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Report Shows Spread of Special Interest Pressure, Growing Clout of Business Groups in State Supreme Court Elections

New Zogby Survey of Business Leaders Shows Unease with Growing Conflicts

Justice O'Connor Decries "Political Prizefights"

WASHINGTON, DC – Special interest pressure is metastasizing into a permanent national threat to the fairness and impartiality of America's courts, according to a major new report from the Justice at Stake Campaign and its partners, the Brennan Center for Justice at NYU School of Law and the National Institute for Money in State Politics. At the same time, a new survey conducted by Zogby International for the Committee for Economic Development shows that four out of five business leaders worry that campaign contributions have a major influence on decisions rendered by judges.

"Justice at Stake's report shows how 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," said former U.S. Supreme Court Justice Sandra Day O'Connor. "I hope that every state that elects judges in partisan elections will consider reforms."

"The 2006 election cycle was the most threatening year yet to the fairness and impartiality of America's courts," said Bert Brandenburg, executive director of the Justice at Stake Campaign. "The good news is that a broad cross-section of American civic, legal and business leaders appear ready to say enough is enough, and to work for reforms that will protect our courts."

The data comes even as a new national group—the Democratic Judicial Campaign Committee—is vowing to spend millions to unseat judges and justices across the country.

Among the key findings of *The New Politics of Judicial Elections 2006*:

- TV ads in high court campaigns ran in 10 of 11 states with contested elections, compared to four of 18 states in 2000. Average television spending per state was \$1.6 million, a new record. An overwhelming majority of independent expenditure television advertising was sponsored by groups on the political right.
- Median fundraising by candidates for state high courts hit a record high of \$243,910. In other words, getting to the bench has never been so expensive for so many. Five states set aggregate candidate fundraising records for high court campaigns (AL, KY, GA, OR, WA).
- State Supreme Court elections attracted record sums from business interests, a reflection of the importance of state courts in setting corporate damage payments. Campaign finance analysis shows that business gave \$2 for every \$1 donated by lawyers directly to candidates, and independent committees aligned with business interests dramatically outspent groups on the left.
- Judicial candidates presented a united front in overwhelmingly rejecting pressure-filled questionnaires from special interest groups. For example, only 17 percent of candidate's for seats on Florida's trial courts responded to a question demanding their position on same-sex marriage.

Television advertising has become a major weapon for groups doing battle over state high courts. In 2006, pro-business groups accounted for 90 percent of all independent spending on TV ads in high court races.

"The responsibility for protecting the courts is shared by all branches of government. Legislative and executive leaders ought to seriously consider public financing of judicial campaigns, while judiciaries must be vigilant about campaign conduct and recusal rules," said James Sample, Counsel with the Brennan Center's Democracy Program and co-author of the report.

According to the Zogby survey of business leaders, 79 percent believe that campaign contributions made to judges have at least some influence on their decisions in the courtroom. Fully 90 percent are concerned that campaign contributions and political pressure will make judges accountable to politicians and special interest groups instead of the law and the Constitution. The poll showed strong support for finding ways to decrease the fundraising arms race now common in many state high court campaigns.

"These results confirm the uneasiness that many in business have with the role of money in judicial campaigns," said Charles Kolb, President of the Committee for Economic Development. "A fair and impartial judiciary – free from the influences of big money – is good for our country, the economy, and business."

The report and related supplemental materials and the Zogby national survey of business leaders are available online at www.justiceatstake.org or by calling 202-588-9454.