

**LANNY J. DAVIS**  
**& ASSOCIATES**  
*Law ▲ Media ▲ Legislative/Political Strategies*

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COMMUNICATING TRUST™

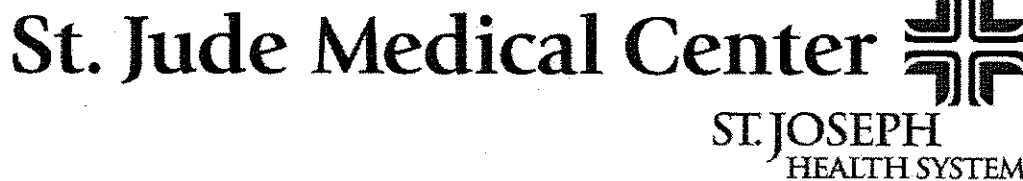
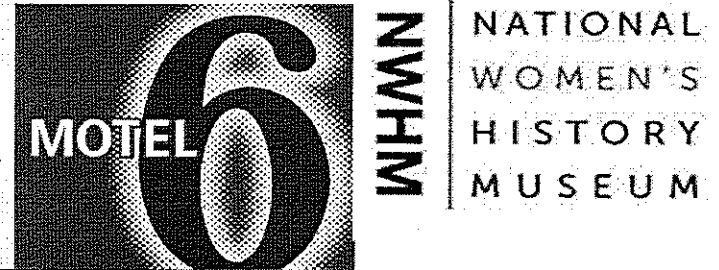
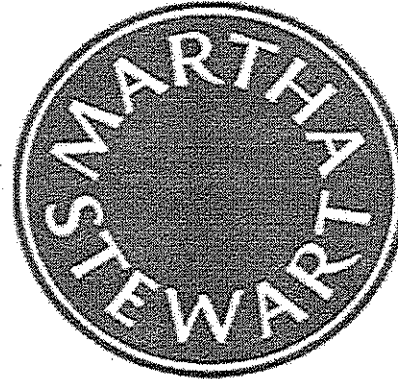
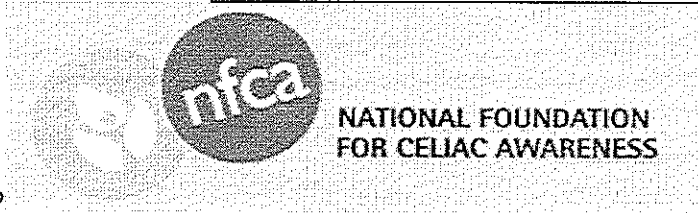
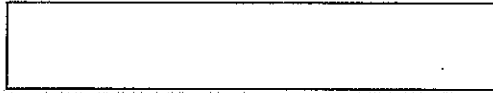
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**THE URGENCY OF NOW.**

# Clients



**Our Approach –**  
**The Three-Legged Stool:**



# Law

- ◆ 30+ years of experience as litigator and legal advisor in Washington, D.C.  
Work areas include:
  - legislative (legislation affecting clients & lobbying)
  - government contracts
  - administrative/regulatory
  - congressional investigations, antitrust matters
  
- ◆ As a practicing attorney, work under attorney-client and work-product privilege, applying strategic media/political/legislative counsel impacting legal outcomes and liabilities
  
- ◆ Multidisciplinary approach to litigation (law, media & politics), often leading to settlements or dispute resolutions rather than lengthy trials
  
- ◆ Work with in-house and outside counsel to integrate media and political strategies when necessary

# **Politics: Legislative & Regulatory Strategies**

- ◆ Communicating with U.S. Congress, the Executive Branch, regulatory agencies (e.g., the FTC, FCC, etc.), and state AGs and legislatures
- ◆ Expertise with agency and congressional investigations
- ◆ Monitoring of congressional/regulatory relevant issues for clients
- ◆ Develop proactive communications strategies in congress and regulatory agencies to address client problems, including use of media and possibly litigation to achieve client solutions

# Media

- ◆ Maintains advantage of having attorney-client privilege to develop media messages through integrated legal, media and legislative strategies
  - As an attorney, has access to all facts and documents
- ◆ Extensive experience dealing with reporters, TV producers, editors, editorial boards, bloggers, Internet news sites
- ◆ Experience encouraging pro-active stories (i.e., the comprehensive, “A-Z” one-time foundational story: “the Predicate Story”) and ensuring ongoing stories are accurate and complete
- ◆ Media-monitoring of critical issues for clients

# What We Do

## Law

- Provide counsel on regulatory issues impacting your business
- Support issues management
- Participate in internal investigations

## Politics

- Build relationships with high-level influencers inside the beltway
- Host meetings with thought leaders on agenda-setting topics
- Support legislation that's important to your industry
- Identify speaking opportunities on industry leadership

## Media

- Craft core messages that will resonate with media inside the beltway, national and hometown media of key members of congress
- Gather supporting facts and reach out to media on position
- Messaging: proactive message development

# The Importance of Law & PR Together

- ◆ Non-Privileged P.R. advisors can be compelled to testify on all they heard & produce all documents. Therefore they will often be excluded from:
  - Fact-finding by lawyers and access to important documents, including bad facts
  - Legal strategic judgments (which may be at cross-purposes with media/reputational needs)
  - Legal filings/drafts (and then may be off-message)
  - Final external message judgments should be a combination of legal and media judgments
  - Need for consistent and integrated legal/P.R. strategies and messages
  - Attorney-client privilege is not applicable to non-practicing attorneys who are members of PR firms



# Risk of Waiver of Privilege:

- ◆ A PR Firm – even if PR consultant has a law degree – risks waiver of attorney-client privilege unless attorney is practicing law and providing legal advice.

“Disclosure [by a law firm to a PR firm it hired] waives the attorney-client] privilege ... [since] the documents simply provide ordinary public relations advice” [emph. added]

-- Calvin Klein Trademark Trust v. Wachner, 129 F.Supp.2d 254 (2001).

- Uncertainty defeats privilege

“An uncertain privilege, or one which purports to be certain to be results in widely varying applications by the courts, is little better than no privilege at all.”

-- Upjohn Co. v. United States, 449 U.S. 383 (1981).

# Does Integrated Legal/Media Strategy Matter? Yes.

1. Final Judgments/Liabilities Findings: Avoiding prejudice of the jury pool
2. Damages: Mitigate vs. Exacerbate  
e.g., Federal Private Securities Litigation Reform Act (PSLRA), “bounce back rule”: \$\$\$ (millions/billions) in potential savings in “fraud on the market” damages if effective media strategy leads to bounce back of share prices after bad news first published
3. Settlement Pressures: good media (lower settlements) vs. bad media (higher settlements)
4. Crisis Prevention: Creating “good facts” before the \*\*\*\* hits the fan — can mitigate or avoid damages — especially if crisis/media experts are also privileged attorneys with access to all the facts

# **SEVEN SERVICES ATTORNEYS DOING CRISIS MANAGEMENT SHOULD OFFER TO CLIENTS:**

## **1. Legal Crisis Training:**

- ◆ Two-to-four hour training exercise for company staff working through crisis – simulated role-playing, with “Crisis Team” including legal, business, media, investor relations, and H.R perspectives
- ◆ Prepare for “the worst” in the hopes “the worst” never happens
- ◆ Checklist of preparations, backed up by “best practices”
- ◆ Creation of a “Crisis Manual”
- ◆ In-house training of attorneys and senior management of possible role in being spokesman before regulators, congress, and possibly media, especially important for attorneys to be trained on how to speak to media under ground rules acceptable to media but still safeguarding "on record" attribution

# **SEVEN SERVICES ATTORNEYS DOING CRISIS MANAGEMENT SHOULD OFFER TO CLIENTS:**

## **2. Crisis Reviews WITH ATTORNEY-CLIENT PRIVILEGE**

- ◆ Interview senior executives under the attorney-client privilege, encouraging candor
  - ***Question to ask all in private meeting:*** What keeps YOU up at night that you don't want the media to report?
- ◆ We bring together a specialized, multi-dimensional legal team with political and media expertise, informed about the needs of the client's business (e.g., H.R., finance, tax, corporate, litigation etc., skills)
- ◆ When "ticking time bomb" is discovered, we craft mitigation, remediation, or prevention strategies to "defuse the bomb" before the crisis hits the media (or the courts!)

# **SEVEN SERVICES ATTORNEYS DOING CRISIS MANAGEMENT SHOULD OFFER TO CLIENTS:**

## **3. Message/Issue Management**

- ◆ “Translating” legal jargon and complex legal and factual issues into simple media and politically friendly messages
- ◆ Ensuring legal, media and (where applicable) lobbying messages are cohesive and mutually re-enforcing – not the opposite, as is often the case
- ◆ Developing “the book” to use with reporters, on the Internet and messages to stakeholders, regulators, and for Capitol Hill:
  - core messages
  - key facts
  - key back-up documents
- ◆ Narrative Development: Preparation of a “crisis management” proactive strategy before stories leak into the media and leave company officers in defensive positions. Get out in front of the story if and when it breaks in the media.

# **SEVEN SERVICES ATTORNEYS DOING CRISIS MANAGEMENT SHOULD OFFER TO CLIENTS:**

## **4. Rapid Response/War Room**

- ◆ Build bridges between PR professionals, consultants, and the legal team to make a “War Room Team”
- ◆ Quickly determine the facts and Q’s and A’s that can be distributed rapidly and posted on Internet
- ◆ Extensive experience dealing with media on 24/7 deadlines
- ◆ Assist clients in developing:
  - websites
  - social media [includes Twitter, Facebook, links to bloggers, priority treatment on Google and other search engines (reputation management), etc.]

# **SEVEN SERVICES ATTORNEYS DOING CRISIS MANAGEMENT SHOULD OFFER TO CLIENTS:**

## **5. Proactive Placements: “Tell it All, Tell it Yourself”**

- ◆ The “Predicate Story” – proactive work with one or more reporters/media outlets to tell the full story (with all facts & core messages) to serve as foundation for future stories and messages
- ◆ Address and change “facts on the ground” to make “bad story better” and remedy problems in future + encourage reporters to write “turn the corner” stories

# **SEVEN SERVICES ATTORNEYS DOING CRISIS MANAGEMENT SHOULD OFFER TO CLIENTS:**

## **6. International Issues**

- ◆ International trade and other foreign legal issues with impact in U.S. – and with possible media, regulatory, congressional and executive branch strategies to solve client problems
- ◆ Work with foreign governments and foreign companies that have needs to be addressed in U.S.
- ◆ International policy advocacy



# **SEVEN SERVICES ATTORNEYS DOING CRISIS MANAGEMENT SHOULD OFFER TO CLIENTS:**

## **7. The “Solutions Campaign”:** ALL TOGETHER

- ◆ Integrating law, politics and media to solve clients’ problem(s)

**“Practicing law, talking to the media, and devising legislative and regulatory strategies are the three disciplines of a crisis management practice. This is the tripod of skills a lawyer needs to have. Lawyers must learn how to talk to and work with the media. The traditional approach of ‘no comment’ is no longer acceptable.”**

*- Lanny J. Davis*

# Case Study:



**VS.**



# Background

- ◆ Whole Foods faced FTC challenge to its already completed year-old acquisition of 100+ Wild Oats Market stores
- ◆ FTC, in advance of its administrative trial proceeding, declared the merger probably illegal
- ◆ Situation: **Very Difficult**
  - Tens of millions of dollars of possible legal fees with FTC seemingly predisposed to try to unravel already completed merger
- ◆ What to do?
  - Litigate! – OR
  - Integrate a legal, media and political strategy to obtain a reasonable settlement.

# Litigation Strategy

- ◆ Challenge FTC case against Whole Foods on constitutional grounds
  1. Due Process Clause: pre-disposition of illegality by FTC
  2. Equal Protection Clause: Dual standard of justice between DOJ and FTC

# Media Strategy

- ◆ Pro-active Media Approach: invited media coverage of the issues, offered critique of FTC's violation of due process through pre-disposition, case and violation of equal protection because of dual standard between FTC and DOJ to challenge mergers.
- ◆ National Press Conference on Capitol Hill: to announce Whole Foods' "Day in Washington" with constituent presence from Whole Foods stores all over the country
- ◆ Facts Showing Benefits of Merger: Prices down, jobs created, still plenty of competition with other supermarkets (such as Safeway)
- ◆ Rapid Response: Developed relationships with list of 30-40 key reporters to ensure that no story would be written on this issue without the opportunity for Whole Foods to comment

# Headline

## New Strategy for Whole Foods in FTC Fight

Mike Scarcella and Jeff Jeffrey

Legal Times

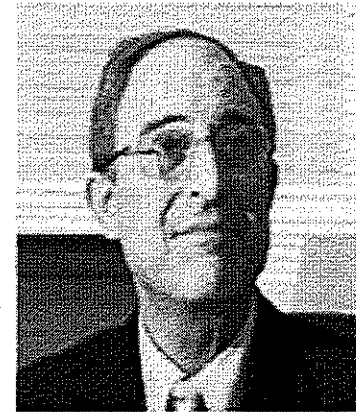
December 19, 2008

**LegalTimes**  
LEGAL NEWS ONLINE FROM THE NATION'S CAPITAL

Whole Foods Market is firing back at the Federal Trade Commission in a high-profile antitrust case, striking at the agency in court, in Congress and in the press with a three-pronged strategy led by a prominent D.C. lawyer and a lobbying firm stocked with Democratic insiders.

The company says it has already spent more than \$16 million since 2007 in attorney and expert fees to defend its \$565 million merger with organic grocer Wild Oats. Now, it is going on the offensive with a complaint filed in U. S. District Court for the District of Columbia that accuses the FTC of bias and due process violations.

In October, Whole Foods retained politically savvy lawyer Lanny Davis, an Orrick, Herrington & Sutcliffe partner and former special counsel to President Bill Clinton, to lead the effort to convince power brokers that Whole Foods is not getting a fair shake at the FTC. Davis, an outspoken surrogate of Hillary Clinton during her presidential campaign, has become the public voice of Whole Foods.



Lanny Davis, Orrick

Image: Diego M. Radzinski/Legal Times

# Headline

December 14, 2008

**The New York Times**

THE FEED

## **Wait. Why Is the F.T.C. After Whole Foods?**

By ANDREW MARTIN

IT'S becoming clear that the Federal Trade Commission and Whole Foods Market need to take their continuing legal spat out of the courtroom and into the grocery store.

That's right. Pack up the legal briefs. Grab a cab. There's a Safeway on L Street about a mile north of the F.T.C. headquarters in Washington.

A field trip is in order because the reasoning behind the F.T.C.'s efforts to stop a merger between Whole Foods Market and a smaller competitor, Wild Oats Market, has been undercut by marketplace realities.

Since the F.T.C. first challenged the merger in June 2007, Whole Foods has increasingly lost its hold on the organic and natural foods marketplace. Larger competitors like Safeway and Kroger have vastly expanded their store-brand offerings of natural and organic products, and they are often cheaper than those at Whole Foods.

# Headline

REVIEW & OUTLOOK

DECEMBER 31, 2008

## **THE WALL STREET JOURNAL** Whole Foods Fiasco

WSJ.com

*The FTC's antitrust double jeopardy.*

It isn't every day that a company under antitrust scrutiny turns a gimlet eye back on its tormenter. Yet that's what's happening in Washington, where the Federal Trade Commission and lawyers for Whole Foods are at it again over the organic grocer's acquisition of Wild Oats.

It's been 18 months since the FTC first sued to block the two chains from merging, and 16 months since it lost in court. The agency continues to harass Whole Foods, however, and the grocer has now launched its own counteroffensive against the regulator it says is too biased to know when to cease and desist. "Instead of concentrating on our business," says Whole Foods Chairman John Mackey, "we are forced to focus on dealing with regulators in Washington at a time when business is declining."

The FTC continues to claim that Whole Foods is Goliath the grocery marketplace.



# Political Strategy

- ◆ Whole Foods Team Members across the country contacted their Senators and Representatives to request meetings
- ◆ Organized and executed a Whole Foods Day in Washington, including dozens of meetings in House and Senate
- ◆ **Objective:** letters from Congressional members to the FTC on process issues only (not on merits of antitrust cases) — expressing concerns about the fundamental unfairness permitted by the dual system of justice between the FTC and DOJ
- ◆ **Objective:** interest in holding hearings to investigate whether legislative initiative is necessary to implement suggestions of Antitrust Modernization Commission to eliminate dual systems to review mergers between FTC and DOJ

# United States Senate

WASHINGTON, DC 20510

December 12, 2008

William E. Kovacic  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Dear Chairman Kovacic:

We write to express concern that the procedure by which the Federal Trade Commission introduced proposed changes to Part 3 of its Rules of Practice was flawed, and that those flaws diminish the FTC's credibility and raise doubts about the substance of the rules themselves. Congress has entrusted the FTC with broad rulemaking, investigatory, prosecutorial, judicial, and executive powers to ensure antitrust laws are not violated and to protect consumers. We appreciate the FTC's efforts to better fulfill its important consumer protection mission. It is important, however, that the FTC consider these significant changes with prudence and fairness.

Sincerely,

  
PATRICK LEAHY  
United States Senator

  
ARLEN SPECTER  
United States Senator

  
TOM HARKIN  
United States Senator

  
DIANNE FEINSTEIN  
United States Senator

  
CHARLES E. SCHUMER  
United States Senator

  
BILL NELSON  
United States Senator

  
JOHN CORNYN  
United States Senator

  
BENJAMIN L. CARDIN  
United States Senator

The Honorable William E. Kovacic  
Federal Trade Commission  
600 Pennsylvania Ave., NW  
Washington, DC 20580

Dear Chairman Kovacic:

As proponents of vigorous and effective antitrust enforcement, we wish to bring to your attention our interest in a disparity that may have evolved in the procedures used by the two federal antitrust enforcement agencies, the Federal Trade Commission and the Antitrust Division of the Department of Justice, for reviewing mergers under Section 7 of the Clayton Act.

The Antitrust Division, as a law enforcement agency, brings all of its challenges in federal court, while the FTC, as an independent agency, has additional administrative authority. In the merger area, however, concerns have been raised that this disparity may in some instances lead to differences in treatment of merging parties, not only procedurally, but substantively as well.

We are concerned that this disparity may not be in the best interests of promoting sound antitrust enforcement and its broad support among the business community and American citizens. We would note that the Antitrust Modernization Commission, for example, recommended in its April 2007 report that these procedures and substantive legal standards be harmonized, and more specifically that the FTC move closer to the procedures and standards followed by the Antitrust Division.

In preparation for possible hearings in the coming Congress, we would appreciate your views on these issues. We are aware that the FTC has given some consideration to these issues in the past, and would welcome having the benefit of your perspective.

Sincerely,

  
The Honorable John Conyers, Jr.  
Chairman

  
The Honorable Lamar S. Smith  
Ranking Member

cc: The Honorable Pamela Jones Harbour  
The Honorable Jon Leibowitz  
The Honorable J. Thomas Rosch

The Honorable William Kovacic  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

© 1118 Chestnut Avenue, #240  
Tomball, TX 77401  
1206-799-4867

Dear Chairman Kovacic,

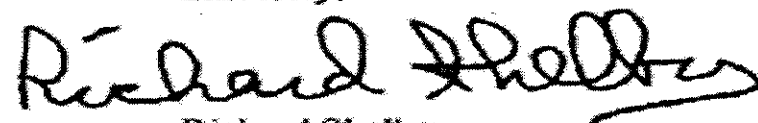
I am writing to express concern regarding the dual system of review governing mergers under the jurisdiction of the Federal Trade Commission (FTC) and the Antitrust Division of the Department of Justice (DOJ).

The disparity in procedures used by the two federal antitrust enforcement agencies to review mergers may, in some instances, lead to differences in treatment of merging parties, not only procedurally, but substantively as well. The Antitrust Division, as a part of DOJ, may only contest a merger in federal court where proceedings are governed by Rules of Civil Procedure, Rules of Evidence, and receive an up-or-down decision from an independent federal judge. In contrast, the FTC, as an independent agency, has additional administrative authority and may not only seek injunctive relief to stop a merger in federal court, but also may institute its own internal administrative trial. This dual system makes it far more unpredictable and burdensome for merging companies in the industries that fall under FTC jurisdiction than those companies under DOJ jurisdiction. I am concerned that the variation between the two agencies' procedures may not be in the best interests of promoting sound antitrust enforcement and raises both due process and equal protection concerns.

Further, it is my understanding that the Antitrust Modernization Commission established by Congress recommended in 2007 to end this dual system by abolishing the FTC's administrative proceedings in pre-merger cases. Therefore, the FTC would then proceed forward as DOJ does - in federal court.

It is my hope the FTC will give serious consideration to adopt this recommendation by the Antitrust Modernization Commission to prohibit pursuing administrative litigation on merger cases. I look forward to hearing from you on this matter.

Sincerely,



Richard Shelby

# **Multi-Discipline Approach Encourages FTC to Agree to Reasonable Settlement**

- ◆ Senior legal crisis team member proposes attempt at settlement
- ◆ FTC responds positively to settlement proposal
- ◆ Whole Foods moves with FTC's consent to convert the administrative proceeding to non-adjudicative status for duration of settlement discussions
- ◆ Whole Foods and FTC reach Settlement Agreement:
  - Whole Foods to attempt to sell limited number of non-operating sites and a few operating stores but only after time period when they have been shut down and cleared out to protect proprietary culture and "DNA" while in non-operating status.

# **Whole Foods Obtains Favorable Settlement**

## **\*\*\*Whole Foods Market and FTC Reach Settlement\*\*\***

**AUSTIN, TX. MARCH 6, 2009.**

**WHOLE FOODS MARKET, INC. (NASDAQ: WFMI) TODAY ANNOUNCED IT HAS REACHED A SETTLEMENT AGREEMENT RESOLVING THE FEDERAL TRADE COMMISSION'S (FTC) ANTITRUST CHALLENGE TO WHOLE FOODS MARKET'S AUGUST 2007 ACQUISITION OF WILD OATS MARKETS, INC.**

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# 2014 ELECTION RESULTS & PUBLIC POLICY. WHAT'S NEXT?

College of Labor &  
Employment Lawyers

Presented By:

**Hal Coxson**

**Jan. 25, 2015**



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ANGLE**



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# LABOR POLICY WAR STORIES

Labor's Achilles Heal: Over-Reach & Refusal to Compromise

As a Result, Labor Often Left at the Altar by its Strongest Supporters

- Truman's Veto Message (1947)
- 1978 Labor Law "Reform" Bill
- "Common Situs" Picketing – Jim Wright
- "Anti - Dual Shop" (Double Breasting)
- Striker Replacement – Bill Clinton
- "Employee Free Choice Act" (Card Check)

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# What Happened in 2014? What's Next?

Will there be new “war  
stories”?

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# 2014 Mid-Term Elections



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# Voters' Message

MARSLER

**NO.**

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# DAILY NEWS

NEW YORK'S MOST POPULAR NEWSPAPER



● Republicans take Senate  
● Sam Davis down in N.J.  
● His top runs for...

SEE PATAKI'S SPECIAL

Cuomo cruises to second term Friday 10-11

# NEW YORK POST

INSIDE NIGHT

**Midterm** **tsunami**

□ GDP romps to take control of US Senate

□ Republicans seize NY Senate; Cuomo wins

# STRIPPED!

Emperor has no clothes

**HAW HAW!  
LOSER!!!**



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# U.S. SENATE / 2014 MID-TERM ELECTION RESULTS

- D: 44 (Net Loss 9)
- R: 54 (Net Gain 9)
- I: 2

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# U.S. SENATE RACES

- Alaska: Dan Sullivan (R) def. Mark Begich (D) (incumbent)
- Arkansas: Tom Cotton (R) def. Mark Pryor (D) (incumbent)
- Colorado: Cory Gardner (R) def. Mark Udall (D) (incumbent)
- Georgia: David Perdue def. Michelle Nunn (D) (daughter of former Senator Sam Nunn) (open seat)
- Iowa: Joni Ernst (R) def. Bruce Braley (D) (open seat)

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# SENATE (cont.)

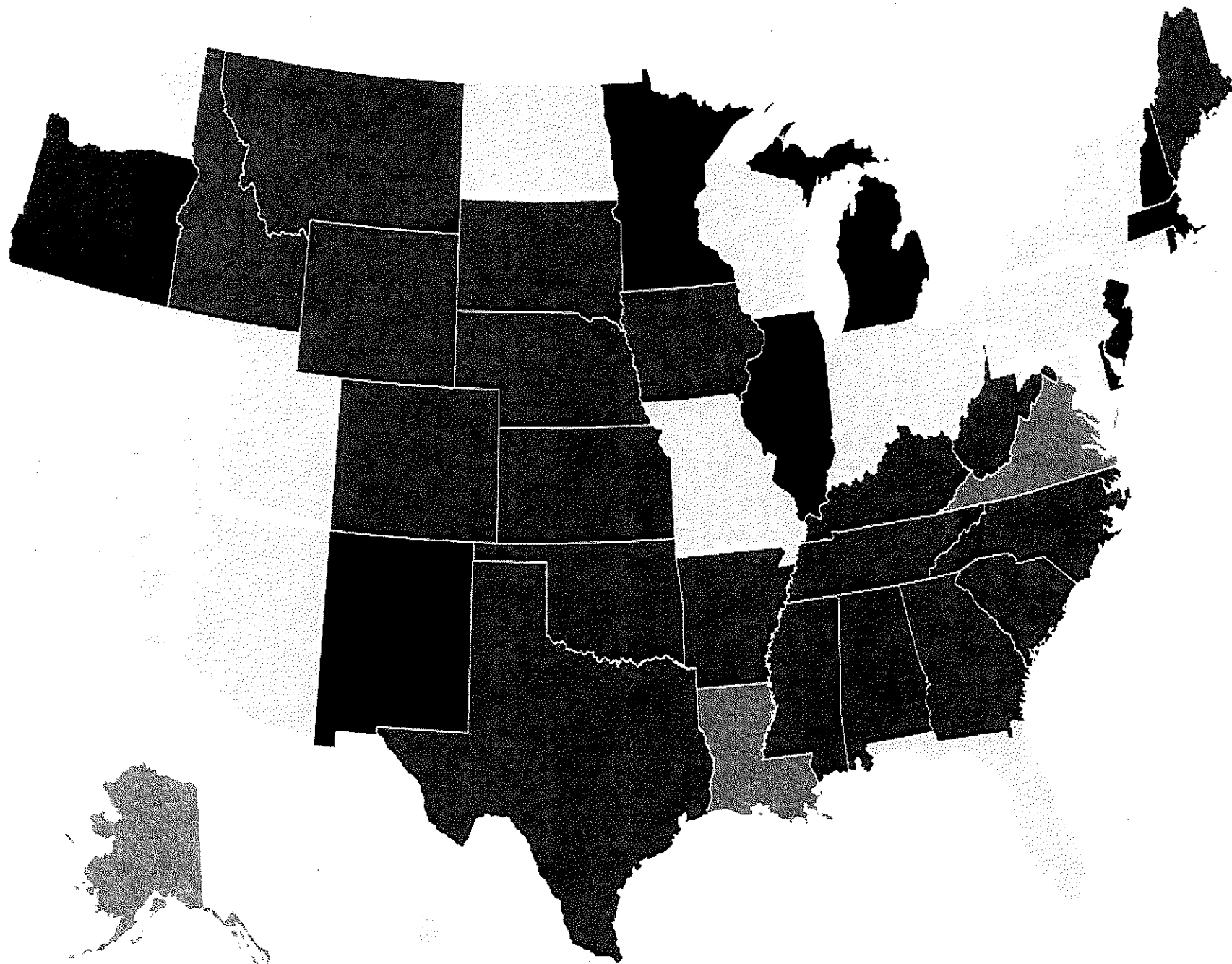
- Kansas: Pat Roberts (R) (incumbent) def. Greg Orman (I)
- Kentucky: Mitch McConnell (R) (incumbent) def. Alison Lundergan Grimes (D)
- Louisiana: Bill Cassidy (R) def. Mary Landrieu (D) (incumbent)

## **SENATE (cont.)**

- Montana: Steve Daines (R) def. Amanda Curtis (D) (open seat)
- North Carolina: Thom Tillis (R) def. Kay Hagan (D) (incumbent)
- New Hampshire: Jeanne Shaheen (D) (incumbent) def. Scott Brown (R)
- South Dakota: Mike Rounds (R) def. Rick Weiland (D) and Larry Pressler (I)
- West Virginia: Shelley Moore Capito (R) def. Natalie Tennant (D) (Jay Rockefeller's open seat)

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● Democratic Win ● Republican Win ● Other Party Win ● Partial Results ● No Results No Election



N.H.

Mass.

R.I.

N.J.

Del.



# **U.S. HOUSE OF REPRESENTATIVES / 2014 MID- TERM ELECTION RESULTS**

- D: 188 (Net Loss 13)
- R: 246 (Net Gain 13)

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# Biggest Changes

- Democratic Leadership of House & Senate Labor Committees
  - House Education & Workforce Comm. – George Miller (CA) out, Bobby Scott (VA) in
  - Senate HELP Comm. – Tom Harkin (IA) out, Patti Murray (WA) in

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# **GOVERNORS / 2014 Mid-Term Election Results**

- Florida: Rick Scott (R) (incumbent) def. Charlie Crist (D)
- Georgia: Nathan Deal (R) (incumbent) def. Jason Carter (D) (grandson of former President Jimmy Carter)
- Illinois: Bruce Rauer (R) def. Pat Quinn (D) (incumbent)
- Kansas: Sam Brownback (R) (incumbent) def. Paul Davis (D)

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# GOVERNORS (cont.)

- Massachusetts: Charlie Baker (R) def. Martha Coakley (D) (Deval Patrick's seat)
- Maryland: Larry Hogan (R) def. Anthony Brown (D) (Martin O'Malley's seat)
- Michigan: Rick Snyder (R) (incumbent) def. Mark Schauer (D)
- New York: Andrew Cuomo (D) (incumbent) def. Rob Astorino (R)
- Ohio: John Kasich (R) (incumbent) def. Edward FitzGerald (R)
- Pennsylvania: Tom Wolf (D) def. Tom Corbett (incumbent)

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# GOVERNORS (cont.)

- South Carolina: Nikki Haley (R) (incumbent)  
def. Vincent Sheheen (D)
- Texas :Greg Abbott (R) def. Wendy Davis (D)
- Wisconsin: Scott Walker (R) (incumbent)  
def. Mary Burke (D)

# Labor Embarrassed

- AFL-CIO, SEIU, Teachers Unions vowed to defeat 6 incumbent, “anti-union” Republican Governors:
  - Scott (FL)
  - Kasich (OH)
  - LePage (ME)
  - Snyder (MI);
  - Corbett (PA)
  - Walker (WI)
- Only defeated Corbett
- Walker won despite union opposition for 3<sup>rd</sup> time!

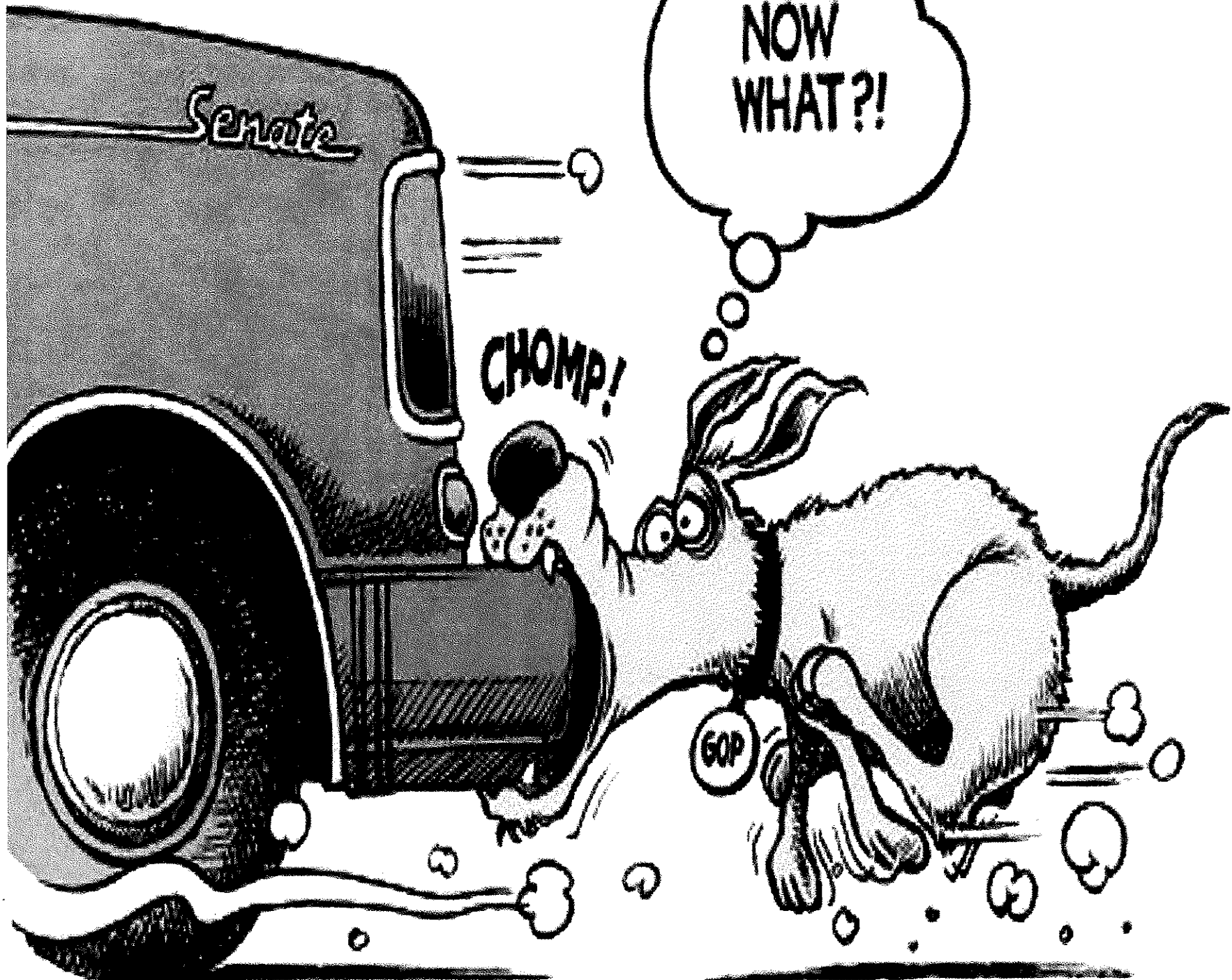
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# BALLOT INITIATIVES

- Paid FMLA: Massachusetts
- Minimum Wage Increases
  - Alaska,
  - Arkansas
  - Nebraska
  - South Dakota
  - Illinois (non-binding)

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DRUM FROM BULLOCK SET 8-4





# Congressional Agenda

- Return to “Regular Order” in the Senate
- Pass Appropriations Bills
- “Fix” or Repeal Obamacare
- Keystone XL Pipeline
- Tax Reform
- Infrastructure
- Trade Policy
- Education
- Foreign Policy / National Security
- Piecemeal Immigration Reforms?

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# **Congressional Agenda**

**IT'S THE ECONOMY,  
STUPID!!**

**(Top Concern of Voters)**

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# Obama Agenda

- Lame Duck Status
- Congressional Challenges
- Judicial & Agency Nominations
- Presidential Executive Orders & Memoranda
  - “Fair Pay & Safe Workplaces” Executive Order (Contractor “Blacklisting”)
  - FLSA Part 541 Regulations (Overtime Exemptions)
  - Immigration
- Regulatory Challenges

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# Union Agenda

- Defend Their Membership Base
- Restore Political Brand for 2016
- Face Congressional Challenges & Defend “Middle Class” (Minimum Wage; Trade Policy)
- Push Regulatory Initiatives & Defend the NLRB
- Withstand Litigation Challenges
- Stop State Initiatives: Public Sector Woes
  - Pensions; Collective Bargaining Rights
  - Right to Work (KY; WV; political subdivisions?)
- Workplace Strategies

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# Progressive's Agenda

- Defend Their Base
- Pick Their Battles
  - Immigration Reform
  - Wage Inequality: Pay Equity and Minimum Wage
  - Workplace Discrimination

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# Business Agenda

- Congress: How Aggressive?
  - Set the Agenda: Pick Their Battles
  - Block Funding for Enforcement of Burdensome New Regulations
  - Use Subpoena Power: Aggressive Oversight
  - Exert Budget Authority
  - Stop Objectionable Judicial & Executive Branch Nominations

# NLRB AGENDA

- Maintain 3-2 Majority
- Defend “Ambush Election” Rules)
- Institute New “Joint Employer” Standard (*Browning-Ferris* & Franchisees)
- More “Micro Unit” Elections (expand *Specialty Healthcare*)
- Continue to Expand PCA Rights
- Successorship (*Spruce Up*)
- Class & Collective Action Waivers (non-acquiescence in *D.R. Horton*)

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# LABOR DEPARTMENT AGENDA

- Wage-Hour
  - Revise FLSA Part 541 Regulations for Overtime Exemptions
  - Guidance for “Fair Pay/Safe Workplaces” Executive Order
  - Independent Contractors
- OFCCP
- OSHA



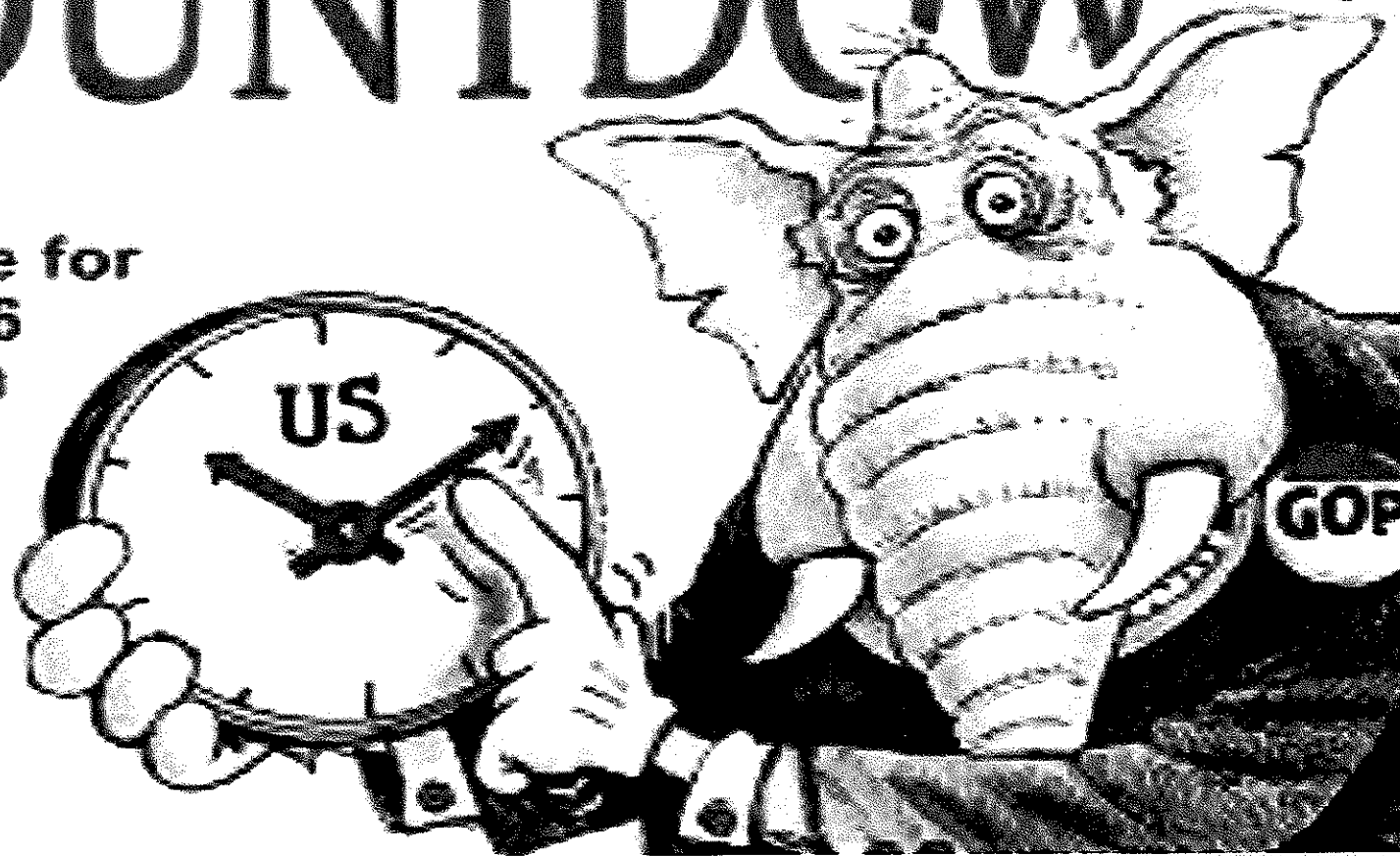
# Larger Policy Issues

- THE ECONOMY
- Foreign Policy / National Security
- Tax Reform
- Infrastructure
- Education
- Trade Policy
- Immigration Reform

**Not A Permanent Realignment**

# COUNTDOWN

The race for  
the 2016  
election  
begins!



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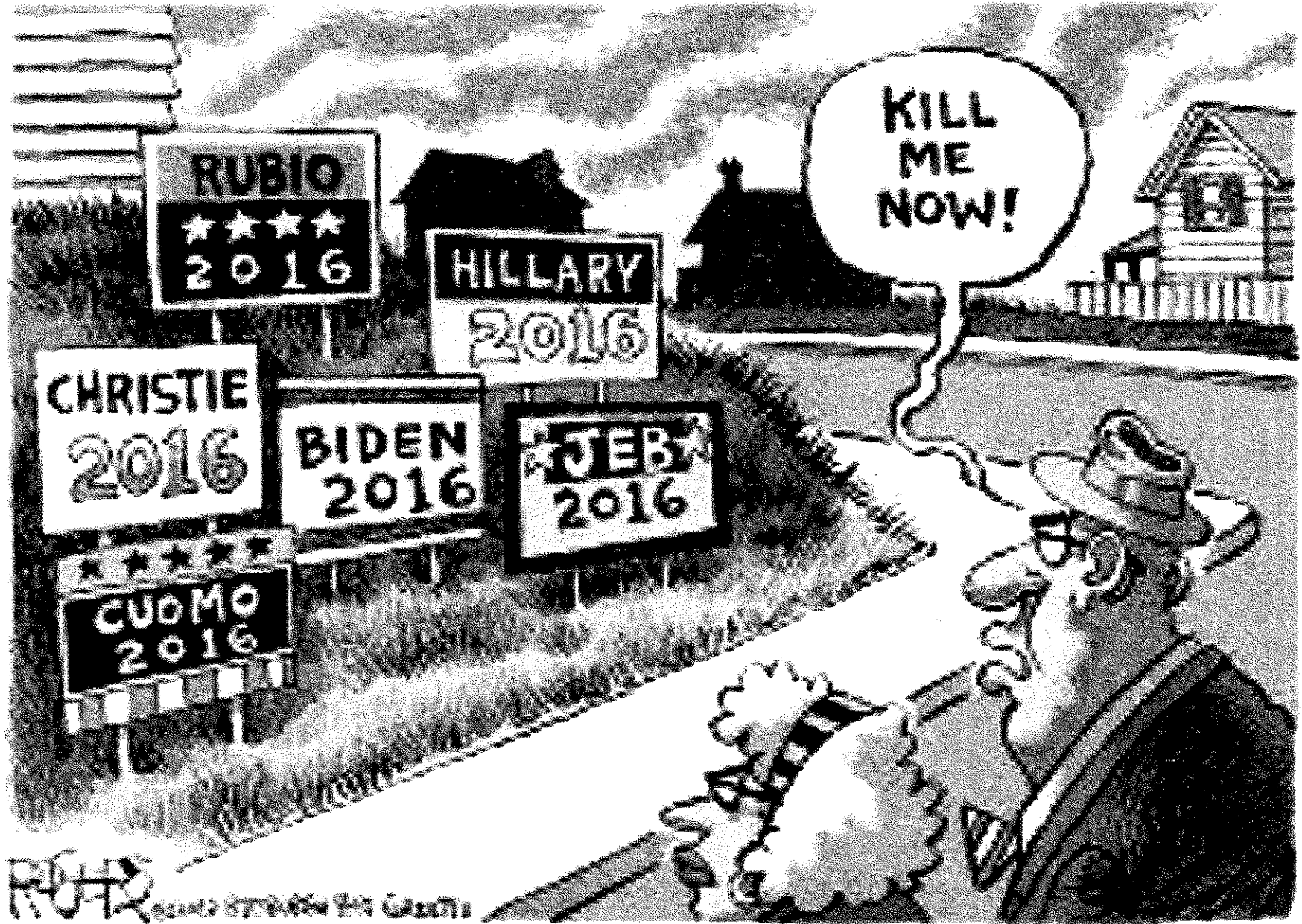


# Look Ahead to 2016 Elections

- Presidential
  
- Congressional
  - House
  - Senate
  
- Governors

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# QUESTIONS?

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