



Justice at Stake c a m p a i g n

Caperton v. Massey – Facts in Brief

(For details, see Caperton resource page at www.justiceatstake.org)

“Justice for Sale” Case Is Worthy of a Novel

Caperton v. Massey is the only U.S. Supreme Court case to inspire a John Grisham novel (“The Appeal”) before it reaches the justices.

The New York Times’ Supreme Court writer has labeled the Caperton case “one of the most important of the term.” It addresses an extraordinarily timely issue: Are the millions of dollars now flooding state Supreme Court elections creating an unacceptable risk that justice is “for sale”?

The Case

In 2004, a **West Virginia coal executive spent \$3 million to elect a state Supreme Court justice while appealing a \$50 million jury award** against his company. The justice, once elected, cast the deciding vote to overturn the suit.

The Context

Nationally, **state Supreme Court races are drawing an unprecedented flow of special interest money:** Court candidates raised \$168 million in 2000-2007, more than double what was spent in the entire 1990s. Special interests spent millions more in unregulated “independent” campaigns.

- This trend has provoked **cries of alarm from Supreme Court Justice Sandra Day O’Connor, and newspapers including the New York Times.**
- National polls show that more than **3 in 4 Americans believe campaign cash affects courtroom decisions.**
- Recent Justice at Stake polling shows that **85 percent of U.S. adults believe a judge should avoid cases** involving major campaign contributors.

The Constitution

An **unprecedented coalition** has urged the U.S. Supreme Court to rule that in certain cases, judges have a constitutional obligation not to rule on matters involving major campaign supporters. This group includes **former U.S. Solicitor General Theodore B. Olson, 27 former state Supreme Court justices, the American Bar Association,** and a business group whose brief was signed by **Pepsico, Wal-Mart, Intel and Lockheed Martin.**

Says Olson: **“The improper appearance created by money in judicial elections is one of the most important issues facing our judicial system today.”**

The Consequences

For the 39 states that elect some judges, and especially the 21 states that allow competitive elections for Supreme Court justices, a ruling in favor of Caperton would establish a “constitutional floor,” i.e., a minimum standard of due process to ensure that all parties receive a fair, impartial judge. States would be free to set their own rules to meet or exceed that standard.

The extreme facts of *Caperton v. Massey* also have cast light on the **problems of special-interest spending in judicial elections.** However the Supreme Court rules, *Caperton v. Massey* has highlighted the need for states to enact their own **reforms to reduce special interest influence.** Every citizen must be assured a fair day in court, in front of an impartial judge

To learn more, see Justice at Stake’s online resource page, at www.justiceatstake.org, or call Charles Hall, Justice at Stake Communications Director, at 202-588-9454; (cell) 202-384-4447.