



February 13, 2017 E-Newsletter

As with his war with the press, President Trump is engaging in a dangerous escalation campaign against the federal courts.



Like Trump's attacks on the media and the “fake news” narrative, the attacks on the federal courts are designed to both chill opposition to Trump's policies and to call into question the institutions set up to check the power of the presidency.

Over the weekend, President Donald Trump launched into another Twitter rant, this time attacking the legitimacy of a **“so-called” federal court judge who on Friday issued a nationwide injunction** blocking the Refugee and Visa Order cooked up by

Trump and his wingman Steve Bannon.

Federal District Court Judge James Robart is a 2003 George W. Bush appointee. Like Sally Yates—the former acting attorney general who also disagreed with the constitutionality of the order, known as the Muslim ban, and who was then promptly fired by Trump—Robart is a civil servant widely respected by Republicans and Democrats alike. In fact, the likely future Attorney General Sen. Jefferson Beauregard Sessions III (R-AL) **voted for his confirmation.**

And while it would be easy to write off Trump's latest Twitter tirade as just that—

Trump's latest Twitter tirade—it would be exceedingly foolish to do so. After all, each one aims to stifle opposition and dissent. So when those temper tantrums are directed at the federal courts, and specifically federal judges who issue orders in opposition to Trump's policies, we must pay attention to them.

Trump's latest outburst matters for several reasons. First, it is part of an ongoing effort by the administration to delegitimize the institution of the federal courts. This is important, because we'll likely see a lot of Trump's agenda end up in federal litigation...**Read More**

The \$2.5-billion mistake: A gullible Trump bought into Big Pharma's inflated claim about drug R&D costs

President Trump's meeting Tuesday with pharmaceutical executives was a theatrical display of chumminess in which all the parties seemed to share deep regret over high and soaring drug prices. It also was a one-stop shop of misconceptions and misinformation about the causes of high drug prices, and therefore a mishmash of solutions, most of which are a lot more complicated than Trump thinks, some of which won't work, and some of which are **disguised handouts** to the drug industry. We've addressed some of these complexities **here**, **here** and **here**. But let's focus for the moment on one of the most glaring misconceptions about the cause of high drug prices, which is the cost of pharmaceutical research and development. With the press watching before the meeting formally began, Trump addressed the cost of bringing a new drug to market thusly:

“I read where it costs sometimes \$2.5 billion — on average, actually — to come up with a new product... Fifteen years, \$2.5 billion to come up with a product where there's not even a safety problem. So it's crazy.”

Leaving aside the fact that a major part of R&D is aimed at determining *whether* there's a safety problem, Trump didn't say where he got that figure. But we know: He got it from the pharmaceutical industry, via the Tufts University Center for the Study of Drug Development, which is **heavily funded by the industry itself.**

A series of studies led by Joseph A. DiMasi, the center's director of economic analysis, has tracked Big Pharma's purported R&D going back to the 1990s. The **latest version**, published last year, put the figure of \$2.5 billion — actually \$2.556 billion in 2013 dollars — on the cost of bringing a drug to market.

But there are several issues with these

studies that have been raised by critics of the industry. One is that the raw data are confidential. The latest study is based on the R&D costs of 106 drugs made by 10 multinational companies but, in common with the previous studies, neither the drugs whose costs are analyzed nor the companies in the sample are revealed. The paper says only that five were among the top 10 in global sales, seven are in the top 25 and three are outside the top 25. ...**Read More**

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So it's crazy.—

President Trump gets the cost of drug R&D wrong



THE NEW TRUMP WHITE HOUSE SWAMP CONTINUES TO GROW

Elizabeth Warren formally silenced during Senate debate on Jeff Sessions nomination



Senator Elizabeth Warren

Senate Republicans voted on Tuesday night to silence Elizabeth Warren for reading out a letter from the widow of Martin Luther King during a debate over Senator Jeff Sessions' nomination for attorney general, eliciting furious response from Democrats.

Speaking on the Senate floor, Warren quoted from 30-year-old correspondence from Coretta Scott King relating to Sessions' failed judicial nomination in the 1980s. It was part of a barnstorming speech by the Massachusetts Senator against Sessions' suitability for the post and attacking his record on civil rights.

Mitch McConnell, the Republican

majority leader, objected that Warren had broken Senate rules that prohibit one member impugning the conduct of another. Senators then voted 49-43 to uphold a ruling in McConnell's favour.

Warren hit back on Twitter. She posted to her 1.74 million followers: "Tonight @SenateMajLdr silenced Mrs King's voice on the Sen floor - & millions who are afraid & appalled by what's happening in our country." Others on Twitter were posting with the hashtag #LetLiz Speak.

Late on Tuesday night, she read the letter on Facebook Live, writing, "During the debate on whether to make Jeff Sessions the next Attorney General, I tried to read a letter from Coretta Scott King on the floor of the Senate. The letter, from 30 years ago, urged the Senate to reject the

nomination of Jeff Sessions to a federal judgeship. The Republicans took away my right to read this letter on the floor - so I'm right outside, reading it now." Less than an hour after it was posted, the video had already received more than 1.1m views.

Donna Brazile, chairwoman of the Democratic National Committee, said: "It's a sad day in America when the words of Martin Luther King Jr's widow are not allowed on the floor of the United States Senate. Let Elizabeth Warren speak. The American people deserve to hear how Jeff Sessions is an extremist who will be a rubber stamp for this out-of-control Trump presidency."

[View the Senator's floor speech](#)
[View the letter from Mrs. King](#)

HHS Pick Price Made 'Brazen' Stock Trades While His Committee Was Under Scrutiny

Health and Human Services secretary nominee Tom Price showed little restraint in his personal stock trading during the three years that federal investigators were bearing down on a key House committee on which the Republican congressman served, a review of his financial disclosures shows.

Price made dozens of health industry stock trades during a three-year investigation by the Securities and Exchange Commission that focused on the Ways and Means Committee, according to financial disclosure records he filed with the House of Representatives. The investigation was

considered the first test of a law passed to ban members of Congress and their staffs from trading stock based on insider information.

Price was never a target of the federal investigation, which scrutinized a top Ways and Means staffer, and no charges were brought. But ethics experts say Price's personal trading, even during the thick of federal pressure on his committee, shows he was unconcerned about financial investments that could create an appearance of impropriety.

"He should have known better," Richard Painter, former White House chief ethics

attorney under President George W. Bush and a professor at the University of Minnesota Law School said of Price's conduct during the SEC inquiry.

As Price awaits a Senate vote on his confirmation, Senate Democrats and a number of watchdog groups have asked the SEC to investigate whether Price engaged in insider trading with some of his trades in health care companies.[Read More](#)

This is the same guy that wants to cut Social Security, Medicare & Medicaid.



GOP Mega-Donor Betsy DeVos Confirmed as Education Secretary

"In my mind, she is the least qualified nominee in a historically unqualified cabinet," Sen. Chuck Schumer (D-NY) said Monday on the Senate floor. On conflicts of interest, she ranks among the worst."

Longtime conservative donor Betsy DeVos was confirmed in her role as secretary of the U.S. Department of Education Tuesday after a contentious battle in the U.S. Senate over her nomination.

The 51-50 confirmation went through when Vice President Mike Pence cast a [historic vote](#) on the matter, breaking a

tie after Republican Sens. Susan Collins (ME) and Lisa Murkowski (AK) opposed DeVos. Pence is the [first vice president](#) in the country's history to cast a tie-breaking vote for a cabinet nomination.

All 48 members of the Senate's Democratic caucus voted against Trump's education pick.

DeVos and her family foundations have spent millions supporting anti-choice Republicans and organizations, including fake clinics, also known as "crisis pregnancy centers," which lie to patients about abortion care. Many of the U.S. Senators DeVos and her family helped

fund voted Tuesday for her confirmation, including Sens. Pat Toomey (R-PA) and Tim Scott (R-SC).

In a huge blow to public schools, Senate Republicans just confirmed Betsy DeVos as Education Secretary.

Betsy is a billionaire with no education degree, no experience as an educator, who never attended public school, whose kids all went to private school, and who supports taking money from public schools and giving it to for-profit religious schools. Oh, but her family has gifted \$8.3 million to Republicans.

Republicans are selling our public schools to the highest bidder.



Another Poll Found President Trump's Approval Rating Is Historically Low



President Donald Trump, who entered the White House with historically low approval ratings, continues to receive record high disapproval

ratings compared to his predecessors.

Two weeks into Trump's presidency, a majority of people (53%) disapprove of how he is handling the job, while just 44% approve, according to a CNN/ORC poll released Friday. Those numbers reflect the highest disapproval rating for a

newly elected president since such figures were first tracked, according to CNN.

By comparison, former President Ronald Reagan's initial approval rating of 51% was only slightly higher than Trump's, but his disapproval rating (13%) was not nearly as high.

The poll results were sharply divided along partisan lines, with 90% of Republicans voicing approval for Trump and just 10% of Democrats saying the same.

CNN's survey echoes the results of a recent Gallup poll, which found Trump to be the first president in the history of

Gallup surveys with an initial job approval rating below 50%.

Since his inauguration, Trump has faced several high-profile protests, including a swift backlash to his immigration order last week. Americans surveyed by CNN were divided in their views on the immigration ban. While a majority (53%) said they oppose the order, 47% said they favor it.

The CNN survey of 1,002 adults, conducted between Jan. 31 and Feb. 2, has a margin of error of plus or minus three percentage points.

Trump's rollback of the investment conflict-of-interest rule is a direct attack on middle-class savings

Donald Trump who ran for office disguised as a friend of the working person, acted Friday to place that person's retirement savings again at the mercy of Wall Street sharks.

By executive order, Trump imposed a six-month delay on the so-called fiduciary rule implemented by the Obama Administration's Department of Labor and set to go into effect April 10. The idea ostensibly is to give policymakers time to review the rule and revise it if necessary. If you think the result of this process will be to make the rule more worker-friendly and less forgiving for banks, insurance companies and stockbrokers, then you don't know your Trump.

Put simply, the rule requires brokers and other financial agents to put the

interests of their retirement-saving clients ahead of their own. This sounds like common sense, but the rule was vehemently opposed by the financial services industry and their mouthpieces in Congress. The reason for Wall Street's opposition should become obvious when one contemplates that conflicted advice cost customers an estimated \$17 billion a year. That's the haul from brokers' and bankers' steering customers to inappropriate retirement investments that generate more fees for themselves.

The estimate comes from a 2015 report by the Obama White House's Council of Economic Advisors. The Trump administration buried the report deep in the White House website, but I managed to retrieve it from the memory hole and reproduce it here. As the Obama

administration understood, protection for retirement investors from

brokers' conflicts had become immeasurably more important over recent decades. That's the period in which the standard retirement plan shifted from defined-benefit pension funds managed by professional advisors, in which any shortfall had to be made up by the employers, to defined contribution plans managed by workers themselves, in which it's almost impossible to make up any shortfall... [Read More](#)

Rolling back conflict of interest protections...will take tens of billions of dollars a year from the pockets of hard-working Americans to enrich Wall



From Senator Reed to RI ARA President, John A. Pernorio



Dear Mr. Pernorio:

I want to thank you for your feedback on the nomination of Betsy DeVos to be Secretary of Education. As someone who cares deeply about education, I value and appreciate your passionate engagement in our civic process. In these worrisome times, it is a powerful sign of our democracy's strength.

Today, for the first time in history, the vice president had to cast the tie-breaking vote to overcome unprecedented opposition to a presidential cabinet

nominee. Betsy DeVos was confirmed on a 51-50 vote.

Last week and early this morning, I spoke on the Senate floor, and yesterday I spoke at a rally, reiterating the points that so many of you made and with which I agree: Mrs. DeVos is an unqualified nominee who should have been rejected. You can read my full statement on today's vote [here](#)

President Trump and nearly all Congressional Republicans got the person they wanted to lead the U.S. Department of Education. Now the hard work begins

of holding them and Mrs. DeVos accountable for supporting our public schools, protecting civil rights in education, making college affordable, and expanding opportunities for lifelong learning.

Again, thank you for making your voice heard. There will be many more debates in the future, and I encourage you to keep emailing, writing, or calling.

Sincerely,
Jack Reed,
United States Senator

Aetna-Humana Merger Blocked



The District of Columbia federal court recently ruled that a proposed \$37 billion merger between health insurance giants Aetna and Humana cannot proceed, granting the US Department of Justice's bid to block the combination on antitrust grounds (*United States v. Aetna, Inc., et al.*, January 23, 2017, Bates, J.). The Aetna/Humana deal is one of two blockbuster health insurance company mergers that have been challenged by Justice, the other being the Anthem/Cigna deal that remains pending before a different judge in the same court. The proposed merger would create the largest seller of Medicare Advantage plans, and the challenge by the Department of Justice alleged, among other things, that the effect of the

transaction may be to substantially lessen competition in the market for individual Medicare Advantage plans in 364 counties across 21 states. The district court ultimately agreed, rejecting the insurers' efforts to expand the relevant market definition to include both Original Medicare plans, which are offered directly by the government, and Medicare Advantage plans offered by private payers.

The *Aetna* court's 156-page opinion wrestles with a Medicare Advantage market that was created by Congress to compete with Original Medicare. The DHS Center for Medicare and Medicaid Service ("CMS") lays down the ground rules for that competition, controlling entry and forcing exits in the Medicare Advantage marketplace. CMS administers an annual bid process to

determine which Medicare Advantage plans will be offered to seniors in the coming year, including a price benchmark upon which all Medicare Advantage policies are constructed. The CMS benchmark represents the average cost to Original Medicare for providing standard benefits to enrollees in each county in America, and is the maximum amount that CMS will pay a Medicare Advantage Organization ("MAO"), on a capitated basis, to provide benefits to enrollees of a particular county. The CMS benchmark is therefore the touchstone against which all Medicare Advantage plans are priced and operated. The *Aetna* decision also shows CMS dictating Medicare Advantage reimbursements, policing margin caps, and benching (sanctioning) non-compliant providers for years at a time....[Read More](#)

GOP Votes To End Obama Rule Designed To Keep Mentally Ill From Buying Guns

Congressional Republicans want to undo an Obama administration initiative designed to keep mentally ill people from buying guns.

The House of Representatives voted Thursday, mostly [along partisan lines](#), to stop the Social Security Administration from telling the FBI about disability insurance recipients who have mental impairments that should disqualify them from buying guns.

The Obama administration [pushed the measure](#) as part of a broader [gun control](#) effort following the 2012 massacre

at Sandy Hook Elementary School. The Social Security Administration [finalized the rule](#) in December.

Republicans and the National Rifle Association blasted the initiative as unconstitutional gun-grabbing. Rep. Sam Johnson (R-Texas) introduced legislation to block the rule last year.

"We need to protect rights of *all* Americans, including individuals with disabilities," Johnson said then, referring to Second Amendment rights.

Now that it has passed the House, Johnson's bill will head to the Senate

before it can reach President [Donald Trump](#)'s desk.

The Brady Campaign to Prevent Gun Violence condemned Thursday's vote.

"Repealing this rule weakens and undermines the Brady background check system that has blocked more than three million gun sales to dangerous people since 1994," Brady Campaign President Dan Gross said in a statement....[Read More](#)



Medicare Rights Highlights Harmful Consequences of Increasing the Medicare Eligibility Age



As policymakers continue to debate the future of our country's health care system, some lawmakers support increasing the Medicare eligibility age from 65 to 67 in order to save money for the federal government. This costly benefit cut is sometimes defended by arguing that as Americans live longer and

delay retirement, most people will not need Medicare at age 65. But most Americans retire well before age 67—half of all men are retired by age 64 and half of all women by age 62. Our latest issue brief, "[Paying More for Less: Raising the Eligibility Age](#)," highlights the harmful consequences of increasing the eligibility age for Medicare above 65.

Raising the Medicare age is unpopular

with Americans of all ages. More than [60%](#) of Americans ages 18-54 and nearly [70%](#) of those ages 55-64 do not support raising the eligibility age. The unpopularity of this proposal is most likely due to the likelihood that many older adults would pay more or go without affordable coverage....[Read More](#)

Patient groups fear Obamacare repeal could undo protections for sickest Americans



WASHINGTON — As Republicans confront the **thorny realities of repealing and replacing** the Affordable

Care Act, groups representing patients with the most serious diseases fear those plans could return the US health care system to one in which sick people are not guaranteed health insurance.

It comes down to the individual mandate, the law's **most unpopular provision**, which required every American to buy insurance or face a penalty.

Republicans want it gone. But if they nix the mandate, it becomes exceedingly

difficult to keep the popular insurance reforms — including the requirement that health plans cover everybody, even people with costly preexisting conditions, without charging those people more. President Trump and other Republicans **have sworn** they would keep that provision, which ended discrimination against America's sickest patients.

So Congress is trying to figure out how to end the mandate while still guaranteeing affordable coverage to everybody. One prominent idea is known as continuous coverage. It would require insurers to cover people, no matter their health history, as long as they never have

a lapse in coverage. In theory, it keeps the protection for people with preexisting conditions while also urging people to buy insurance so they aren't at risk of being locked or priced out of coverage.

Think of it as an attempt to achieve the same effect as the mandate, which helps provide health plans with healthy as well as sick customers so their finances work, without actually having a mandate.

The problem, according to patient advocates, is the concept isn't foolproof. If a sick person does have a lapse in coverage, they wouldn't have the same protections that the ACA currently provides. ...[Read More](#)

New Federal Rules Will Require Home Health Agencies To Do Much More For Patients

Home health agencies will be required to become more responsive to patients and their caregivers under the first major overhaul of rules governing these organizations in almost 30 years.

The **federal regulations**, published last month, specify the conditions under which 12,600 home health agencies can participate in Medicare and Medicaid, serving more than 5 million seniors and younger adults with disabilities through these government programs.

They strengthen patients' rights considerably and call for caregivers to be informed and engaged in plans for patients' care. These are "real improvements," said Rhonda Richards, a

senior legislative representative at AARP.

Home health agencies also will be expected to coordinate all the services that patients receive and ensure that treatment regimens are explained clearly and in a timely fashion.

The new rules are set to go into effect in July, but they may be delayed as President Donald Trump's administration reviews regulations that have been drafted or finalized but not yet implemented. The estimated cost of implementation, which home health agencies will shoulder: \$293 million the first year and \$234 million a year thereafter.

While industry lobbying could derail the regulations or send them back to the

drawing board, that isn't expected to happen, given substantial consensus with regard to their

contents. More likely is a delay in the implementation date, which several industry groups plan to request.

"There are a lot of good things in these regulations, but if it takes agencies another six or 12 months to prepare let's do that, because we all want to get this right," said William Dombi, vice president for law at the National Association for Home Care & Hospice (NAHC)....[Read More](#)



Petition Subject: Observation Status: "Current Hospital Issues in the Medicare Program"

ADD YOUR NAME

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Petition Subject: House Concurrent Resolution 37 and Senate Concurrent Resolution 12 to get power doors installed in Post Offices and other federal buildings.

ADD YOUR NAME

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Petition Subject: Elimination of the Unfair GPO and WEP Provisions of the Social Security Act to make sure the Congress of the United States enacts legislation, HR.973

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