



Auto Safety Group • Congress Watch • Energy Program • Global Trade Watch • Health Research Group • Litigation Group  
Joan Claybrook, President

President Barack Obama  
1600 Pennsylvania Ave, N.W.  
Washington, DC 20500

February 2, 2009

Dear President Obama,

Press reports indicate that Mayer Brown lobbyist Mark Gitenstein is your top choice to head the Justice Department's Office of Legal Policy (OLP). If this is true, I urge you to reconsider.

As the enclosed short report illustrates, Gitenstein's lobbying activities cut directly against your stated values. You have called for a legal system that shows compassion for those with relatively little power, but Gitenstein has lobbied to strengthen the legal rights of the powerful at the expense of the powerless. You have called for greater accountability in the financial services industry, but Gitenstein has fought accountability for financial institutions.

Appointing Gitenstein would conflict with your policy that individuals in the executive branch should not work in issue areas in which they lobbied on behalf of clients in the past two years. Gitenstein has long lobbied for the U.S. Chamber of Commerce on what it terms "legal reform issues," a euphemism for limiting consumer remedies and insulating corporations from accountability. These issues are an important part of the Justice Department's legal policy domain. Indeed, just last year the Justice Department took a position before the Congress on a "legal reform" issue on which Gitenstein appears to have lobbied for AT&T—binding mandatory arbitration.

OLP's role in judicial selection also makes Gitenstein an inappropriate candidate. The Chamber of Commerce has campaigned for more than thirty years to populate the courts with pro-business judicial activists—and in particular judges who enact its vision of "legal reform." A lobbyist for the Chamber on those very issues should not be put in a position to influence the selection of judges. The appointment would create the appearance, if not the reality, that judicial nominees will tend to favor the powerful at the expense of ordinary Americans.

The American people deserve better than to have an opponent of their legal interests placed in a key Justice Department policy position. I urge you to appoint an individual who has demonstrated much more of a commitment to the public interest.

Sincerely,

David Arkush  
Director, Public Citizen's Congress Watch division