



## **Justice at Stake** c a m p a i g n

### **Judicial Campaign Fundraising and Public Confidence in the Courts** Testimony to the Pennsylvania Senate Judiciary Committee Submitted September 16, 2008

The Justice at Stake Campaign is pleased to provide written testimony for the Pennsylvania Senate Judiciary Committee's hearing on merit selection. Justice at Stake is a national partnership of fifty organizations working to keep courts fair and impartial. Our partners include leading national advocates, legal and business groups, and civic reform organizations. Our board of directors and partners include Republicans and Democrats, liberals and conservatives, along with judges, trial attorneys, corporate lawyers, business and civic leaders. Although Justice at Stake does not take a position on particular judicial selection systems, we are pleased that the Committee is studying the troubling rise of political and special interest pressure in judicial contests.

Across America, attorneys, partisans, and special interests with cases in court are pouring millions into judicial contests, mostly for high-court but increasingly for appellate- and even district-court contests. Since 1999, candidates for America's state high courts have raised over \$157 million, more than double the amount in the four cycles prior. Fund-raising records in at least fifteen states have been broken. Most of this money comes from attorneys and political interests who view campaign spending as a litigation investment. Once independent expenditures are factored in, these dollar figures climb much higher, and broadcast television ads seek to push wedge-issue politics into our courts of law. Aggressive questionnaires from special interest groups seek to pressure judges to take stands on controversial issues. As Justice Sandra Day O'Connor recently warned, "In too many states, judicial elections are becoming political prizefights where partisans and special interests seek to install judges who will answer to them instead of the law and the Constitution."

This new politics of judicial elections has had a corrosive effect on public confidence in the courts. Public opinion surveys from 2001-04 find that more than 70 percent of Americans believe that campaign contributions influence judges' decisions; only 5 percent believe that contributions have no influence. Little has changed since then. In 2008, 78 percent of voters in Wisconsin said they believed that campaign contributions influence outcomes in the courtroom. Even in Minnesota, where fundraising for judicial campaigns has been much more restrained, a majority of the voters reached a similar conclusion.

Many judges feeling trapped in a bad system, forced to raise money from the parties appearing before them and looking over their shoulders at interest group demands. In 2002, 26 percent of state court judges surveyed said they believe that campaign contributions have at least "some influence" on decisions (46 percent said at least "a little influence.") In 2004, after two Illinois candidates raised \$9.3 million, the winner, Justice Lloyd Karmeier, called it "obscene" on election night. "How can people have faith in the system?" he asked.

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Justice at Stake is a nonpartisan national partnership of more than 50 organizations working to keep courts fair, impartial and independent. The positions and policies of campaign partners are their own, and do not necessarily reflect those of other campaign partners.