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Campaign Finance Laws Fail as Corporate Money Floods Judicial Races

Billy Corriher January 2013

Introduction and summary

The steep rise in campaign contributions for judicial elections has been well documented. Candidates in state supreme court races raised around \$211 million from 2000 to 2009—two and a half times more than in the previous decade. But the 2012 elections saw spending records shattered as the unlimited campaign cash unleashed by *Citizens United* and other federal court cases funded billions of dollars in independent expenditures. A record \$29.7 million was spent on television ads in state supreme court races this year, and more than half of this money came in the form of independent expenditures, according to Justice at Stake and the Brennan Center for Justice, two groups that track money in judicial elections.¹

This flood of campaign cash came from corporations, lawyers, and others with a stake in how these courts rule. Even in ostensibly nonpartisan races, political parties spent millions of dollars on candidates for courts currently considering lawsuits over redistricting maps. These perceived conflicts of interest will further erode public confidence in an impartial judiciary, which is already at an alarming low.²

The Center for American Progress has compiled its recent reports describing the distorting influence of campaign cash and suggesting policy solutions to mitigate these problems. The first report, “Million Dollar Judges,” highlights several 2012 judicial elections illustrating how campaign finance laws have broken down in the face of unlimited independent spending. The next report, “Big Business Taking Over State Supreme Courts,” takes a broader view and illustrates how campaign cash has affected judges and the law over the past two decades. This compilation includes the text of the latter report and a summary of the data from its appendix.

The compilation concludes with a series of reports on different policies that could help mitigate the influence of corporate campaign cash in judicial elections. These reports are intended for advocates or legislators who want to ensure that our justice system works for everyone, not just for those with enough money to donate. Each report is prefaced by a one-page summary. Endnotes and citations are available in the longer versions that follow the summaries.

Endnotes

- 1 Brennan Center for Justice and Justice at Stake, "New Data Shows Judicial Election Ad Spending Breaks Record at \$29.7 million," Press release, December 17, 2012, available at http://www.brennancenter.org/content/resource/new_data_shows_judicial_election_ad_spending_breaks_record_at_29.7_million.
- 2 A 2010 poll from Justice at Stake found that 71 percent of respondents said that they "believe campaign expenditures have a significant impact on courtroom decisions." Justice at Stake, "Solid Bipartisan Majorities Believe Judges Influenced by Campaign Contributions,"

Press release, September 8, 2010, available at http://www.justiceatstake.org/newsroom/press_releases.cfm/9810_solid_bipartisan_majorities_believe_judges_influenced_by_campaign_contributions?show=news&newsID=8722. A 2009 Gallup/*USA Today* poll found that 89 percent of respondents said they "believe the influence of campaign contributions on judges' rulings is a problem." Joan Biskupic, "Supreme Court Case with the feel of a best seller," *USA Today*, February 16, 2009, available at http://www.usatoday.com/news/washington/2009-02-16-grisham-court_N.htm.

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