



The Million Dollar Judges of 2012

Billy Corriher January 15, 2013

Independent spending wreaked havoc on judicial elections and tested campaign finance laws in 2012, as interest groups evaded contribution limits and spent millions of dollars to elect their preferred judges. The true ramifications of *Citizens United* and other federal court cases that weakened campaign finance laws were felt in judicial races around the country. A record \$29.7 million was spent on ads in state supreme court elections, and more than half of this money came in the form of independent spending, according to Justice at Stake and the Brennan Center for Justice, two groups that track spending in judicial races.¹

As in previous elections, 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 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 Unless states implement reforms, millions of dollars will continue to flood judicial races, and the influence that corporations and special interests exercise over judges will continue unabated.

The Center for American Progress collected information on all judges who won elections in 2012 while raising roughly \$1 million or more, as well as those who had more than \$1 million spent on their behalf by independent groups. The campaigns of the “million dollar judges” of 2012 demonstrate that independent spending plays an increasingly crucial role.³

Justice Paul Newby, North Carolina Supreme Court

North Carolina Supreme Court Justice Paul Newby was re-elected with the help of more than \$2.5 million in independent spending.⁴ The state’s public financing program—long a model for states seeking to keep money out of judicial races—was overwhelmed by money from interest groups such as the state Chamber of Commerce and Americans for Prosperity, a group affiliated with the billionaire industrialist Koch brothers. North Carolina tobacco companies also chipped in hundreds of thousands of dollars after they benefited from a 2009 ruling,⁵ authored by Newby, in a dispute with tobacco farmers.



Newby

The largest donation, by far, was the more than \$1 million from the Republican State Leadership Committee, a group that helped the state’s Republican legislature draft its recent redistricting maps.⁶ Civil rights groups filed a lawsuit alleging that the map disenfranchises minority voters, and the case is currently before the state supreme court.⁷ This money was instrumental in keeping a 4-3 conservative majority on the bench. North Carolina’s ethics rules say a judge should not hear a case if his or her “impartiality might reasonably be questioned,”⁸ but Justice Newby will hear the redistricting case despite the fact that he was re-elected thanks to millions of dollars from Republican groups that have a stake in the outcome.⁹

Justices Stephen Markman, Brian Zahra, and Bridget McCormack, Michigan Supreme Court

The three newly elected justices to the Michigan Supreme Court raised hundreds of thousands of dollars for their own campaigns, but the state political parties spent millions of dollars on behalf of the judges without disclosing the source of that money. Incumbent Justices Stephen Markman and Brian Zahra, both conservatives, each raised around \$800,000 for their re-election bids. According to the Michigan Campaign Finance Network, however, the state Republican Party spent \$4.5 million on ads for Justices Markman and Zahra, as well as an unsuccessful high court candidate, without disclosing the source of any of that money.¹⁰ Of the spending that was reported, the Michigan Association of Realtors spent \$400,000 on ads for the conservative candidates after both joined a 2011 opinion that made it easier for mortgage companies to foreclose on homeowners.¹¹

Justice Bridget Mary McCormack won a seat on the Michigan Supreme Court after the Democratic Party spent \$5 million in undisclosed spending on ads supporting her and two other candidates.¹² Her campaign collected more than \$600,000 with the help of large donations from unions.¹³

Justice Don Willett, Texas Supreme Court

The Texas Supreme Court is composed entirely of conservative Republicans, and Justice Don Willett cruised to re-election, raising \$1.7 million for a primary contest. This hefty sum includes almost \$100,000 from energy companies, as well as large contributions from the industry’s top law firms.¹⁴ Justice Willett has received more than \$250,000 from energy companies over the years, according to the National Institute on Money in State Politics.¹⁵



Markman



Zahra



McCormack

Justice Willett has never met an oil company litigant that he did not like. The Texas Supreme Court ruled in 2007 that contract employees such as oil-rig workers cannot sue their employers for on-the-job injuries.¹⁶ For years the energy industry had unsuccessfully lobbied the state legislature for such a change.¹⁷ In a 2008 lawsuit involving hydraulic fracturing, or “fracking,” Justice Willett blatantly invoked policy reasons in ruling for the energy company: “Open-ended liability threatens to inflict grave and unmitigable harm, ensuring that much of our state’s undeveloped energy supplies would stay that way—undeveloped ... Amid soaring demand and sagging supply, Texas common law must accommodate cutting-edge technologies able to extract untold reserves from unconventional fields.”¹⁸



Willett

Justice Mary Jane Theis, Illinois Supreme Court

Justice Mary Jane Theis of the Illinois Supreme Court easily won the race for chief justice in the general election. Like Justice Willett, however, she faced a primary challenge. She raised around \$1.5 million for the race, and more than \$400,000 of her campaign funds came from lawyers.¹⁹ Justice Theis also received \$18,500 from public-sector unions,²⁰ including a chapter of the American Federation of State, County, and Municipal Employees, which fought the closure of certain state facilities in a case before the high court. Justice Theis dissented from a recent Illinois Supreme Court ruling against the union.²¹ Her primary campaign also benefited from almost \$200,000 in independent spending from Personal PAC, Inc., a group that supports reproductive health care for women.²²



Theis

Justice Josiah Coleman, Mississippi Supreme Court

Justice Josiah Coleman won a seat on the Mississippi Supreme Court with \$1 million dollars in independent spending. Nearly half of that money came from a shadowy Virginia-based organization, the Law Enforcement Alliance of America.²³ The group has been active in judicial races around the country, and although it refuses to disclose its donors,²⁴ it has been associated with the National Rifle Association and the U.S. Chamber of Commerce.²⁵ The rest of the independent spending came from Improve Mississippi PAC, which received large donations from corporate-funded groups, including national tort reform advocates and political action committees representing the insurance, finance, and energy industries.²⁶



Coleman

Justice Sharon Kennedy, Ohio Supreme Court

Despite a rare “not recommended” rating by the Ohio State Bar Association,²⁷ Justice Sharon Kennedy defeated an incumbent justice for a seat on the state’s supreme court. Kennedy was aided by campaign donations from energy companies and the insurance industry, as well as independent spending by the Ohio Republican Party.²⁸ Her campaign reported raising more than \$950,000, including hundreds of thousands of dollars from the state Republican Party, corporate interest groups, and law firms that appear before the court.²⁹



Kennedy

Justices Fred Lewis, Barbara Pariente, and Peggy Quince, Florida Supreme Court

Facing an unprecedented multimillion dollar opposition campaign, three Florida Supreme Court justices raised half a million dollars each and benefited from \$3.3 million in spending by an independent group. The group, called “Defend Justice from Politics,” spent millions to defend the three candidates in the 2012 retention election, and it received most of its money from Florida attorneys.³⁰ The campaign against keeping the justices on the bench was funded by the state Republican Party and pro-corporate groups like the Koch brothers’ Americans for Prosperity.³¹



Lewis



Pariente



Quince

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 that 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.
- 3 A candidate in West Virginia spent more than \$1 million, but she spent her own money instead of raising campaign funds. "Candidate Summary: Davis, Robin Jean," available at <http://www.followthemoney.org/database/StateGlance/candidate.phtml?c=135003> (last accessed January 2013). Three candidates for the Florida Supreme Court raised around half a million dollars each, and an outside group spent \$1.4 million on their behalf, for an average amount that is just under \$1 million. Brennan Center for Justice and Justice at Stake, "2012 judicial campaign spending exceeds \$13 million, surpasses 2010 spending," Press release, October 26, 2012, available at http://www.brennancenter.org/content/resource/2012_judicial_campaign_spending_exceeds_13_million_surpasses_2010_spending/.
- 4 Craig Jarvis, "More than \$2.5 million raised so far by outside groups in state Supreme Court race," *News Observer*, October 30, 2012, available at <http://www.newsobserver.com/2012/10/30/2450677/more-than-25-million-raised-so.html>.
- 5 *North Carolina v. Phillip Morris USA, Inc.*, No. 2A05-4 (N.C. Nov. 6, 2009) (unpublished decision), available at <http://www.aoc.state.nc.us/www/public/sc/opinions/2009/pdf/2-05-4-4.pdf>.
- 6 North Carolina Department of State, "48-Hour Notice: Justice for All NC," November 5, 2012, available at http://www.app.sboe.state.nc.us/webapps/cf_rpt_search_org/cf_report_image.aspx?DID=158228.
- 7 Lynn Bonner and Anne Blythe, "NC Supreme Court: Newby can participate in redistricting case," *News Observer*, December 17, 2012, available at <http://www.newsobserver.com/2012/12/17/2550986/nc-supreme-court-newby-can-participate.html>.
- 8 N.C. Code of Judicial Conduct Canon 3(C)(1).
- 9 Bonner and Blythe, "NC Supreme Court: Newby can participate in redistricting case."
- 10 Michigan Campaign Finance Network, "Unreported Michigan Supreme Court Television Advertising, 2012 Election Cycle" (2012), available at http://www.mcfn.org/pdfs/reports/MSC_TV.pdf.
- 11 *Residential Funding Co. v. Saurman*, 805 N.W.2d 183 (Mich. 2011).
- 12 Michigan Campaign Finance Network, "Unreported Michigan Supreme Court Television Advertising, 2012 Election Cycle."
- 13 Michigan Department of State, "Post-General CS, Bridget Mary McCormack for Justice," December 6, 2012.
- 14 "Candidate Summary: Willett, Don," available at <http://www.followthemoney.org/database/uniquecandidate.phtml?uc=138954> (last accessed January 2013).
- 15 *Ibid.*
- 16 *Entergy Gulf States, Inc. v. Summers*, 282 S.W.3d 433 (Tex. 2009).
- 17 Lee Nichols, "Justice and Worker Safety," *Austin Chronicle*, December 21, 2007, available at <http://www.austinchronicle.com/news/2007-12-21/574169/>.
- 18 *Coastal Oil and Gas Corp., v. Garza Energy Trust*, 268 S.W.3d 1 (Tex. 2008).
- 19 "Candidate Summary: Theis, Mary Jane," available at <http://www.followthemoney.org/database/StateGlance/candidate.phtml?c=136591>.
- 20 *Ibid.*
- 21 Supervisory Order, *Weems v. Appellate Court, Fifth District and American Federation of State, County, and Municipal Employees*, No. 115240 (Ill. Dec. 11, 2012), available at http://www.state.il.us/court/supremecourt/Announce/2012/121112_2.pdf.
- 22 The Illinois Campaign for Political Reform, "Uncoordinated Spending: Uncoordinated spending for the 2012 running of 1ST SUPREME - FITZGERALD VACANCY," available at <http://illinoisunshine.org/sunshine/uncoordinated-spendingSearch.php?year=2012&office=1ST+SUPREME++FITZGERALD+VACANCY> (last accessed December 19, 2012).
- 23 This figure is based on Legal Progress' analysis of Kantar Media's CMAG data. The Law Enforcement Alliance of America spent an estimated \$449,160 on television ads in this race, and the Improve Mississippi PAC spent an estimated \$626,000.
- 24 *In re Law Enforcement Alliance of America, Inc.*, NO. 03-11-00634-CV, 2011 Tex. App. Lexis 9656 (Tex. App. Dec. 9, 2011).
- 25 "Known Funders of: Law Enforcement Alliance of America (LEAA)," available at http://www.stealthpacs.org/funder.cfm?Org_ID=175#4 (last accessed December 2012).
- 26 This figure is based on Legal Progress' analysis of Kantar Media's CMAG data. The Improve Mississippi PAC spent an estimated \$626,000 in this race.
- 27 "Ohio court hopeful gets lowest rating," *Toledo Blade*, June 7, 2012, available at <http://www.toledoblade.com/Courts/2012/06/07/Ohio-court-hopeful-gets-lowest-rating.html>.
- 28 "Buying Time 2012—Ohio," Brennan Center For Justice, October 1, 2012, available at http://www.brennancenter.org/content/resource/buying_time2012_ohio.
- 29 Contribution information for Justice Kennedy's campaign is available through the Ohio Department of State's online campaign finance database. See: "Contributions Search," available at <http://www2.sos.state.oh.us/pls/cfonline/f?p=119:2:0::NO:2::>
- 30 Florida Department of State and Defend Justice from Politics, "Campaign Finance Activity; IRS Form 8872, Post-General Election Report," December 6, 2012.
- 31 "GOP's Unwarranted Assault," *Miami Herald*, October 7, 2012, available at <http://www.miamiherald.com/2012/10/07/3036417/gops-unwarranted-assault.html>.