

FOR IMMEDIATE RELEASE: Friday, October 29, 2021

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ERA-resuscitation groups pressure Executive Branch officials to ignore judicial rulings and pretend that the Equal Rights Amendment has been ratified

WASHINGTON – Within the past 10 days, multiple political actors promoting resuscitation of the long-expired 1972 Equal Rights Amendment (ERA) have stepped up a campaign to pressure the Biden-Harris Administration, and the Justice Department in particular, to take actions that would effectively embrace claims that the ERA has been ratified and is now part of the Constitution – even though this would require Executive Branch officials to ignore both judicial rulings rejecting such claims, and public promises by senior Administration officials about how such legal questions will be handled.

On October 21, Congresswoman Carolyn Maloney (D-NY), chairwoman of the House Oversight and Reform Committee, sent a letter to President Biden urging that “the Administration rescind” a January 2020 opinion by the Justice Department’s Office of Legal Counsel (OLC) that said the ERA had expired in 1979, and that Congress lacked power to retroactively revive an expired amendment proposal. The same day, Maloney sent a letter directly to the Archivist of the United States, a political appointee, urging him “to certify and publish ERA [as part of the Constitution] without further delay.” Previously, Maloney sent President Biden [a letter](#) urging that he simply “direct” the Archivist to certify the ERA.

“Congresswoman Maloney’s demands simply ignore the holdings of federal Judge Rudolph Contreras, appointed by President Obama, who in March 2021 ruled that the ERA ratification deadline was effective, that it would have been ‘absurd’ for the Archivist to ignore the deadline, and that the ERA-related legislative actions by Nevada, Illinois, and Virginia came too late to count,” said Douglas Johnson, director of the NRLC *ERA Project*. Judge Contreras’ ruling is now before the U.S. Court of Appeals for the D.C. Circuit.

On October 28, the U.S. Senate confirmed Christopher Schroeder as Assistant Attorney General to head the OLC. At his June 23 confirmation hearing before the Senate Judiciary Committee, Sen. Charles Grassley (R-IA) asked Schroeder about the Administration’s intentions regarding the 2020 OLC opinion. Schroeder noted that the Archivist had said he would follow a final court order, that the matter was being litigated in the federal courts, and that “[I think we will be all best suited if we allow the litigation process to answer that question.](#)” Schroeder also said that to re-examine the OLC opinion would require an official request, “which I doubt that we would receive, because of the nature of the ongoing litigation.”

Nevertheless, as soon as Schroeder was confirmed, *ERA Coalition* President Carol Jenkins sent Attorney General Merrick Garland a [letter](#), urging him to “direct” Schroeder to withdraw the 2020

opinion. The *ERA Coalition* also issued a press release suggesting that the Executive Branch was “obstruct[ing]” ratification of the ERA—again, ignoring Judge Contreras’ ruling, and other judicial rulings rejecting ERA-revival legal claims. The [press release](#) also misspelled Schroeder’s last name, three times.

“The purely political demands being made by the ERA Coalition, Congresswoman Maloney, and other ERA proponents, ignore multiple federal judicial rulings, and are heedless of public promises by President Biden, Attorney General Garland, and OLC head Christopher Schroeder that legal questions will not be dictated by White House policy preferences,” said NRLC’s Johnson.

Kamela Lopez, the president of another prominent pro-ERA group, *Equal Means Equal*, also issued a statement on October 28, in which she suggested that government officials are engaged in “criminality” and “crime” in failing to somehow make the ERA happen. Among the targets of her animus was Senator Ben Cardin (D-Md.), the chief sponsor of S.J. Res. 1, a measure that purports to retroactively “remove” the ratification deadline on the long-expired ERA. The chief lawyer for *Equal Means Equal*, Wendy Murphy, has repeatedly ridiculed the “deadline removal” measure (e.g., “It’s obvious that they [Congress] cannot retroactively remove a deadline” [ERA Summit, May 1]). Lopez also had harsh words for an October 1 “listening session” on ERA arranged by a White House staffer, which she called “laughable.”

Douglas Johnson, who authored [a recent article distilling four decades of legal efforts to revive ERA](#), commented, “Over a 40-year period, 23 federal judges and justices have taken adverse actions on ERA-revival legal claims. The ERA-is-alive legal theories have been scorned by judges of every political background. Not a single judge yet has accepted any element of the ERA-revival legal theories. The ERA-resuscitation campaign is an exercise in political theater, masquerading as a set of legal claims.”

Douglas Johnson, director of the National Right to Life ERA Project, is NRLC’s subject matter expert on the Equal Rights Amendment, an issue on which he has written and worked for 40 years. Mr. Johnson is available for telephone interviews or email exchanges to discuss the status of the ERA in Congress, the courts, and the Executive Branch. Johnson is also an expert on [the ERA-abortion connection](#), which many prominent champions of ERA spent decades denying, but now openly proclaim.

Founded in 1968, the National Right to Life Committee (NRLC), the federation of affiliates in each of the 50 states and the District of Columbia and more than 3,000 local chapters, is the nation’s oldest and largest grassroots pro-life organization. Recognized as the flagship of the pro-life movement, NRLC works through legislation and education to protect innocent human life from abortion, infanticide, assisted suicide and euthanasia.