



About Justice at Stake

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in this issue . . .

JAS Poll: Judges Shouldn't Handle Cases Involving Supporters

ABA President Gives Update on Court Efforts

Study Finds Link Between Contributions, Rulings

NY Times Urges Judge's Impeachment

Wisconsin: Ruling Allows Judges to Get Partisan

Editorials Urge Release of Uighurs

JAS POLL: JUDGES SHOULDN'T HANDLE CASES INVOLVING SUPPORTERS

By overwhelming margins, U.S. adults doubt that elected judges can be impartial in cases involving their biggest election campaign financial supporters, and the public says judges should step aside from such cases, according to a **new national poll by Harris Interactive**.

Moreover, 81 percent say judges should not decide whether they can fairly hear a case, saying that another judge should weigh the facts when a judge's neutrality is challenged.

The poll, commissioned by Justice at Stake, comes as the Supreme Court prepares to consider the landmark case of *Caperton v. Massey*. The court will consider whether a West Virginia justice should have recused himself from a case involving a coal executive who spent \$3 million to help elect the judge.

"Americans overwhelmingly believe that campaign cash has no place in the courtroom," said Bert Brandenburg, executive director of Justice at Stake Campaign. "They are very skeptical that a judge can be impartial when one side has spent big dollars to help put them on the bench."

Similar polling results were found in an excellent **USA Today article on the case**. Other articles citing Justice at Stake include a **Detroit Free Press column** on judges and campaign contributors, and a **Los Angeles Times article** on the Caperton case. You can also learn more at **Justice at Stake's online Caperton resource page**.

ABA PRESIDENT GIVES UPDATE ON COURT EFFORTS

ABA President **H. Thomas "Tommy" Wells Jr.** has made protecting the courts a major priority, and in a recent Gavel Grab interview at the American Bar Association's midyear meeting, he reported progress in three areas.

Wells said he gained **editorial support from the Los Angeles Times** for his proposal to use state-based nominating advisory commissions to assist in the naming of federal judges. He said he talked with individual senators and the White House about his plan, which now is used voluntarily by senators in eight states. Wells said such panels can head off partisan rancor by identifying potential nominees with broad support.

Wells also said 36 states have committed to participate in his May 7-9 national summit on fair and impartial courts, which will seek to create an interbranch dialogue on proper support for state courts. And he praised the ABA's Standing Committee Judicial Independence for its work in *drafting two amicus briefs in the Caperton v. Massey*



Contact Information

Justice at Stake Campaign

717 D Street, NW
Suite 203
Washington, DC 20004

Telephone:
202-588-9700

Fax:
202-588-9485

justiceatstake.org

[Click here to send us an email.](#)

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granting two amicus briefs in the *Caperton v. Massey* case.

To read Wells' full interview, see [this article in Gavel Grab](#).

STUDY FINDS LINK BETWEEN CONTRIBUTIONS, RULINGS

A recent study found that campaign contributions can have a significant influence on decisions by state Supreme Court justices, an [article in *The National Law Journal* reported](#).

After studying judicial elections in Michigan, Texas, and Nevada, political scientists Chris Bonneau of the University of Pittsburgh and Damon Cann of Utah State University determined that "campaign contributions appear to affect the outcome of cases in states where judges are elected in partisan contests — Michigan and Texas in the study — but not where they are elected on a nonpartisan ballot — Nevada."

The authors noted that the sample of states was small and also said it is impossible to say that campaign contributions cause decisions, but in Michigan and Texas, the authors said they identified a "correlation."

The [full text of the study can be found here](#).

Polls have documented public concern about special-interest money, but there have been few studies on the actual impact of campaign spending on courtroom decisions. A [2006 *New York Times* article](#) examined the effect of contributions on the Ohio Supreme Court.

NY TIMES URGES JUDGE'S IMPEACHMENT

A [February 19 *New York Times* editorial](#) discusses [calls to impeach Texas Judge Sharon Keller](#), who closed her courtroom door promptly at 5 p.m., thwarting an 11th-hour death penalty appeal.

Within a day of the editorial, the Texas Judicial Conduct Commission, which had failed to act on complaints for more than a year, [said it was initiating disciplinary procedures](#) against Keller.

A [Gavel Grab commentary](#), while agreeing with criticisms of Keller's judgment, said other forms of discipline are preferable to impeachment in cases that do not involve criminal wrongdoing.

WISCONSIN: RULING ALLOWS JUDGES TO GET PARTISAN

State judges can now join political parties, endorse political candidates, and seek campaign contributions, as a result of a federal judge's ruling, [according to an *Associated Press* article](#).

In a case challenging the Wisconsin Judicial Commission, U.S. District Judge Barbara Crabb, left, ruled that the regulations for judicial candidates not only violated judges' First Amendment rights but also did not significantly protect courts from political influence.

In other news from Wisconsin, the Wisconsin Democracy Campaign has established

www.impartialjustice.org, a new web site on fair, impartial courts. You can learn more at www.wisdc.org, or in [this Gavel Grab article](#).

EDITORIALS URGE RELEASE OF UIGHURS

The Washington Post and [Los Angeles Times](#) have called on the Obama administration to release 17 Chinese Muslims from Guantanamo who have been determined not to be enemy combatants.

The [Post editorial](#) said that granting asylum to the Uighurs “could go a long way toward persuading other countries to open their doors, too, to these and other Guantanamo Bay detainees.” To read a Gavel Grab posting on the Post editorial, [click here](#).

To stay on top of issues affecting fair and impartial courts, visit [Gavel Grab](#), the daily online journal of Justice at Stake, or visit www.justiceatstake.org.

Justice at Stake is a nonpartisan national campaign of more than 50 partners working to keep our courts fair, impartial and independent. Justice at Stake Campaign partners educate the public and work for reforms to keep politics and special interests out of the courtroom—so judges can do their job protecting our Constitution, our rights and the rule of law.

The positions and policies of Justice at Stake campaign partners, directors and staff are their own, and do not necessarily reflect those of other campaign partners.