

Received(Date): 25 MAR 2002 10:23:58
From: Anne Womack (CN=Anne Womack/OU=WHO/O=EOP [WHO])
To: Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@EOP [WHO]),
Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@EOP [WHO]), Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
Subject: : FW: Priscilla Owen in Balderdashle's Crosshairs

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR: Anne Womack (CN=Anne Womack/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 25-MAR-2002 10:23:58.00
SUBJECT: : FW: Priscilla Owen in Balderdashle's Crosshairs
TO: Lawrence A. Fleischer (CN=Lawrence A. Fleischer/OU=WHO/O=EOP@EOP [WHO])
READ: UNKNOWN
TO: Daniel J. Bartlett (CN=Daniel J. Bartlett/OU=WHO/O=EOP@EOP [WHO])
READ: UNKNOWN
TO: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
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FYI

----- Forwarded by Anne Womack/WHO/EOP on 03/25/2002
10:23 AM -----

Ted Delisi [REDACTED] P6/b(6)
03/25/2002 10:02:44 AM

Record Type: Record

To: John Cornyn [REDACTED] P6/b(6)
cc: Anne Womack/WHO/EOP@EOP
Subject: FW: Priscilla Owen in Balderdashle's Crosshairs

See correction a la TPJ bashing from Levin on Owen in the NYT.

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----- Forwarded Message

From: [REDACTED] P6/b(6)
Date: Sun, 24 Mar 2002 12:40:52 EST
To: undisclosed-recipients;
Subject: Priscilla Owen in Balderdashle's Crosshairs

<http://www.townhall.com/columnists/robertnovak/rn20020323.shtml>

Robert Novak

March 23, 2002

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NEXT JUDICIAL TARGET

With Federal District Judge Charles Pickering of Mississippi defeated for nomination to the 5th Circuit Court of Appeals, another nominee of President Bush for that court is likely to be targeted by Senate Democrats: Texas Supreme Court Justice Priscilla Owen.

The case against Owen, a conservative, involves her ruling in favor of the Enron Corp. in a 1996 tax case after receiving a judicial campaign contribution from the company. She received \$8,600 from Enron out of \$134,058 it gave to state Supreme Court members. The court ruled unanimously in Enron's favor in the tax case.

A footnote: Although Senate Democrats are stalling Bush's appellate nominees while permitting lower court choices to be confirmed, they may target University of Utah Prof. Paul Cassell's nomination for the federal district court in Utah. Cassell, a former federal prosecutor, is an advocate of replacing the Miranda rule.

New York Times Reports Falsehood on Justice Priscilla Owen, Runs Correction
By: Marc Levin

In a January 22 story on Texas Supreme Court Justice and Bush 5th Circuit nominee Priscilla Owen's ruling in a case involving Enron, the New York Times reported an outright falsehood. As noted in the correct January 22

Houston Chronicle story on the same subject, Justice Owen's ruling saved Enron \$225,000, not \$15 million as the Times claimed. Although after receiving an email from this author, the Times ran a correction and sent a response, the Associated Press actually made the same error, which has gone uncorrected.

The very first sentence of the New York Times article declared, "A Texas Supreme Court justice who has been nominated by President Bush to fill a vacant federal judgeship could face a fierce Senate confirmation fight because her critics say she once wrote an opinion that saved the Enron Corporation about \$15 million after accepting campaign contributions from the company."

Wrong. This misinformation on the case originated with Texas for Public Justice, a left-leaning, anti-business Austin lobby group funded primarily by plaintiffs' lawyers. Texas for Public Justice has been on a crusade against the Texas Supreme Court, but the New York Times and Associated Press uncritically accepted their misinformation on Owen's ruling in the Enron case as gospel.

The case concerned an arcane tax issue. The question was at which point during the year the volume of Enron's natural gas would be measured and therefore assessed tax by the Spring Branch Independent School District. As the Chronicle notes, the value of all the taxable natural gas was \$15,000,000. The difference in the tax levy depending on when the gas was inventoried for tax purposes (which was the only issue in the case) was

\$225,000, a very small amount of money for a company that was then one of the largest companies in America.

Of course, this entire issue is a pig in a poke. It was a unanimous decision based on the law. There is not a scintilla of evidence that Justice Owen's opinion was motivated by a campaign contribution she received from Enron.

In addition to their egregious error as to how much money the ruling saved Enron, the New York Times article also quotes "Dick Trabulsi with Texans Against Lawsuit Reform, a conservative judicial reform group,..." Of course, it is Texans For Lawsuit Reform (TLR). Moreover, repeating a common example of liberal bias, the New York Times labeled TLR as "conservative" but merely referred to the left-wing "Texans for Public Justice" as a "nonprofit group."

The correction that the Times ran was, to their credit, a full and accurate acknowledgement of the error concerning the amount of savings for Enron. It stated, "An article in Business Day on Tuesday about criticism of Justice Priscilla Owen of the Texas Supreme Court, a nominee for a federal judgeship who accepted campaign donations from Enron, misstated the amount of money saved by the company because of a decision she wrote, dealing with taxes owed to a local school district. It was \$224,988.65, not \$15 million. The larger sum, cited in her opinion as the district's revenue loss, was the amount by which the value of a piece of the company's land was lowered."

Mr. Bill Borders of the New York Times responded to my email seeking a correction, stating, "As you may have noticed, we published a correction of this error this morning. Of course it would have been better not to have made the error in the first place, which is why we try so hard to get things right. But if our publishing the error "demonstrates the extreme inaccuracy and bias of the New York Times," then what does our publishing the correction demonstrate?"

Perhaps it demonstrates that even liberals don't like being caught with their pants down.

----- End of Forwarded Message