



## **On the Merits: The Records of Janice Rogers Brown and Priscilla Owen Reveal Rigid Opposition to Critical Rights for Women**

In the highly charged fight over judicial nominations, two female judicial nominees – Janice Rogers Brown, a California Supreme Court justice nominated to the DC Circuit Court of Appeals, and Priscilla Owen, a Texas Supreme Court justice nominated to the 5<sup>th</sup> Circuit Court of Appeals – have taken center stage. While the headlines are likely to focus on their gender, it is not enough to simply nominate women; what matters most is their records.

Empty symbolism is no substitute for a demonstrated commitment to women’s rights and women’s progress. The records of Justice Brown and Justice Owen are clear and unambiguous – both have worked consistently to roll back basic civil rights, women’s rights, worker rights, and consumer protections. Based on their records, neither of these nominees merits elevation to a higher court.

### **A Closer Look at the Record**

Careful analysis reveals both Justice Brown and Justice Owen have long, troubling records that, if repeated at the higher court level, would turn back the clock for many women across the country.

**Justice Janice Rogers Brown**, known for her sharply worded opinions and inflammatory rhetoric, would make it harder for women to challenge discrimination, access health care services, and use government programs. Her views would put a number of our cherished civil rights and civil liberties at risk:

- ③ **Protections from Racial and Sexual Harassment in the Workplace:** In a case brought by a group of Latino employees, she argued that the use of racial slurs in the workplace was protected by the First Amendment. Fortunately, her views did not prevail. Her analysis would have impeded efforts by employers to prevent racial and sexual harassment in the workplace.
- ③ **Protections from Discrimination in jury selection:** In a case evaluating whether Black women were removed from a jury in a discriminatory manner, she disagreed with an existing California Supreme Court ruling that recognized Black women as a protected class in all jury selection proceedings. In other words, Justice Brown would have allowed jury selection procedures that could eliminate all Black women from the jury pool.
- ③ **Access to Health Care:** She was the lone dissenter in a precedent-setting decision by the California Supreme Court, which ruled that a charitable organization that

provides health care coverage to its employees cannot refuse to cover contraception for religious reasons.

- ③ **Participation in Government Programs:** She has denigrated those who use government programs. She likens reliance on government programs to slavery and drug addiction, calling them the “drug of choice” for single moms and others. She has said that today’s senior citizens “blithely cannibalize their grandchildren because they have a right to get as much ‘free’ stuff as the political system will permit them to extract.”
- ③ **Affirmative Action:** She has staunchly opposed affirmative action and has disparaged decisions upholding such programs. In doing so, she has ignored the important role of affirmative action in preventing discrimination and expanding opportunities for women and people of color.

**Justice Priscilla Owen** has demonstrated a disturbing pattern of hostility toward reproductive rights, worker rights, and plaintiffs while on the Texas Supreme Court. Her views would put a number of our cherished civil rights and liberties at risk:

- ③ **Protecting the Rights of Individuals:** She frequently sides with corporate interests and insurance companies over individual claimants. In doing so, she often disregards jury verdicts and the actual intent of the law.
  - She dissented from a decision to uphold a jury verdict against the owner of the convenience store that sold alcohol to a drunk driver. In making these arguments, she ignored the clear intent of the Texas legislature to hold such providers liable, and its mandate that the courts construe the law liberally to protect the public from drunk drivers and punish those businesses that serve them.
  - She sided with a tire company in a case involving the claim of a man seriously injured when the rim on the tire he was mounting exploded. Although the product contained a manufacturer’s warning, the tire company knew there was a design problem and chose not to use a safer alternative product design. The Texas Supreme Court affirmed the jury’s verdict for the injured man, but Owen joined the dissent, which criticized the majority’s ruling and favored circumventing the jury’s conclusions.
- ③ **Reproductive Health:** She consistently has favored restricting or denying access to reproductive health care services, showing herself to be unsympathetic to plaintiffs. In numerous cases, she has restrictively interpreted a Texas law that allows a judge under special circumstances to authorize a young woman’s abortion without parental consent, such as when necessary to avoid abusive situations. Her overly narrow analysis even drew criticism from her colleague Attorney General (then Texas Supreme Court Justice) Alberto Gonzales, who