



November 30, 2020

**VIA ELECTRONIC MAIL**

Tiffany Liston, Esq., Interim Executive Director  
MFJ Board of Directors

**RE: MOBILIZATION FOR JUSTICE’S RELATIONSHIP WITH JONES DAY**

The staff union of Mobilization for Justice, Inc. (“MFJ”), part of the Legal Services Staff Association Local 2320 (“LSSA 2320”), write to express our vehement objection to MFJ management’s continued professional relationship with the law firm Jones Day. As detailed below, Jones Day plays a deeply troubling role in the Trump Administration and its ongoing attempts to thwart the results of the 2020 general election.<sup>1</sup> MFJ’s relationship with Jones Day, and Jones Day partner Jessica Kastin, is indefensible and undermines our mission to achieve “equal justice for all.” The MFJ staff union, having previously communicated our outrage to MFJ Interim Executive Director Tiffany Liston, now urges the MFJ Board to immediately and permanently cease use of any legal services provided by Jones Day.

Jones Day is aiding and abetting the efforts of the Trump Administration to disenfranchise voters and disrupt the peaceful transition of power to the Biden Administration. Specifically, Jones Day represents the Republican Party of Pennsylvania in litigation attempting to discard absentee ballots cast and postmarked prior to Election Day in the midst of a pandemic.<sup>2</sup> The move was so controversial that attorneys at the firm have come out publicly, alleging that senior Jones Day attorneys oppose the election litigation because they “are worried that [Jones Day] is advancing arguments that lack evidence and may be helping Mr. Trump and his allies undermine the integrity of American elections.”<sup>3</sup> Jones Day continues to prosecute the frivolous election challenge, which remains pending before the Supreme Court of the United States. While other firms have withdrawn, Jones Day has not.<sup>4</sup>

It is not surprising that Jones Day refuses to disassociate from the Trump Administration. For years, Jones Day has profited, both financially and politically, from pushing the Trump agenda. Since 2015, Jones Day has earned at least \$20 million from representing

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<sup>1</sup> See generally Jessica Silver-Greenberg, Rachel Abrams, and David Enrich, “Growing Discomfort at Law Firms Representing Trump in Election Lawsuits,” *N.Y. Times* (Nov. 9, 2020), available at <https://www.nytimes.com/2020/11/09/business/jones-day-trump-election-lawsuits.html>.

<sup>2</sup> Sam Skolnik, “Jones Day, Porter Wright Tiptoe Ethical Line in Voting Suits (1),” *Bloomberg Law* (Nov. 10, 2020), <https://news.bloomberglaw.com/us-law-week/jones-day-porter-wright-vote-suits-may-fail-but-likely-ethical>.

<sup>3</sup> See Silver-Greenberg, Abrams, and Enrich, *supra* n.1.

<sup>4</sup> Jones Day, “Jones Day Statement on Election Litigation” (November 2020), <https://www.jonesday.com/en/news/2020/11/jones-day-statement-regarding-election-litigation>.



Trump-affiliated groups.<sup>5</sup> After Trump assumed office, at least fourteen Jones Day lawyers associates joined the Administration.<sup>6</sup> Notably, Jones Day partner Donald McGahn served as White House Counsel, where he masterminded the scheme to pack federal courts with right-wing judges.<sup>7</sup> Weeks ago, a lame-duck Senate confirmed a Jones Day attorney to the federal bench in Florida, despite the fact that she received a “not qualified” rating from the American Bar Association.<sup>8</sup>

Starting in September 2020, MFJ staff individually brought their objections to management about Jones Day’s involvement in the Trump Administration’s election interference. On November 16, 2020, Chief Development Officer Eric Alterman issued an internal memorandum entitled “Statement on MFJ Pro Bono Work with Jones Day.”<sup>9</sup> The memorandum states that MFJ “abhors any attempt to undermine the clear will of the American people as clearly expressed in the recent election.” However, the memorandum goes on to defend the work of Jones Day, and rationalize MFJ’s continued relationship with the firm because “every law firm has at least one client or lawsuit that we do not support.” In response, more than 30 MFJ staff emailed individual statements opposing MFJ management’s continued relationship with Jones Day.<sup>10</sup> At a meeting of the MFJ Diversity, Equity, Inclusion, and Anti-Racism (“DEIAR”) Committee on November 20, 2020, participants (including union members as well as middle and upper management) voted 32-0 in favor of MFJ immediately terminating its relationship with Jones Day. As of the date of this letter, MFJ management has refused to disassociate in any way with Jones Day.

Jones Day directly harms our clients and staff. By advancing arguments designed to subvert democracy, the firm emboldens a white supremacist president whose policies disproportionately hurt the Black and Brown low-income clients which MFJ primarily serves. If a mission-driven, social justice-oriented nonprofit organization such as ours cannot find the

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<sup>5</sup> Jeff John Roberts, “Backlash against Jones Day, the law firm aiding Trump’s election challenge, begins to escalate,” *Fortune* (Nov. 12, 2020), available at <https://fortune.com/2020/11/12/jones-day-trump-election-lawsuits-court-pennsylvania-gop/>.

<sup>6</sup> Paul Barrett, “Donald Trump’s Favorite Law Firm,” *Bloomberg Businessweek* (March 16, 2017), available at <https://www.bloomberg.com/news/articles/2017-03-16/donald-trump-s-favorite-law-firm>.

<sup>7</sup> Tom McCarthy, “Ex-White House lawyer endured ‘some crazy shit’ from Trump, book reveals,” *The Guardian* (Aug. 26, 2020), available at <https://www.theguardian.com/us-news/2020/aug/26/donald-trump-v-united-states-book-don-mcgahn>.

<sup>8</sup> Jacqueline Thomsen, “Lame Duck Senate Confirms Trump’s Youngest Judge Yet,” *Law.com* (Nov. 18, 2020), <https://www.law.com/nationallawjournal/2020/11/18/lame-duck-senate-confirms-trumps-youngest-judge-yet/>

<sup>9</sup> See Appendix I.

<sup>10</sup> See Appendix II (samples of staff sentiment on this issue, which were circulated to all 130+ members of our organization across the Bronx and Manhattan).



courage to cut ties with a firm thwarting democracy, then we truly fear for our country. Now is the time for MFJ management and its Board to do the right thing, and immediately and permanently cease use of any legal services provided by Jones Day.

Sincerely,

/s/

The Unionized Staff of Mobilization for Justice, Inc.

TO:

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## APPENDIX I

November 16, 2020 memorandum from  
Chief Development Officer Eric Alterman

“Statement on MFJ Pro Bono Work with Jones Day

“Questions have been raised by some staff concerning Mobilization for Justice’s relationship with Jones Day, one of the law firms that has brought litigation related to the election. This email is to address that issue.

“Mobilization for Justice abhors any attempt to undermine the clear will of the American people as clearly expressed in the recent election.

“MFJ’s relationship with Jones Day is specifically with Jessica Kastin, who has been labor counsel to MFJ for over a decade, starting when she was an associate at Pillsbury Winthrop. She contributes hundreds of hours of pro bono assistance annually to MFJ to ensure compliance with labor and other laws to which employers are subject. Jones Day does not profit from the work done by Ms. Kastin for MFJ.

“Additionally, Jones Day has an impressive list of pro bono projects, including their having provided legal services to unaccompanied children and their families on the US border with Mexico since 2014. We wish Jones Day was not involved in the litigation brought by the Pennsylvania Republican party. That being said, every law firm has at least one client or lawsuit that we do not support.”



## APPENDIX II

Selected statements from MFJ in response to the November 16, 2020 memorandum

- “What does MFJ gain by maintaining this stance against its staff, compounded by the evil of what Jones Day is doing to this country? How is Jones Day so essential that it justifies the pain and harm to staff of maintaining this relationship?”
- “I can no longer remain [quiet] as I sit here across from the flag of a WWII Veteran who fought against oppression, religious intolerance, and White supremacy. If he were alive, what would he say to me if he knew that the organization I work for partners with a firm that supports the subversion of election results? The right thing to do is for MFJ to terminate its relationship with Jones Day. It is hypocritical to have done staff outreach and issue statements in the wake of the death of George Floyd and then in essence support an administration that would disenfranchise large swaths of the population.”
- “MFJ either supports our clients or supports a law firm that helps a dictator and a racist president in his attempt to delegitimize the elections. In the end, the choice is yours.”
- “I find it disturbing that the poignant and personal outcry from staff seems to hold so little weight. I can find no defensible decision to continue the affiliation with Jones Day. Our mission is purportedly “to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised or have disabilities.” These words ring hollow as long as we continue working with a firm who has chosen to actively undermine the results of an election and keep in office a person who has done irreparable harm to our democratic institutions, our country, and our clients.”
- “It is embarrassing that we would want to be associated with them. And it’s embarrassing that the response to staff concerns has been that sometimes Jones Day helps unaccompanied children, negating the ways in which charity work is often thrown in our faces to distract us from the massive levels of inequity. Jones Day isn’t a law firm with “an impressive list of pro bono projects”, but a firm doing the bare minimum to keep the masses from realizing just how unequal things are.”
- “Jones Day has decided to pursue litigation that directly threatens a free and fair election. In so doing, it pours oil on the fire of right-wing conspiracies of fraud and undermines our democracy. Given this abhorrent and shameful litigation decision, I am deeply disturbed that MFJ chooses to continue its relationship with Jones Day. As so many of my colleagues have pointed out, this moment requires action, not a precatory statement.”
- “I only want to say: actions are needed at this time, not empty words. This organization must stand up for the people and the institutions that have been, and continued to be,



harmful by this Administration. MFJ's statements about its commitment to social justice and racial equity are window dressing, without action consistent with those promises."