union.<sup>6</sup>

➤ **Berner and her co-author discussed presidential candidates committing to a "national fast-food industry bargaining table."**

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<sup>4</sup> Berner, "2020 Presidential Endorsement on Demand for "Unions for All," [OnLabor](#), Aug. 21, 2019

<sup>5</sup> Berner, "2020 Presidential Endorsement on Demand for "Unions for All," [OnLabor](#), Aug. 21, 2019

<sup>6</sup> Berner, "2020 Presidential Endorsement on Demand for "Unions for All," [OnLabor](#), Aug. 21, 2019

- According to the Aug. 21, 2019, *On Labor* editorial:

Many of the 2020 presidential candidates have been out on strike lines with fast food workers. That's good. But to truly transform those workers' lives, we need the candidates to commit to bring McDonald's, Wendy's and Burger King to a national fast-food industry bargaining table that will lift wages and improve working conditions for fast-food workers across the nation, in the way that only a president can.<sup>7</sup>

➤ **The editorial calls for unionization by industry not workplace.**

- According to the Aug. 21, 2019, *On Labor* editorial:

Many of the 2020 presidential candidates talk about banning right to work laws... or tweaking the rules to make it a little bit easier for workers to join unions. But to truly improve the lives of working people, we need all of them to think even bigger. We need to make it possible for all workers to join together across employers, industries, and geographies... not workplace by workplace by the dozens, but by the hundreds of thousands and millions. We need workers who have been historically excluded from labor law to be included.<sup>8</sup>

### **Workplace Confidentiality**

➤ **In 2022, Berner and the SEIU submitted a brief attacking workplace confidentiality agreements.**

- According to the SEIU's amicus brief:

The NLRA protects workers' right to discuss the terms and conditions of their employment and prohibits employers from interfering with that right. Employee discussion of workplace arbitrations is in most cases doubly protected under this rule: The procedure used to resolve workplace disputes is always an important term and condition of employment that workers have a right to discuss, and any dispute giving rise to a workplace arbitration is likely about employment terms and conditions as well. Employer-imposed confidentiality clauses that prevent employees from discussing workplace arbitrations are therefore illegal in most cases because they interfere with worker communications that are protected by the NLRA.

The Federal Arbitration Act does not save confidentiality clauses that are illegal under the Act. The FAA invalidates contract provisions or defenses that interfere with arbitration's "fundamental attributes," *Epic Sys. Corp. v. Lewis*, 138 S. Ct. 1612, 1622 (2018), but confidentiality is not and never has been a fundamental attribute of arbitration. By contrast, discussions among co-workers, especially about labor

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<sup>7</sup> Berner, "2020 Presidential Endorsement on Demand for "Unions for All," [OnLabor](#), Aug. 21, 2019

<sup>8</sup> Berner, "2020 Presidential Endorsement on Demand for "Unions for All," [OnLabor](#), Aug. 21, 2019

disputes, are at the core of the NLRA's. protections. See 29 U.S.C. § 157; cf. *Epic Sys.*, 138 S. Ct. at 1625.

Because employer-mandated confidentiality clauses often interfere with employee rights protected by the Act and are not saved by any provision of the FAA, the Board should overturn its incorrect California Commerce Club decision and hold that employers violate the NLRA when they force employees to keep confidential information regarding terms and conditions of employment, including information related to arbitration, unless one of the already recognized, limited exceptions to the Act's protections applies.<sup>9</sup>

## **Opposed Proposition 22**

### **➤ Berner represented the SEIU in its fight against Proposition 22 in California.**

- According to a Feb. 12, 2021, *Law 360* article:

California's voter-approved ballot measure that classifies some app-based drivers as independent contractors must be struck down because it infringes on the state Legislature's power to set workers' compensation laws, a group of drivers and the Service Employees International Union said in a state court.

In a suit filed Thursday in California Superior Court, Alameda County, four drivers for services including Uber Technologies Inc., Lyft Inc. and DoorDash Inc., joined with SEIU and its California chapter in reviving a bid to strike down Proposition 22, which passed during the November election. The California Supreme Court dismissed a virtually identical filing from the same group earlier this month, but said it could be refiled "in an appropriate court."

The group argued that the ballot initiative's classification of drivers as independent contractors instead of employees usurped the Legislature's "unlimited" power under the state constitution to set workers' compensation laws.

[...]

SEIU is represented in-house by Nicole Berner and Steven Ury.<sup>10</sup>

### **➤ Proposition 22 was put on the ballot in California after freelance workers were devastated by the effects of Assembly Bill 5.**

- According to a Feb. 13, 2023, *City Journal* article:

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<sup>9</sup> *Ralphs v. Brown*, [Amicus Brief](#), March 21, 2022

<sup>10</sup> Tim Ryan, "Union, Drivers Say Calif. Prop 22 Is Unconstitutional," [Law 360](#), Feb. 12, 2021



Since AB5 took effect on January 1, hundreds of thousands of Californians are finding their businesses in tatters. Musicians can't join bands for a one-night gig, chefs can't join forces with caterers, nurses can't work at various hospitals, and writers must cap their submissions per media outlet to 35 per year. Under the law, these freelancers can no longer conduct the same business-to-business transactions they have for years or even decades. Clients with whom they fostered valuable relationships are gone—as are their successful careers and incomes. An overwhelming majority of professionals in fields affected by AB5 identify as liberals and have generally voted along the blue line. Today, however, many are so disillusioned with their representatives that they're changing political loyalties.

When Gloria Rivera, a San Diego-based, Peruvian-born translator and interpreter, achieved U.S. citizenship, the first thing she did was register as a Democrat. “Now I'm seeing a lot of people like me who are either going Independent or Republican,” she says, “myself included. The Democrats are not listening to us.”

Lorena Gonzalez, the San Diego assembly member who authored AB5, faces public condemnation wherever she goes. Online and in person, independent contractors are confronting Gonzalez and demanding a repeal of the law. Her condescending response: independent contractors need the protection of union-driven labor laws. In a damning KUSI news interview, Gonzalez denied that AB5 has resulted in widespread income loss. Her dismissive attitude has fueled outrage against Democrats. “Lorena Gonzalez is doing a great job turning everybody red,” says Rivera.<sup>11</sup>

### **SEIU Local 200 v. Trump Administration**

➤ **In 2019, Berner led an SEIU lawsuit against the Trump administration challenging three 2018 workforce orders.**

- According to an Aug. 16, 2019, *Government Executive* article:

Local 200 United of the Service Employees International Union is suing President Trump and acting Office of Personnel Management Director Margaret Weichert in the U.S. District Court for the Western District of New York, alleging that three workforce orders signed in May 2018 exceeded the president's constitutional authority and violated the 1978 Civil Service Reform Act.

The executive orders in question seek to shorten the length of performance improvement plans to 30 days, exempt adverse personnel actions from grievance proceedings, streamline collective bargaining negotiations, and significantly reduce the number of work hours union members can spend on official time.

They have been the subject of a protracted legal battle between more than a dozen federal employee unions and the Trump administration. Although a federal judge in

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<sup>11</sup> Erica Sandberg, “A California-style Brexit,” [City Journal](#), Feb. 13, 2020

Washington, D.C., issued an injunction blocking the implementation of key provisions of the orders in August 2018, a three-judge panel at the D.C. Circuit Court overturned that decision last month on jurisdictional grounds. The injunction will remain in place until unions have an opportunity to appeal or ask for a rehearing by all 11 judges of the D.C. Circuit.<sup>12</sup>

### **Farmworkers Land**

➤ **Berner believes that union representatives should be able to trespass on farmland during non-working hours.**

- According to a June 24, 2021, *NPR Morning Edition* article:

STEVE INSKEEP: The Supreme Court has once again tightened the leash on labor unions and their ability to organize workers. The spotlight was on the United Farm Workers and a California law which allowed union organizers to enter farms to speak to workers during non-working hours for a limited number of days each year. Here's NPR legal affairs correspondent Nina Totenberg.

NINA TOTENBERG: By a 6-3 vote along ideological lines, the conservative court majority gutted a California regulation enacted nearly 50 years ago after a campaign by famed union organizer Cesar Chavez. The court said that the law unconstitutionally appropriated private land by allowing union organizers to go on to farm property to drum up union support. The decision, however, stopped short of imposing similar restrictions on the federal labor law, and the court said its decision did not apply to government health and safety inspectors and their access to private property. Federal protections for union access to the worksite were first enacted in the 1930s, but farmworkers were excluded from the law, an exclusion that California sought to make up for nearly a half-century ago.

[...]

NINA TOTENBERG: Other union leaders echoed that sentiment. Nicole Berner, general counsel for the Service Employees International Union, says if workers learned anything during the pandemic, it was that they needed a union to defend their rights.

NICOLE BERNER: Farmworkers kept working to keep food on all of our tables, and now, because of today's ruling, they'll face even greater obstacles in their efforts to improve their working conditions.<sup>13</sup>

### **Political**

#### **“Right to Work” and “Anti-Worker Extremists”**

<sup>12</sup> Erich Wagner, “Another Union Sues to Block Trump Workforce Orders,” [Government Executive](#), Acc. 2023

<sup>13</sup> Nina Totenberg, “Supreme Court Justices Hand Farmworkers Union A Loss,” [NPR Morning Edition](#), June 24, 2021

➤ **In 2018, Berner referred to proponents of “right to work” laws as “anti-worker extremists.”**

- According to a May 22, 2018, *Scotusblog*:

In recent years it has become increasingly common to hear chatter — even among progressives — that labor unions and worker organizing are obsolete relics of past glories.

Yet anti-worker corporate interests have never lost sight of the fact that workers can wield enormous power when they join together to protect workplace rights. The “Fight for \$15 & a Union” campaign, supported by the Service Employees International Union, and the recent wave of teacher activism are only the most recent examples of what workers can accomplish when they act in concert. It is precisely to undermine this power that corporate interests and billionaire-funded extremists rush to pass “right to work” legislation wherever they can and why they have funded an extended battle in the courts to attack unions and divide workers.

The Supreme Court yesterday, in a 5-4 decision, gave another victory to these anti-worker extremists. Under yesterday’s Epic Systems opinion, the Supreme Court majority gave employers the green light to force their employees, as a mandatory condition of employment, to forfeit their decades-old right to join together with co-workers in class or collective actions, or even with just a single co-worker, to pursue claims for stolen wages, sex, race, age, or other discrimination and other workplace claims.<sup>14</sup>

### **Podcast Appearance**

➤ **In 2020 podcast appearance, Berner claimed workers face a “rigged economy,” “unprecedented attacks on our democracy and voting rights,” and “systemic racism that has always been part of the country.”**

- According to the Dec. 22, 2020, American Constitution Society podcast:<sup>15</sup>

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<sup>14</sup> Berner and Prestel, “Symposium: Latest assault against workers by the Supreme Court,” [Scotusblog](#), May 22, 2018

<sup>15</sup> “A More Perfect Union,” [American Constitution Society](#), Dec. 22, 2020



**Editor’s Note:** Berner claimed that all government funding should be contingent on the right to join a union, and a \$15 minimum wage.

### **Speculated that Supreme Court Could Impose “Right to Work”**

- **In 2014, Berner speculated that a Supreme Court decision could impose “Right to Work” on all 50 states.**
  - According to a June 19, 2014, *Pekin Daily Times* article:

The court’s already used the 1st Amendment’s free-speech guarantee to declare that “money is speech” and let the cash flow in “McCutcheon” and “Citizens United.” But SEIU lawyer Nicole Berner said the justices may use the amendment’s right of free association to grant the Right To Work forces’ demand: To bar unions from collecting money — even money just for contract bargaining and administration — from their own members.

If the Supreme Court rules against organized labor, the court would turn all 50 states into Right To Work (for Less) states where unions are prohibited from negotiating contracts calling for dues deductions — states where unions are weakened, wages are lower and workers have fewer “rights.”

The Supreme Court would be saying “our whole collective bargaining system violates the 1st Amendment,” Berner said.

Her warning came at a panel discussion at the Center for American Progress, a progressive think tank, about a week after Sullivan’s remark. Although Berner’s panel discussed the 1st Amendment — which guarantees freedom of speech, religion, the press, assembly and to seek redress for grievances — comments turned to campaign finance and the Supreme Court.

“The Right To Work Committee and home-care attendants in Illinois [a few who objected to a majority vote to organize and affiliate with SEIU] said that by charging a fee for administering the contract, the union was violating their 1st Amendment right of free association,” Berner said. “This decision would weaken the entire labor movement and the whole progressive community, because of the strength labor provides.”<sup>16</sup>

## Associations

### Demand Justice

- **In 2019, Demand Justice included Berner on its short list of potential Supreme Court nominees.**

- According to the Nov. 16, 2023, *Reuters* article:

The progressive group Demand Justice has since 2019 included Berner on a short-list of potential Supreme Court nominees. Its co-founder, Chris Kang, on X called her "a home run pick and one of Biden's best — which is tough competition!"<sup>17</sup>

- **Demand Justice believes in “expanding” the Supreme Court.**

- According to Demand Justice:

The Supreme Court is controlled by a 6-3 Republican supermajority that is putting our rights and our democracy at risk. The Court is unethical, unaccountable, and out of control, and it must be reformed.

Reforming the Court starts with adding four new justices who will restore balance and integrity. Congress has changed the number of justices on the Court a half-dozen times throughout American history, and it can do so again at any time. And the movement to expand the Court is growing, with more than 60 supporters in Congress and a growing coalition of progressive organizations.

To depoliticize the courts and make sure all Americans get a fair shot in court, Demand Justice also supports: term limits for Supreme Court justices, Supreme Court ethics reform, and lower court expansion.<sup>18</sup>

## Law Forward

- **Berner is a member of Law Forward’s legal advisory board.**

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<sup>16</sup> Bill Knight, “Supreme Court could gut workers’ unions,” [Pekin Daily Times](#), June 19, 2014

<sup>17</sup> “Biden nominates union lawyer...,” [Reuters](#), Nov. 16, 2023

<sup>18</sup> “Reform the Supreme Court,” [Demand Justice](#), Acc. 2023



- According to James and Hoffman:

Ms. Berner currently serves on the board of directors of Jobs with Justice and the National Partnership for Women and Families, and is a member of the Legal Advisory Board of Law Forward in Wisconsin.<sup>19</sup>

➤ **Law Forward accuses the “rightwing” of undercutting democratic norms.**

- According to Law Forward:

Our co-founders, Jeff Mandell and Doug Poland, had the idea of a progressive organization that would defend Wisconsin from rightwing attacks and grow our state’s proud, progressive traditions. Their vision to build an organization that stands up to the minority-rule being propped up by legislative leadership and fight back against a systematic effort to undercut democratic norms and disenfranchise voters is a reality today. At its core, Law Forward exists to protect democracy. The mission started with redistricting litigation and a public education campaign, an effort led by Law Forward’s original staff attorney, Mel Barnes, who now serves as Governor Tony Evers’ chief legal counsel. We strove to put a stop to the current gerrymander, one of the most consequential issues affecting democracy in Wisconsin. At the time Law Forward launched we could not have imagined all the work that would prove necessary just to preserve voting rights and fair election administration. Today, Law Forward works on multiple fronts to fight for a state where Wisconsinites can participate in free, fair elections where their votes matter.<sup>20</sup>

**American Constitution Society (Term Ended June 2020)**

➤ **Berner was a board member of the American Constitution Society.**

- According to a June 13, 2017, Targeted News Service press release:

The American Constitution Society for Law and Policy issued the following news release:

The American Constitution Society for Law and Policy (ACS) today announced the election of two new Board Members and two new members of its Board of Advisors.

The new Board Members are:

\* Nicole G. Berner, General Counsel, Service Employees International Union

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<sup>19</sup> Berner, [James and Hoffman](#), Acc. 2023

<sup>20</sup> Our Story, [Law Forward](#), Acc. 2023

\* Ambassador (ret.) Keith M. Harper, Partner, Kilpatrick, Stockton & Townsend LLP

"The ACS Board and Board of Advisors provide the thought leadership and engagement in local, state and national issues that make the law a force for positive change," said ACS President Caroline Fredrickson. "Nicole Berner and Ambassador Keith Harper bring serious firepower to the ACS board."

Nicole G. Berner is General Counsel of the Service Employee International Union (SEIU). After joining the SEIU legal department in 2006, she represented SEIU in a number of cases before federal court of appeals and the U.S. Supreme Court involving labor law and marriage equality. Her current cases include one of the challenges to President Trump's Muslim travel ban.

Before her tenure at SEIU, Nicole was a staff attorney at Planned Parenthood Federation of America, and a litigation associate at Jenner & Block in Washington. She also served as a judicial clerk to the Honorable Betty B. Fletcher of the Ninth Circuit and to Chief Judge Thelton E. Henderson of the Northern District of California.

"I am delighted, humbled and honored to join ACS's board," Berner said. "I look forward to facilitating the great partnership between ACS and SEIU."

Nicole earned her Bachelor of Arts from the University of California, Berkeley, and concurrently received her Juris Doctor and Masters in Public Policy from Berkeley as well.<sup>21</sup>

➤ **The group was launched as an alternative to the Federalist Society.**

- According to a Jan. 23, 2019, *Politico* article:

There actually is one liberal analog to the Federalist Society, but chances are you haven't heard of it: the American Constitution Society, founded in 2001, after the Supreme Court decision that effectively handed the presidency to George W. Bush. In the wake of what ACS President Caroline Fredrickson calls the "Aha! moment," ACS was launched as a conscious response to the Federalist Society. Their operations are mirror images: conferences, chapters of law students and practicing attorneys, and education projects.<sup>22</sup>

➤ **Group has received over \$1 million from the Ford Foundation.**

- According to a Foundation Search on ACS:<sup>23</sup>

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<sup>21</sup> "American Constitution Society Announces New Board Members," [Targeted News Service](#), June 13, 2017

<sup>22</sup> Evan Mandery, "Why There's No Liberal Federalist Society," [Politico](#), Jan. 23, 2019

<sup>23</sup> ACS, [Foundation Search](#), Acc. 2023

Foundation	Recipient Name	Amount	Year
THE FORD FOUNDATION	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$100,000	2016
THE FORD FOUNDATION	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$100,000	2015
THE FORD FOUNDATION	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$200,000	2015
THE FORD FOUNDATION	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$100,000	2014
THE FORD FOUNDATION	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$100,000	2013
THE FORD FOUNDATION	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$200,000	2013
THE FORD FOUNDATION	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$200,000	2012
THE FORD FOUNDATION	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$200,000	2011
THE FORD FOUNDATION	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$200,000	2006
THE FORD FOUNDATION	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$200,000	2005
THE FORD FOUNDATION	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$100,000	2004
THE FORD FOUNDATION	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$100,000	2003

Editor's

**Note:** The most recent grants were given for “Final core support for the Immigration Program to serve as a legal resource to the immigrant rights community at the local state and national levels.”

➤ **Group received funding from George Soros' Open Society Institute.**

- According to a Foundation Search for ACS:<sup>24</sup>

Foundation	Recipient Name	Amount	Year
OPEN SOCIETY INSTITUTE	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$1,000,000	2009
OPEN SOCIETY INSTITUTE	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$1,000,000	2007
OPEN SOCIETY INSTITUTE	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$1,000,000	2008
OPEN SOCIETY INSTITUTE	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$500,000	2006
OPEN SOCIETY INSTITUTE	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$500,000	2005
OPEN SOCIETY INSTITUTE	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$270,000	2004
OPEN SOCIETY INSTITUTE	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$250,000	2002
OPEN SOCIETY INSTITUTE	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$250,000	2003
OPEN SOCIETY INSTITUTE	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$250,000	2004
OPEN SOCIETY INSTITUTE	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$156,500	2005
OPEN SOCIETY INSTITUTE	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$100,000	2009
OPEN SOCIETY INSTITUTE	AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY	\$25,000	2006

**National Partnership for Women and Families Inc.**

<sup>24</sup> ACS, [Foundation Search](#), Acc. 2023

➤ **Berner is a board member of the National Partnership for Women and Families.**

- According to the 2022 990:<sup>25</sup>

(14) NICOLE BERNER

.....  
BOARD DIRECTOR

➤ **President of the group claimed Republican proposals are an “all-out assault on women’s quality of life and ability to thrive in our economy.”**

- According to a Nov. 13, 2023, *Ms. Magazine* article:<sup>26</sup>

These proposed cuts explain, in part, why Congress is turning to continuing resolutions, a stopgap mechanism to keep the government running, instead of a full-year appropriations bill. Republicans disagree about the extent of the spending cuts, and Democrats see many of them as nonstarters.

In a press release from September on the appropriations bill put forth by House Republicans, Jocelyn C. Frye, the president of the National Partnership for Women & Families, said that even though “[t]heir proposals outline an all-out assault on women’s quality of life and ability to thrive in our economy,” the “infighting between different GOP factions seems focused on whether their extreme cuts are extreme enough.”

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<sup>25</sup> NPWF, [X](#), 2022

<sup>26</sup> Morgan Carmen, “Under the Threat of Another Government Shutdown,” [Ms. Magazine](#), Nov. 13, 2023