THE PRICE OF JUSTICE

A Los Angeles Area Case Study in

Judicial Campaign Financing

Report and Recommendations of the California Commission on Campaign Financing

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Dedicated to the Memory of

Samuel L. Williams

Samuel L. Williams, a highly visible Southern California attorney and valuable member of the Commission, contributed greatly to all of our work and, in particular, to this report on judicial campaign financing in Los Angeles County. We shall miss his wise advice and counsel.

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Foreword

This report is the summation of a three-year study by the California Commission on Campaign Financing into the impact of campaign money on judicial elections in Los Angeles County Superior and Municipal Court races. It is the seventh in a series of Commission reports on California policy problems.

The Commission's thanks the John Randolph Haynes and Dora Haynes Foundation for the generous grant which made this report possible, as well as the Carnegie Corporation for a grant to study comparative judicial campaign financing approaches in other states. These foundations are not, of course, responsible for the statements or views expressed in this report.

The Commission, formed in 1984, is a non-profit, bipartisan, private organization. Twenty-three prominent Californians from the state's business, labor, agricultural, legal, political and academic communities, about equally divided between Democrats and Republicans, serve as its members.

The Commission's first report, *The New Gold Rush: Financing California's Legislative Campaigns* (1985), focused on the problems of campaign financing in the state legislature. The 353-page report, now in its second printing, served as the model for statewide Proposition 68 in the June 1988 election, as well as the campaign finance portions of Proposition 131 in the November 1990 election. The Commission's second report, an *Update* to *The New Gold Rush,* was published in 1987.

The Commission's third and fourth reports, *Money & Politics in the Golden State: Financing California's Local Elections* (1989), and *Money and Politics in Local Elections: The Los Angeles Area* (1989), focused on campaign financing in cities and counties. These two reports were a catalyst for the landmark June 1990 Los Angeles City campaign finance ordinance, the most innovative in the nation.

The Commission's four campaign finance reports also proposed an innovative new reform called "variable contribution limits"—allowing governments to give candidates incentives to accept expenditure ceilings without public financing. Several other states and local California governments have now adopted this reform.

The Commission's fifth and sixth reports, *Democracy by Initiative: Shaping California's Fourth Branch of Government* (1992), and *To Govern Ourselves: Ballot Initiatives in the Los Angeles Area* (1993), addressed the problems of ballot initiative campaigns in state and local elections.

The Commission wishes to express particular gratitude to its Executive Director Tracy Westen and Co-Director Robert M. Stern, who together oversaw the Commission's study and were responsible for the preparation of this report. Matthew Stodder created the Commission's computerized data base. Dr. Craig Holman was the Commission's principal researcher. Linda Watson, office administrator, designed the report and coordinated its production. Janice Lark, the Commission's former office manager, created the report's initial design. Robert Herstek designed the report's cover. Virginia Currano, Julie Epps, Maria Jimenez, Dondria Morgan and Gayle Sato assisted the Commission's Data Analysis Project.

The Commission extends its warm appreciation to the many public officials, political experts, academicians, political consultants and concerned citizens who provided assistance. A list of these individuals appears in Appendix G to this report.

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Introduction and Summary

Stealth Candidates in Judicial Elections

Judicial candidates in Los Angeles County elections are stealth figures in local politics. Unlike political candidates and officeholders, judicial candidates for superior and municipal courts refrain from attending store grand openings, sporting events or charity fundraisers. They rarely champion controversial community causes, make statements on current policy issues, build name recognition through political activism, appear on television interview programs, debate their opponents, purchase radio and television ads or even kiss babies. Instead, judicial incumbents, challengers and open seat hopefuls alike confront widespread political anonymity—not only for themselves but for the offices they seek.

Despite their relative anonymity, Los Angeles County trial court judges exercise considerable power. They rule on a vast array of complex issues affecting the county's rapidly growing population of 9.2 million—from traffic infractions and environmental land use, to child custody, police brutality and murder. They also exert considerable influence through their sheer numbers. Los Angeles County has more trial court judges than each of 45 other states, and nearly one-third of all superior and municipal court judges in California are located in Los Angeles County.

Powerful in the judicial arena, most incumbent judges and judicial candidates still find themselves at sea in the political arena—caught up in a morass of political slogans, slate mailers, campaign fundraising and sound-bites. "For the

most part, judges are standing naked in the political process, not knowing what, when or how to do anything," comments Los Angeles area judicial political consultant Joseph Cerrell.

Judges avoid the limelight for reasons of propriety and legal ethics. Judges share a powerful belief that judicial decisions should be made in a reasoned, dispassionate fashion, based on the facts and legal merits of the cases, not the impulsiveness of the media or public opinion. By seeking personal publicity or espousing popular causes, judges risk improperly influencing jurors or creating false public expectations which, if not met, could undermine the credibility and integrity of the judicial system.

When it comes to public elections, judges and judicial candidates must suddenly throw off their self-adopted cloak of anonymity and strive for instant publicity and widespread notoriety. Yet years of patient discretion cannot easily be turned into short, intense periods of political flamboyance.

Running as political unknowns in the County of Los Angeles, the state's most populous jurisdiction, candidates for superior court face the toughest task of any candidates for elective office in California. They lack widespread visibility, known political party affiliations or tangible issues on which to run; yet they must persuade a majority of the county's 3.6 million registered voters—scattered over an area nearly four times the size of Rhode Island—to vote for candidates they know nothing about and whose names they almost certainly have never heard.

"Superior court judges in Los Angeles County have a voting constituency larger than that of 88 U.S. Senators," says judicial political consultant Joseph Cerrell. "Yet 75% of the people who go to the polling place don't even bother to vote for judge." Cerrell's 75% figure is too high, but his point is valid. Many voters—a median 35% of all voters voting in countywide elections from 1976 to 1992—failed to vote in *any* superior court contest. In the 1986 general election, 41% of all those county voters who went to the polls did not vote in superior court contests. By contrast, only 3% did not vote in the governor's race.

Only in highly-charged and uncharacteristically visible judicial campaigns, typically fought over controversial court rulings, do voters cast ballots for judges in numbers approaching those for higher-profile offices. In 1992, for example, three judicial candidates unsuccessfully challenged Superior Court Judge Joyce Karlin's reelection, attacking her controversial decision to sentence a Korean grocer convicted of killing an African-American teenager to probation instead of prison. The contest was thoroughly covered on evening news programs and in the *Los Angeles Times, Daily News* and other local newspapers. One challenger, Donald Barnett even spent over $73,000 on local broadcast advertising. In this unusual race, 83% of the voters cast ballots for the various judicial candidates.

The Price of Justice

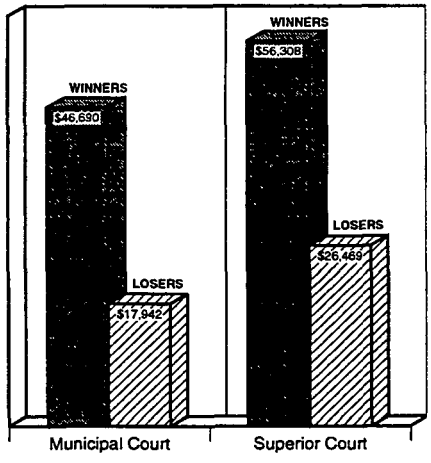
To confront the daunting challenges of widespread anonymity and political inexperience, many judicial candidates simply transfer this responsibility to professional paid campaign consultants,

who employ expensive slate mail and other advertising techniques to create public familiarity with the candidates' names and backgrounds. These techniques work. According to the Commission's data, the more a candidate spends on these methods, the greater that candidate's chance of victory at the polls. (*See* Table 1.)

Table 1

SPENDING ADVANTAGE OF WINNERS VS. LOSERS

Contested Trial Court Races in Los Angeles County, 1988 to 1994



Source: California Commission on Campaign Financing Judicial Data Analysis Project

Paying for expensive consultants and campaign strategies, however, is not easy. Judicial candidates are often forced to engage in a pressured election year search for money, asking friends, colleagues and attorneys (who may one day appear before them) to make campaign contributions. When these contributors are unable to provide judicial candidates with sufficient funding (as in most cases), judicial candidates often finance the remainder of their campaigns themselves, giving or lending their campaigns large sums of their own money. In one instance, a candidate gave $176,000 of his own money to obtain a position which paid a maximum of $104,262 per year.

Compared to other elective offices in Los Angeles County, however, candidate spending in municipal and superior court races is minuscule. Between 1988 and 1994, the highest municipal court candidate expenditure was $168,000. The most spent by a countywide candidate for superior court since 1976 was $378,000. By contrast, Los Angeles County supervisorial candidates—who run in districts one-fifth the size of those superior court candidates—routinely spend over $1 million. Los Angeles area state assembly and senate candidates with even smaller districts have spent as much as $3 million in a single election.

The Los Angeles County Superior Court and the Los Angeles City Municipal Court are each the largest of their kind in the nation. They are thus ideally suited to serve as the focus of a case study to illuminate the dangers and potential abuses of a system of judicial elections based on candidates' ability to raise money.

Problems of Rising Costs and Diminishing Information in Judicial Campaigns

The Commission has compiled the largest data base of judicial contributions and expenditures ever assembled, interviewed dozens of judges, met with campaign consultants and academic experts and canvassed the available literature on judicial elections. Based on its research, the Commission has concluded that four critical campaign financing problems plague judicial elections in Los Angeles

County and other local California jurisdictions:

(1) Spending in judicial campaigns is rising, particularly in controversial races. Judicial candidates are experiencing increasing pressure to raise larger and larger sums of money and, possibly, to avoid making controversial rulings which might make their fundraising and reelections more expensive and difficult.

(2) Candidates are forced to solicit campaign contributions from lawyers and litigants, a contributor base with a vested interest in the outcome of the candidates' judicial decisions. This increases the appearance or actuality of bias in the decision-making process.

(3) Candidates and their families are pressured to become the largest contributors to their own campaigns—leaving candidates heavily in debt after taking office, forcing them to raise additional contributions while in office and creating an even greater danger that money may effect, or appear to effect, judicial decisions. Candidate-funded campaigns also tend to favor the selection of judges from wealthier income groups rather than a cross-section of society.

(4) Judicial candidates still lack sufficient budgets to inform the voters adequately of the merits of their candidacies, despite growing pressures to raise and spend money. Judicial elections cannot be justified at all if voters lack sufficient information to make rational electoral choices between judicial candidates.

The central question confronting Los Angeles County and other state and local jurisdictions that conduct judicial elections is whether these elections can be restructured so that candidates can provide voters with enough information to make reasoned electoral decisions without forcing candidates to raise so much money that judicial integrity is impaired.

In this study, the Commission has focused its attention on ways to improve the financing of judicial elections at the local level, rather than considering the larger question of whether judicial elections should be conducted at all. The desirability of reducing or eliminating judicial elections altogether will be analyzed in a forthcoming study. To reduce the negative impact of money in existing judicial elections, the Commission at this point recommends a comprehensive package of reforms to provide voters with better information concerning their decisions in judicial elections and, at the same time, to give judicial candidates greater independence from the influence of political money.

Outline of the Commission's Recommendations

Judicial campaign financing problems would largely disappear if competitive judicial elections were eliminated. Judges could then either be appointed by the governor and periodically subjected to public review in non-competitive retention elections, or be appointed for a fixed term or for life and not have to run for election at all—as is currently the case with federal court judges.

Although there may be merit in such an approach, the Commission assumes, for purposes of this study, that Califor-

nia and other states with judicial elections will retain their current system of competitive elections into the foreseeable future. Thus, the Commission recommends adoption of a package of reforms that would mitigate the problems of campaign financing in competitive trial court elections. These proposed reforms should curtail the problems of high spending campaigns while simultaneously increasing the information available to voters.

In brief outline, the Commission believes the following comprehensive package of 10 constitutional and statutory reforms should be implemented:

(1) Contributions to any one judicial candidate from individuals, corporations, labor unions, organizations and PACs should be limited to $500 per election;

(2) Judicial candidates should all be given a conditional right to print a free statement of their qualifications in the countywide voter's pamphlet;

(3) Candidates ' right to print a free statement in the voter's pamphlet should be conditioned on their agreement not to seek, or to pay for, an endorsement in any slate mailer;

(4) Slate mailer organizations should be required to improve their disclosures of the candidates or organizations financing the mailers;

(5) Current restrictions on speech by judicial candidates in the voter's pamphlet and in the campaign should be eased: candidates should be allowed to identify their political party affiliations and compare their qualifications with other candidates;

(6) The format, clarity, readability and design of the voter's pamphlet should be improved;

(7) Information about judicial candidates in the voter's pamphlet should be increased—to include candidate statements and rebuttals;

(8) Candidates and their families should not be able to lend their campaigns (for subsequent repayment) more than an aggregate of $25,000 at any point in time for superior and municipal court races;

(9) Fundraising by candidates should be limited to a period starting no sooner than five months before the primary election and extending, if necessary, through the general election. The fundraising period should end June 30 for the regular primary election and December 31 for the general election; and

(10) An "Electronic Voter's Pamphlet" should be developed containing judicial and other election information for cable television and new media vehicles on the emerging "information superhighway"—including CD -ROMs, on-line services and interactive television systems.

These recommendations are described more fully below, along with the background to these recommendations and cross-references to detailed discussions in the text of the full report. A "Summary Checklist" of the Commission's proposed reform appears in Appendix A. Two different versions of the "Statutory Language" necessary to implement the proposed reforms—one emphasizing mandates by the state legislature and the other emphasizing local actions—appear in Appendices B and C.

California's History of Judicial Elections

The federal government and the states have widely varying systems for selecting judges. But all systems of selecting judges fall somewhere between two opposite goals: keeping the judiciary independent of short-term shifts in public opinion, and keeping the judiciary accountable for its decisions to the public. Systems of appointing judges without requiring them to run for election tend to maximize judicial independence; systems of judicial elections tend to maximize judges' public accountability.

In the early years of this country, judges were not required to run for election at either federal or state court levels. The Founding Fathers believed that average citizens should not have direct control over the appointment of key governmental officials, that checks and balances were necessary to contain mob rule and that the courts should be immunized from the transitory pressures of public opinion. As a result, federal and state judges were appointed for life.

Public support for this approach began to fade in the first half of the 19th century. Populist movements demanded greater democracy in all areas of government. In 1832, Mississippi became the first state to elect all its judges. By the outbreak of the Civil War in 1860, over half the existing states—24 out of 34—had begun to elect their judges. When California entered the union in 1850, it joined this trend and chose to elect all of its appellate and local trial court judges by competitive ballot. By the 1930s, problems of corruption in the state's judicial system prompted calls for reform. In 1934, two separate ballot measures to change judicial selection procedures were submitted to the voters—one an initiative, the other a legislative measure. Both ballot measures sought to implement retention elections for judges, in which the governor would first appoint judges for a fixed term, after which they would have to run unopposed in retention elections in which the voters would cast "yes" or no" ballots on whether the judge should remain in office. The two ballot measures were separated, however, with one applying only to appellate judges and the other applying only to trial court judges. Due largely to their placement on the ballot—one appeared at the front of the ballot and the other at the back—voters approved the first measure but not the second.

Consequently, appellate court justices, including California's Supreme Court, are today first appointed by the governor and then reelected through retention elections. Trial court judges, however, are either initially appointed by the governor (when a judge resigns before completing his or her term) and then, if challenged at the end of their term, reelected through competitive elections; or, alternatively, they are elected to office through competitive elections without a prior gubernatorial appointment. As a result, California today has a bifurcated system of selecting judges: retention elections at the appellate court level, and competitive elections at the trial court level. Both selection procedures, however, are heavily influenced by gubernatorial appointments.

California's court system consists of a California Supreme Court with seven

justices and a number of courts of appeal, superior courts and municipal courts as determined by the legislature. The governor appoints supreme court and appellate court justices with nominees reviewed by the Commission on Judicial Appointments, which consists of the chief justice, attorney general and presiding justice of the court of appeal of the affected appellate district. Appointees must then stand for election unopposed in noncompetitive retention elections at the first gubernatorial election after their appointment and at the end of each fixed 12-year term. Judges of superior and municipal courts must run in nonpartisan competitive elections at the end of fixed six-year terms or for open seats, although if they lack an opponent, their name does not appear on the ballot. Most trial court judges are initially appointed by the governor to fill an interim vacancy.

The Los Angeles Superior Court is staffed by 238 judges and 60 commissioners who serve as part-time judges when needed. The Los Angeles City Municipal Court has 88 judges and 25 commissioners. The individual cities within Los Angeles County have a total of 188 municipal court judges.

Campaign Finance Patterns: High Personal Funding, Low Overall Spending

The Commission examined campaign finance data for Los Angeles County contested superior court races from 1976 to 1994 and contested municipal court races from 1988 to 1994. In total, the Commission compiled over 25,000 separate campaign contribution and spending records from 212 candidates amounting to $15 million.

Overall, 136 individual superior court candidates (32 incumbents, 42 challengers and 62 open seat candidates) and 76 individual municipal court candidates (14 incumbents, 16 challengers and 46 open seat candidates) were studied. The following patterns emerged:

- *Money is an important advantage; spending levels are closely linked to electoral success.* In the municipal court races studied, winners outspent losers by almost 3-to-1 ($47,000 to $18,000). In superior court contests, winners outspent losers by more than 2-to-1 ($56,000 to $26,000). In open seat races, where no candidate has the inherent advantage of incumbency, winners outspent losers by 4-to-1 ($128,000 to $32,000).

- *Most candidates rely on their own or family wealth to finance their campaigns; candidates contributing the most personal money usually win.* In superior court campaigns studied, candidates themselves contributed 46% of all the funds they raised. In municipal court campaigns studied, candidates contributed an average 48% of all their funding. Several candidates contributed more than $50,000 of their own money to their campaigns; one candidate contributed $176,000. Of all superior court candidate self-funding, approximately 79% was given in amounts of $20,000 or more.

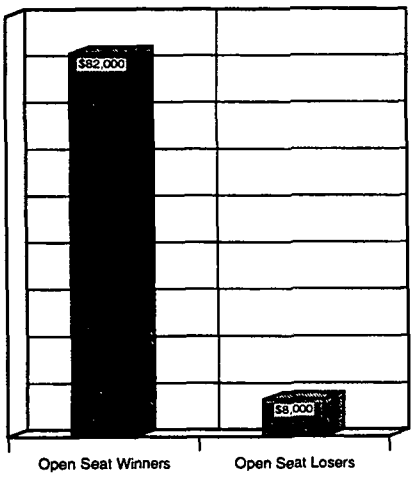
  Personal or family wealth pays off. Recent superior court open seat winners contributed more than 10 times the median amount that losers contributed to their own campaigns ($82,000 to $8,000). (*See* Table 2.)

- *Judicial campaign spending is rising rapidly.* Median superior court campaign spending has more than doubled every year for the past 16 years, increasing 22-fold from just over $3,000 in 1976 to over $70,000 in 1992.

Table 2

OPEN SEAT WINNERS VS. LOSERS: MEDIAN CANDIDATE CONTRIBUTIONS TO THEIR OWN CAMPAIGNS

Los Angeles County Superior Court Candidates, 1976 to 1994



Source: California Commission on Campaign Financing Judicial Data Analysis Project

- *Voter information is decreasing as the cost of printing candidate statements in the voter's pamphlet has soared.* Between 1978 and 1994, Los Angeles County increased the cost of printing 200-word voter's pamphlet statements for superior court candidates in general elections from $11,500 to $18,340 ($36,680 for both English and Spanish versions). The cost soared even higher for inclusion in the county's primary election pamphlet, with an actual cost in 1994 of $46,000. In the huge Los Angeles City Municipal Court District, the cost of ballot statements for municipal court candidates in the 1994 primary election stood at $13,855. (No Los Angeles Municipal Court candidate purchased a statement in the 1994 general election.) Few superior court or Los Angeles City Municipal court candidates can now afford this significant means of direct voter communication. In 1992, only 19% of superior court candidates and 37% of Los Angeles City candidates paid for a voter's pamphlet statement. By contrast, 77% of candidates used the voter's pamphlet in smaller municipal court districts, where the cost of candidate statements is far less (ranging from $600 to $3,000). (*See* Table 3.)

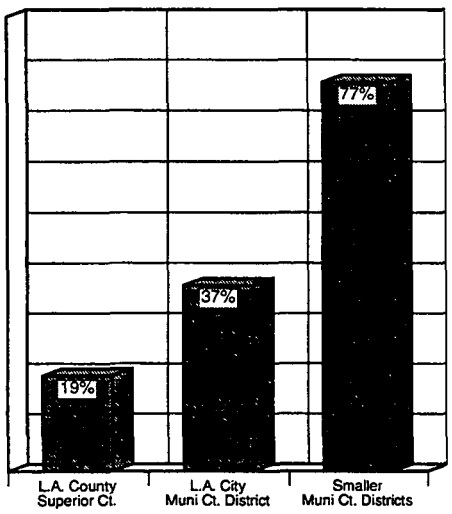
- *Many candidates now depend on targeted slate mailers as their principal method of campaigning.* Slate mailers convey no substantive information; they seek only to create name recognition by associating judicial candidates' names with the names of other, better known candidates or issues. In 1976, superior court candidates spent just 4% of their total voter contact budgets on slate mailers. By 1994, they spent 87% of all their voter contact expenditures on slate mail. Some candidates have spent as much as $73,000 on slate mailers. The impact of slate mail on electoral outcome seems clear: the candidate spending the most on slates generally wins. Winning open seat superior court candidates, for example, outspent their opponents by 4-to-1 in slate mail expenditures.

- *Some municipal and superior court judges end their campaigns in substantial debt and are forced to continue raising money while in office.* In 1980, for example, open seat winner John Stanton loaned over $56,000 to his own campaign. After the campaign ceased, Stanton—as an incumbent judge—had to raise contributions to repay this substantial debt to himself. The pressure on incumbent judges to solicit, raise and then pocket campaign contributions to repay personal debts creates significant problems of the "appearance" of—to say nothing of actual opportunities for—biased or corrupt rulings.

Table 3

PERCENTAGE OF LOS ANGELES COUNTY TRIAL COURT CANDIDATES PAYING FOR INCLUSION IN THE BALLOT PAMPHLET

1976 to 1994



Source: California Commission on Campaign Financing Judicial Data Analysis Project

- *Attorneys contribute the largest percentage of outside source contributions.* In Los Angeles County Superior Court races, attorneys contributed nearly half (45%) of all outside contributions. In the Los Angeles City Municipal Court contests, attorneys contributed over half (54%) of all outside contributions. In smaller cities in Los Angeles County, attorneys contributed 38% of total outside contributions to municipal court candidates.

Although Los Angeles County municipal and superior court candidates raise and spend far less than other Los Angeles area local candidates, they clearly acknowledge the importance of money in judicial contests. After "incumbency," judges rank the "amount of money raised" as the most effective tool for winning at the polls, according to a 1989 California Judges Association (CJA) survey. Approximately 69% of superior court judges surveyed felt that campaign money is "necessary to victory." Among municipal court judges polled by the CJA, 64% believed that electoral success hinges on the amount of money raised. One California judge reported: "My reasons for winning . . . are as follows: (1) *Money*; (2) Organization; (3) An early start; (4) *Money*; (5) An 'excellent' candidate; (6) A weak opponent; (7) Excellent public relations and use of media advice; (8) *Money*; (9) Luck."

Judicial Campaign Finance Reforms in Other States

Several state and local jurisdictions throughout the country have experimented with a variety of techniques to alleviate campaign financing problems in judicial elections. These reforms have usually been administered by bar associations; occasionally governmental agencies have imposed regulatory programs. First

Amendment rulings by the courts, however, have generally restricted the ability of governments to curtail the financing of judicial campaigns.

Most states use competitive elections to select their judges. Twelve of these states conduct partisan competitive elections. The remaining 17 states require judicial candidates to run on a competitive but nonpartisan basis. Ten other states use some form of noncompetitive retention election as the primary process for selecting judges. Eleven states plus the District of Columbia appoint their judges and, in most instances, do not require competitive or retention elections.

Depending on the particular style and manner of their election, each state has experienced unique judicial campaign financing problems. These problems range from excessively high spending in particularly controversial races for high-level judicial office, to underfunded campaigns for most other judicial offices. High-financed campaigns often generate charges that the candidates are forced to spend inordinate amounts of time fundraising and that fundraising activity takes precedence over judicial qualifications. Underfinanced campaigns are plagued by charges that voters receive inadequate information with which to make intelligent electoral decisions. Both high-spending and low-spending campaigns are susceptible to allegations that when campaign money is at a premium or difficult to obtain, judicial candidates are subject to undue influence by large contributors.

The American Bar Association, in conjunction with many state and local bar associations, has sought to ameliorate the potentially corrupting influence of campaign contributions from lawyers or litigants appearing before a recipient judge by attempting to immunize the judicial candidate from the fundraising process. The Bar Association's Code of Judicial Conduct recommends that judicial candidates remove themselves from fundraising and organize campaign committees to undertake the task for them. In this way, judicial candidates are presumed not to know the identities of their major contributors.

It is clear, however, that the code cannot achieve its intended purpose. It is impractical, because both contributors and candidates have powerful incentives to identify the sources of campaign money. It is ineffective, because many judicial candidates experience increasing pressure to raise money and know that personal calls for contributions are the most effective. And, most significantly, the code is ineffectual, because every state requires judicial candidates to file campaign finance disclosure reports which oblige the candidates to review their lists of contributors.

Voter information, ironically, is curtailed rather than improved by many bar association ethical codes. Most bar associations prohibit candidates from discussing their viewpoints on politically sensitive issues or on any matters that may end up as a case before the judge. Judicial candidates are sometimes prohibited from discussing their opponents' records. This request leaves candidates able to discuss only their own qualifications in a highly generalized manner.

Many state governments have not addressed the unique problems of judicial campaign financing. Only 22 states restrict the amount of money that any

one contributor—individual, corporate or labor union—may give to an individual judicial candidate. Most states that limit contributions to judicial candidates do so as part of a regulatory program covering all candidates for elected offices which, in effect, treats judicial campaign financing by the same rules as political candidate financing.

Five states—Montana, North Carolina, Texas, Utah and Wisconsin—provide some form of public financing for judicial campaigns. They offer public funds to ease fundraising pressures on candidates, to reduce the appearance of bias caused by large contributions and to limit judicial campaign spending. (Comprehensive public financing programs offer candidates public funds in exchange for candidates voluntarily agreeing to limit their campaign expenditures.) Unfortunately, in the case of judicial elections, these programs have been insufficiently funded to be effective. Wisconsin has made the most serious attempt to reform judicial campaign financing practices through public funds, but it has only applied these reforms to supreme court candidates. Moreover, supreme court candidates in Wisconsin are still required to raise substantial amounts of private contributions to reach the spending ceiling. In practice, public financing of judicial campaigns appears to be too little to be effective.

A few local bar associations have attempted creative alternative judicial campaign financing solutions. These include: sponsoring free public forums for judicial candidates to communicate their views to the voters; establishing blind trusts, which receive anonymous contributions from lawyers and distribute them equally to judicial candidates; and offering judicial candidates who decline contributions from lawyers the opportunity to receive and publicize their approval ratings (e.g., "qualified") from the bar association.

Each of these plans has run into debilitating problems. Public forums for judicial candidates have been widely ignored by the public and the press, leaving candidates with few incentives to participate. Judicial trust funds have been notoriously underfunded, unable to dispense enough money to provide an adequate incentive for judicial candidates to forego private attorney contributions. Even more debilitating, court rulings have interpreted trust fund allocations as "campaign contributions"—and thus subject to contribution limits and Internal Revenue Service tax regulations. Allowing candidates to publicize favorable bar ratings has failed to provide them with an attractive substitute for private contributions, and local bar associations have generally lacked a viable mechanism to ensure compliance with their campaign finance reforms. In short, most of the attempted solutions to judicial campaign financing problems have encountered only limited success and, in many cases, have failed altogether.

The Commission Recommends a Comprehensive Set of Reforms

The Commission has concluded that a coordinated package of ten judicial campaign finance reforms is both necessary and feasible in Los Angeles superior and municipal court elections and in other jurisdictions with similar problems. Assuming that competitive trial court elections will continue in the Los Angeles area, the Commission recommends ten specific reforms.

These reforms are designed to increase the quantity and quality of information available to the public about judicial candidates and, at the same time, reduce the negative effects of large campaign contributions, high spending and potentially misleading campaign techniques. (A fuller discussion of these recommendations appears in Chapter 5, and the statutory language for implementation of the recommendations appears in Appendices B and C.)

(1) Limit Contributions to $500 Per Election

California currently places no limits on contributions to judicial candidates. The Commission recommends a contribution limit of $500 to judicial candidates from any individual or single entity per election. The objective of the contribution limit is not to reduce the level of candidate spending in judicial contests. The objective is to curtail the actuality or appearance of undue influence over a judge by large contributors. The $500 limit is large enough to encompass most contributions to judicial campaigns but small enough to prevent any single contributor from extracting a *quid pro quo* from the recipient candidate.

Contribution limits in judicial campaigns directly address the problem of apparent or actual corruption. Lawyers and litigants who may appear in the judge's chambers are prevented from becoming financial kingpins in the judge's campaign. A contribution limit will inhibit lawyers and litigants from seeking special favors in exchange for larger financial support, help bolster public confidence in the judiciary and provide a campaign finance reform that is easily enforceable.

(For a discussion of money in Los Angeles judicial elections, *see* Chapter 3).

(2) Provide Conditional Free Access to the Voter's Pamphlet

The Commission recommends that all judicial candidates who meet the filing requirements for judicial office be allowed to print free statements of their qualifications in the local voter's pamphlet. Candidates would receive this benefit only if they agreed not to seek or pay for an endorsement or inclusion in any slate mailer.

The voter's pamphlet is probably the most important source of voter information in lesser publicized election contests, such as judicial elections. Los Angeles County and City, however, undermine the value of the voter's pamphlet by charging candidates an exorbitant fee for inclusion of their statements in the pamphlet and by limiting judicial candidate statements to simple recitals of qualifications which usually contain little useful information. Los Angeles County charged judicial candidates $46,000 in the 1994 primary election and about $18,000 in the 1994 general election to print their statements in the voter's pamphlet—allegedly the full printing costs—a practice that effectively denies voter's pamphlet access to most superior and municipal court candidates and forces the remainder to increase their fundraising efforts to pay for such access. The price is so prohibitive, and the use of the voter's pamphlet so valuable, that wealthier candidates (usually incumbents) will use this cost as part of their campaign strategy. An incumbent, for example, will purchase a statement in the voter's pamphlet

race. If no challengers appear ready to pay for a statement, the incumbent may withdraw his or her own statement and receive a refund prior to production of the pamphlet.

Far more alarming is the resultant imbalance in voter information on judicial elections provided by an official governmental agency. The voter's pamphlet rarely includes statements from all the judicial candidates competing in a particular contested election; often it provides the statement of only one of several candidates. This lack of information on all candidates leaves many voters confused and unaware of their election choices. It may even suggest that the government has endorsed the included candidate whose statement appears, or that the included candidate is running unopposed.

If judges are to be elected at all, then, in the Commission's view, cities and counties should assume the obligation of providing voters with fair and balanced election information on the choices they are asked to make. Free inclusion in the voter's pamphlet will also reduce the pressures on candidates to raise money for alternative voter outreach strategies. (For a discussion of the importance of the voter's pamphlet, *see* Chapter 2, Section C, "Voters Have Limited Information.")

(3) Create an Incentive for Candidates to Avoid Slate Mailers

In return for a free statement in the voter's pamphlet, the Commission recommends that candidates be asked to agree not to solicit or pay for the inclusion of their name in any slate mailers. Judicial candidates who decline such a contractual arrangement should not have their voter's pamphlet statements subsidized by the county, although they can still pay to have their statements printed in the voter's pamphlet.

Slate mailers have become a profitable and sometimes deceptive business, frequently run by campaign consulting firms on behalf of paying clients. Instead of allowing like-minded groups (e.g., political parties) to inform voters of judicial candidates who are in concert with the organization's philosophy, slate mailers frequently *sell* their endorsements to the highest bidder. In one instance, a mailer offering itself as a "Democratic Voter Guide" endorsed Republican candidates who were prepared to pay more for their slot than their Democratic opponents. "There was a bidding war and I lost," complained one judicial candidate excluded from the slate, "even though I'm a Democrat and [the endorsed candidate is] a registered Republican."

The most serious objection to slate mailers is not their "payment-for-endorsement" aspect but the deceptive impression they convey that the mailer represents an official endorsement by a political party or by respected elected officials. One mailer, for example, sent out by a Democratic consultant on behalf of a liberal judicial candidate running in conservative Orange County, prominently endorsed Ronald Reagan for President and other well-known Republicans for state offices—along with the Democratic judicial candidate. Republican voters assumed the unknown judicial candidate was "one of them" and voted him into office. The consultant justified his mailer by saying, "Orange County was going to vote for those Republicans anyway. Why not use their names to help my guy on the way?" (*See* Chapter 2, Section C, "California Voters Have Limited Information.")

(4) Improve Slate Mailer Disclosure

The Commission recommends that slate mailers be required to disclose more clearly the true identities of their sponsors. Mailers should also disclose whether the candidates they promote paid for and authorized their endorsement. This latter recommendation will help eliminate the current practice of for-profit campaign management firms identifying themselves on slate mailers with fictitious and deceptive titles. (*See* Chapter 5, Section B, "Adoption of the Commission's Recommendations.")

(5) Ease Current Restrictions on Free Speech in the Voter's Pamphlet and the Campaign

In order to increase the flow of useful information to the voters in judicial contests, the Commission recommends that the current restrictions against free speech by judicial candidates be eased. Judicial candidates should be allowed to compare their qualifications with their opponents' and express opinions on political issues, so long as such statements do not appear to commit them on future cases likely to appear before the court. Although the Commission believes that political parties should not participate in judicial contests, judicial candidates should at least be allowed to express their self-declared party affiliations in the voter's pamphlet. Party affiliations are still one of the most valuable informational cues available to voters. (For further discussion of restrictions on campaign speech by ethical codes and state laws, *see* Chapter 4, Section B, "Reforms With Little Success."

(6) Improve the Design of the Voter's Pamphlet

Cities and counties mail a voter's pamphlet to all registered voters before each election. The Commission recommends that this pamphlet be redesigned to enhance the quality and presentation of information about judicial candidates and to allow candidates to challenge misleading or deceptive allegations by opponents. Allowing charts and graphs and the use of different colors and type sizes would enhance the pamphlet's readability.

(7) Enhance Information in the Voter's Pamphlet

Local voter's pamphlets in California, especially those portions covering judicial elections, provide very little information about candidates, and even that is offered in an exceptionally bland format. Because the pamphlet is potentially the most efficient available source of information on judicial candidates, it should be redesigned to include statements from all the candidates in contested elections, encourage freer discussion and more dialogue between the candidates, provide opportunities for candidates to rebut inappropriate or misleading statements and present the information in a more interesting manner.

The voter's pamphlet should also adopt the statement/rebuttal format currently used for ballot measures in the state ballot pamphlet, and candidates should be allowed to challenge—in a court of another county—false or deceptive statements of opponents.

(8) Limit Candidate Loans to $25,000

The Commission recommends that loans from candidates and their families be limited to an aggregate total of $25,000 per candidate at any one time for superior and municipal court races.

Candidate loans make up a large share of the total campaign dollars in judicial races and frequently comprise the single largest share of a candidate's war chest. Unlike contributions, however, loans are intended to be repaid. High levels of indebtedness in judicial races encourage longer fundraising periods, as candidates work to recoup personal expenditures well beyond the election period. Soliciting contributions after the election creates a different relationship between candidate and contributor than during the campaign. Post-election contributions to pay off candidate loans go straight into the candidate's own pockets, increasing the possibility that a candidate will feel "personally indebted" to the contributor, a fact that contributors understand. Judges should not place themselves in a position in which they have to spend extended periods of time after their election raising money which flows directly into their personal bank accounts. (For a discussion of the extent of candidate loans in judicial campaigns, *see* Chapter 3.)

(9) Limit the Time Period in Which Candidates Can Raise Funds

The Commission recommends that fundraising by judicial candidates be prohibited altogether in nonelection years. Judicial fundraising should be restricted to the election period—five months before the primary election through, if necessary, a period shortly after the general election. Such a fundraising period would end June 30 for the primary election and December 31 for the general election. This would provide a reasonably brief time after the election for judicial candidates to raise money to pay off debts and loans without stretching the fundraising period too far into the post-election period. Post-election fundraising exacerbates the problems of potential corruption and unfair incumbency advantages.

As part of a preemptive campaign strategy, incumbent judges sometimes conduct continuous fundraising efforts while in office in order to build a stockpile of money and thus deter competition. This strategy, albeit effective, can politicize the courtroom atmosphere and create the unseemly spectacle of sitting judges soliciting contributions from the lawyers and litigants who appear before them. Besides raising questions of judicial impropriety, continuous fundraising also gives incumbents a considerable advantage over challengers, who lack the same ability to raise funds as a sitting judge.

A reasonable time limit on the fundraising period would allow both incumbents and challengers an equal opportunity to solicit funds. It would reduce the practice of fundraising while in office. And it would provide all candidates with enough time to raise sufficient amounts of money. (For a discussion of the problems associated with unlimited fundraising periods, *see* Chapter 5, Section B, "Adoption of the Commission's Recommendations.")

(10) Develop an "Electronic Voter's Pamphlet" for Cable Television and Other New Media

The Commission recommends that candidates be allowed to submit a videotape containing a two-to-three minute "talking head" statement to an intergovernmental task force or committee of the bar association prior to each campaign.

These videotapes would contain a short statement of a candidate's qualifications. The mandatory format would show only the candidate's head and shoulders against a plain blue background. The task force would compile these statements in the sequence in which the candidates appeared on the ballot.

The task force would submit these video presentations to all the county and city public and governmental cable television access channels in the Los Angeles area, as well as to any other interested media, for airing at least three times a week during the three week period prior to the election. The task force could also make the texts (accompanied by photos) available on a Web page over the Internet. When the Internet and interactive television are developed to the point where video presentations can be efficiently disseminated, the judicial video statements themselves should also be made available through television sets and computer modems in the home.

The costs of producing and distributing an "electronic voter's pamphlet" for cable television and the Internet would be minimal.

Each candidate would be responsible for producing his or her own materials. The task force would assemble the tapes in proper sequence and cable operators could air the spots over public access channels or over the new interactive networks.

Electronic information about elections has lagged behind commercial uses of the electronic medium only because of the lack of initiative by governmental agencies. This nation is rapidly emerging into a new era of electronic information, and there is no reason why important information about judicial candidates should not also be provided. (*See* Chapter 5, Section B, "Adoption of the Commission's Recommendations. ")

Reducing the Role of Money While Increasing Voter Information in Judicial Elections

Judicial elections become arbitrary and capricious when voters lack the information to make rational choices. When that happens, judges may be selected according to irrational criteria. Highly qualified candidates may be defeated, and unqualified judges may be reelected.

On the other hand, judicial candidates who do raise enough money to provide voters with sufficient information may inadvertently undermine the integrity of the judicial system itself—particularly when they are forced to raise money from those lawyers or litigants who appear before them in court. The impartiality of their judicial rulings become "suspect."

Both problems—inadequate voter information and potential corruption—plague Los Angeles area judicial elections. A high degree of reliance on personal contributions also coveys the impression that only the wealthy can run for judicial office. Excessive spending can be a problem in certain controversial races, but it is usually limited to higher level judicial contests, such as supreme court races.

Most candidates for trial court judgeships in Los Angeles are substantially underfunded, even though the candidates spend a great deal of time raising campaign funds. They lack the money to provide voters with enough information to differentiate between the candidates on a reasoned basis. Many candidates thus become dependent for campaign contributions on attorneys who practice before them, opening themselves to the charge that their judicial rulings may improperly favor contributors.

The Commission's recommended package of reforms will enhance the dissemination of fair and useful election information and reduce the reliance of judicial candidates on the potentially corrupting influence of large contributors.

Allowing all judicial candidates to print a free statement of their qualifications in a redesigned voter's pamphlet will greatly increase the quality and quantity of election information on judicial races.

At the same time, the Commission recommends that candidates printing a free ballot pamphlet statement be required to curtail their reliance on slate mailer advertising—a medium which provides little useful information and is frequently deceptive. Additionally, limits on the size of campaign contributions, candidate loans and the time period in which candidates can raise money will minimize the importance of any single contributor to a judicial campaign and ease fundraising tensions between judges, lawyers and litigants.

For better or worse, Californians elect their trial court judges in competitive elections. New efforts to provide voters with useful election information and to minimize the potentially corrupting influence of large campaign contributions, will help create a middle ground between the conflicting goals of judicial independence and public accountability.

CHAPTER 1

Selecting Judges: The History and Structure of Judicial Elections

"All you have to know to be a judge is one thing: the governor."

— Jack Frankel, Former Chief Counsel, Commission on Judicial Performance[1]

The nation selects its judges through a wide array of methods. Some judges are appointed, some are elected and some obtain and retain office through a combination of appointments and elections. The President of the United States, with the advice and consent of the U.S. Senate, appoints federal judges. States, on the other hand, control their own selection procedures with relatively few constraints imposed by federal statutory or constitutional law.

Judicial selection procedures fall along a spectrum of two policy choices: some reflect a preference for *judicial independence,* some for *public accountability* , and others strike a balance between the two. Appointment methods tend to emphasize the *independence* of the judiciary from public review. Election methods, on the other hand, tend to emphasize the *accountability* of the judiciary to the public.

The conflict between independence and public accountability in judicial selection systems appeared in colonial America. In the early 1700s, judges were deemed "crown agents," appointed by and serving at the pleasure of the king. The judiciary was neither independent from political authority nor accountable to the public. The Declaration of Independence denounced this system of justice as archaic, having "made judges dependent on his [the king's] Will alone, for the tenure of their offices, and the amount and payment of their salaries."[2]

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1. Jack Frankel, *It's Time to Change the Way We Choose Judges,* Los Angeles Daily Journal, April 17, 1990.
2. The Declaration of Independence, Ninth Specification (1776).

America's Founders remedied this situation in the states and at the federal level by providing that judges be appointed for life and only subject to removal from office by impeachment. Eight of the original 13 states gave the power to select judges to their state legislatures; two states (New Hampshire and Pennsylvania) made the appointment process a joint responsibility of the governor and the legislature; and three states (Maryland, Massachusetts and New York) gave the appointive authority to the governor, subject to confirmation by the legislature. None provided for popular election.

Judges were not subjected to election at either federal or state levels in the country's first years. Early political leaders asserted that the judiciary had to be independent of political and public whims.[3] That attitude began to fade in the first half of the 19th century, however, as the Jacksonian "revolution" railed against the lack of accountability in government institutions. Established political powers were widely viewed as at odds with the public's interests. The appointed judiciary was similarly viewed by many as protective of the interests of the established political order.[4] Andrew Jackson's egalitarian philosophy initiated the ultimate democratization of most state judiciaries. In 1832, Mississippi became the first state to make all of its judgeships elected positions. By the outbreak of the Civil War, 24 of the 34 states elected their judges.

Since then, American judicial scholars have continued to debate the proper role of the judiciary: should judges be independent, freed from the influence of changeable public attitudes, or should they be accountable to the public for their actions?

This chapter describes the evolution of judicial selection in California and the current structure of state and local judicial systems. Particular attention is paid to the operations of the Los Angeles County judicial system.

A. California Develops a Bifurcated Judicial Selection System

When California entered the Union in 1850, it elected all of its state and local judges by competitive ballot. The state made its judicial elections nonpartisan in 1904.[5] But the modest 1904 change did not stem the tide of corruption and the politicization of California's judiciary. The public began to view judges throughout the state with intense public suspicion. Prior judicial experience—not even for the position of supreme court justice[6]—was not required to run for office, and incompetence and corruption were rampant.

1. Aimee Semple McPherson and the Judge

In 1929, for example, Los Angeles Superior Court Judge Carlos Hardy was impeached and tried by the state senate. He was accused of improperly influencing the investigation of the mysterious disappearance of evangelist Aimee Semple McPherson, intimidating a witness in the case and practicing law while a judge. The case stemmed from sensational allegations of bribery and conflict of interest between Judge Hardy and evangelist McPherson.

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3. Arthur Vanderbilt, The Challenge of Law Reform 15 (1955).
4. Gilbert Roe, Our Judicial Oligarchy 174 (1912).
5. Steve Martini, *Judicial Elections Solidly Rooted in State History*, Los Angeles Daily Journal, Oct. 31, 1978.
6. Prior to changing appellate court judicial selection procedures to a retention rather than competitive election system in 1934, 36 justices originally came to the California Supreme Court through direct election, 46 by appointment of the governor and three by election of the legislature. There had been 20 resignations from the court, and another 20 justices died while in office. Of these supreme court justices, 55 had prior judicial experience before serving on the high court, and 30 did not. Judicial selection was largely a product of politics. J. Edward Johnson, History of the Supreme Court Justices of California (1963).

On May 18, 1928, the evangelist went for a swim in the ocean near Los Angeles—and vanished. She had developed a massive following and attracted great public attention. She had preached in the United States, England, Canada and Australia and built Angelus Temple in Los Angeles. She also owned one of the earliest radio stations in the area. While her disappearance caused quite a stir, her sudden and unexpected reappearance was even more spectacular. Five weeks later she emerged from a Mexican desert with stories of kidnapping, torture and a dramatic escape. (One man in Fresno was so engrossed in the story of her disappearance that while he sat on his front porch reading a newspaper account, he failed to notice the fire trucks racing to extinguish his burning house.)

McPherson's story was so suspicious, however, that District Attorney Asa Keyes charged her with conspiracy for filing a kidnapping hoax. In the course of the trial, one of her admirers, Judge Carlos Hardy, aided in attempts to contact the phantom kidnappers and even testified at her trial. Charges against McPherson were eventually dismissed, but then the state bar association initiated proceedings against Judge Hardy. The bar questioned whether a $2,500 payment to the judge which was uncovered in an investigation of the church's financial operations was a "love offering" from the Temple or a fee for legal services which a judge could not accept. The church's ledger listed the check to Hardy as payment for "legal and defense," but McPherson insisted the payment was simply to show the church's appreciation to a friend.

Judge Hardy found himself on the defensive on two fronts. Not only were the impeachment proceedings going forward, but the California Bar Association also decided to pursue action against Hardy for the allegations of performing legal services while a sitting judge. Until that time, it had been widely assumed that judges were members of the bar and subject to the bar's jurisdiction on ethical practices. Judge Hardy challenged the bar's jurisdiction, and the California Supreme Court agreed: judges were not members of the state bar and thus were immune from its disciplinary actions.[7]

Shortly thereafter, Judge Hardy also escaped conviction in the California State Senate. The assembly carried through on the impeachment vote and sent the case to the senate. (It was the first impeachment of a judge in California since 1862, when another judge named Hardy was sent to trial in the senate for proposing a toast to Confederate President Jefferson Davis.) Many members of the senate, however, felt unsure of what might be the political ramifications of a conviction; after all, Aimee Semple McPherson had been a very popular evangelist. Not enough votes were mustered in the senate for a conviction and so Judge Hardy was acquitted. In the end, however, the voters of Los Angeles County were not so unsure. One year later, Judge Hardy was thrown out of office by the voters in his reelection bid and replaced by a lesser-known challenger.

Noting the success of voters in sweeping Hardy out of judicial office, bribery allegations in 1932 led the Los Angeles County Bar Association to spearhead the successful recall of three other superior court judges. The next year San Francisco federal judge Harold Louderback was impeached by the House of Representatives and tried by the U.S. Senate. Louderback was accused of carrying on his former practice as a superior court judge of appointing his political friends and contributors as receivers. The senate's vote fell slightly short of the two-thirds necessary for conviction (45 guilty, 34 not guilty), but this case, along with the other bribery cases, again highlighted to the public the poor results of California's judicial selection system. The dangers of mixing judicial office with political activity became clear,

7. State Bar of California v. Superior Court, 207 Cal. 323 (1929).

and the ineffectiveness of the impeachment mechanism for correcting abuses became evident. Californians wanted a better way of choosing and removing their judges, hoping that such a method would improve public confidence in the judiciary.[8]

2. *Reforming Judicial Selection*

Two groups, working independently of each other, sought to devise a solution. First, a number of civic leaders and organizations immediately formed a "Good Government Committee" to promote judicial reform. The committee included leaders of the California Federation of Women's Clubs, the League of Women Voters, the State Chamber of Commerce and, the American Legion, as well as Alameda County District Attorney (later Governor) Earl Warren. Although most committee members agreed with Earl Warren that the best method of judicial selection was executive appointment with lifetime tenure, they were concerned that their proposal not "blanket in" the many judges then sitting on the court whose competence was in question.[9]

The committee looked to California history for a compromise plan. Early proposals by San Francisco's Commonwealth Club to change the judicial system served as a partial model for reform. In 1914, the Commonwealth Club first offered a judicial reform plan to solve trial court delay. Members concluded that the best way to improve court efficiency was to improve the quality of judges on the bench. They formulated a new method of judicial selection known as the "Chandler Amendment." In its original form, the plan called for gubernatorial appointment of judges, with the possibility of life tenure following voter confirmation at the conclusion of their first term of office. There was no grandfather clause, which meant that incumbent judges would not necessarily retain their posts through appointment by a new governor. Judges lobbied against the measure and defeated it in the legislature. The legislature defeated the same reform plan again in 1921 and 1929.

A second organization, the California State Bar Association, gave the Commonwealth Club's plan new life in 1933 when it sponsored the plan as a legislative bill. The legislature cautiously agreed submit to the plan to the voters as a ballot measure, albeit with one major caveat: the legislature amended it to apply initially only to judgeships in the County of Los Angeles. Assembly Constitutional Amendment 98 was designed as a test case for the Commonwealth Club's plan of voter confirmation followed by lifetime tenure. Authored by Assembly Member Lawrence Cobb of Los Angeles, the measure called for establishing a commission consisting of the chief justice, the presiding justice of the district court of appeals, and the state senator from Los Angeles County. The commission would select three candidates for each vacant trial court position, and the governor would appoint from among these candidates. Trial court judicial appointees would be subject to confirmation election four years later and a retention election every six years thereafter.[10] The measure was placed on the 1934 state general election ballot as Proposition 14.

Unbeknownst to the state bar at the time, Earl Warren's "Good Government Committee" was simultaneously working to reform the state's judicial system.

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8. Gerald Uelman, *The Historical Origins of California's System of Judicial Elections*, Los Angeles Daily Journal, Sept. 5, 1985.

9. *Id.*

10. Leo Flynn, *Politics, Independence and Accountability: The Origins of the Judicial Retention Election in California*, In Senate Office of Research (ed.), Chief Justice Donald R. Wright Memorial Symposium on the California Judiciary 5 (1986).

While the committee also analyzed the Commonwealth Club's proposal, it made significant changes to it. The committee's efforts focused on addressing a dramatic rise in crime. It developed a four-prong reform program to curtail crime that included: (1) reform of judicial selection procedures, (2) coordinating law enforcement under the office of attorney general, (3) permitting judges to comment to juries on the nature of the evidence and (4) permitting a plea of guilty before the committing magistrate.

The committee agreed with the concept of lifetime tenure for judges, but it did not want to grant such tenure to many currently sitting judges. It also believed that voters might not be willing to forfeit their franchise over the judiciary. "How to sugar-coat this life tenure provision to keep the voters from souring the whole scheme then occupied the committee," observed historian Malcolm Smith.[11] R. B. Hale, a committee member about whom little is known, suggested using a modified version of the retention election concept advocated in the legislature's Proposition 14. Hale suggested that judges be given fixed lengthy terms after which the incumbent judges could file a declaration to succeed themselves. Similar to the system in Proposition 14, the incumbents' names only would appear on the ballot with electors deciding whether or not to retain them. Under this compromise, judges would be appointed by the governor for a fixed 12-year term, subject to popular confirmation at the next immediate general election, followed by retention elections at the end of each 12-year term in which the judicial candidate would run unopposed on a "yes or no" ballot. The Good Government Committee drafted this compromise plan as a citizen's initiative that qualified for the 1934 general election ballot with 110,000 signatures.[12] It was placed on the ballot between the committee's other crime-prevention measures.

The concept of retention elections for judges was criticized at the time for granting virtual life tenure to incumbents, because voters would have little information about the incumbent. "The incumbent runs against his own shadow," warned the critics.[13] Ironically, proponents defended retention elections for exactly the same reason—providing incumbents with independence from electoral politics. In the words of one proponent, "The amendment gives to the judge . . . a tenure during good behavior. This has always been deemed by the great weight of authority to be the chief safeguard to a politically independent bench . . . ."[14]

In order not to conflict with Proposition 14, the committee's measure (Proposition 3) applied only to appellate judges in the courts of appeal and the supreme court. The committee feared that contradictory measures would confuse the voters, and that if the other measure (Proposition 14) was approved by more votes it would nullify part or all of Proposition 3. However, a little noticed provision was inserted into the initiative permitting any county upon a majority vote of the electorate to select their superior court judges by the retention election method as well. To date no county has adopted this "local option," although it was seriously discussed but then tabled by the Los Angeles County Board of Supervisors in 1935.[15]

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11. Malcolm Smith, *The California Method of Selecting Judges*, 3 Stanford Law Review 571 (1951).
12. Steve Martini, *Politics Once Ruled in Electing Judges*, Los Angeles Daily Journal, November 1, 1978.
13. Edward Winterer, *Objections to a Self-Perpetuating Judiciary*, 11 Cal. State B. J. 71 (1936).
14. R. V. Rhodes, *Appointment of Judges a Return to American First Principles*, 11 Cal. State B. J. 65 (1936).
15. *Id.*

Somewhat surprisingly, voters approved the first measure (the Good Government Committee's Proposition 3) but not the second (Proposition 14).[16] This created California's current two-tier system, in which supreme court and appellate justices are first appointed to office and must then run in retention elections at the first general election after appointment and at the end of their terms, whereas trial court judges are selected through competitive elections or by appointment of the governor if a vacancy occurs.[17] Both retention and competitive judicial elections in California were made nonpartisan.

Several factors probably contributed to California voters' decision to adopt this two-tier system of retention elections for appellate justices and competitive elections for trial court judges. Perhaps the dominant factor was that the "Good Government" initiative (Proposition 3) was associated with three other initiatives at the beginning of the ballot as part of an "anti-crime" package of reforms, all of which were adopted by similar margins of success, while the state bar's constitutional amendment (Proposition 14) appeared separately at the end of the ballot. The "law-and-order" appeal of the rest of the package did much to save the Good Government Committee's judicial selection reform plan. Another possible explanation is that Proposition 14 immediately followed an unpopular prohibition initiative on the ballot and was defeated by a "spill-over" effect.

B. California's Court System Has Grown in Complexity Along With the Needs of the State

The federal government imposes few restrictions or requirements on the structure of state court systems. Although the U.S. Constitution clearly delineates the structure of the federal judiciary, its only provision directly applicable to state courts is the constitutional guarantee of a right to trial by jury in all criminal cases.[18] Other than that, the U.S. Constitution merely instructs the states to develop their own republican form of government.[19] Some federal laws regarding election procedures, such as the Voting Rights Act,[20] may be applicable to judicial elections. (For a discussion of current applications of the federal Voting Rights Act to judicial elections, *see* discussion in Chapter 5, Section C, "Some Reforms Are Worthy of Further Study.")

California's constitution vests the state judicial power in one supreme court with seven justices and an unspecified number of courts of appeal, superior courts and municipal courts.[21] The supreme court and courts of appeal primarily review trial court rulings; the superior and municipal courts are the trial courts.[22]

California's judicial system currently consists of 208 courts and 1,553 judgeships authorized by the state legislature as of 1993. Although the number of judges below the supreme court level is determined by the legislature, local

16. On November 6, 1934, voters approved Proposition 3 by a vote of 810,320 to 734,857. Proposition 14 was defeated by a vote of 639,355 in favor to 733,075 against. Voters in Los Angeles County also approved Proposition 3 but rejected Proposition 14. Cal. Secretary of State, Statement of the Vote for November 6, 1934.
17. For a discussion of what constitutes a "vacancy" for legitimate gubernatorial appointment to the superior and municipal courts, *see* Chapter 2, note 3.
18. U.S. Const. art. III, §2.
19. U.S. Const. art. IV, §4.
20. Judicial elective systems in at least 10 states have been challenged on the grounds that they dilute minority voting strength in violation of the federal Voting Rights Act. *See* Patrick McFadden, Electing Justice: Law and Ethics of Judicial Campaigns 10 (1990).
21. Cal. Const. art. VI, §1.
22. Along with serving as a trial court, a three judge panel of the superior court may also review lower court rulings.

governments must assume much of the financial burden for operating the trial courts. California's judicial system as a whole costs about $1.5 billion a year, or 2% of combined state and local government budgets.[23] In 1991, the state provided $507.7 million to the counties to support both superior and municipal court operations—roughly 38% of their total cost; the counties had to supply the rest. The salaries of all judges of courts of record, including supreme court justices, are fixed by statute.[24]

1. Superior Courts

California's trial courts consist of superior and municipal courts. Superior courts are trial courts of "residual jurisdiction," with jurisdiction in all cases except those statutorily given to municipal courts.[25] Superior courts act as probate courts, juvenile courts, family law courts and conciliation courts. In addition, superior courts have jurisdiction over all felony cases and all civil matters beyond the jurisdiction of municipal courts. Appeals from decisions of municipal courts are heard by a three-judge panel of the appropriate superior court.

One superior court is established in each of California's 58 counties. The number of judges in each court currently ranges from one in some rural counties to 238 in Los Angeles County, for a total of 789 superior court judges across the state.

2. Municipal Courts

Municipal courts have original trial jurisdiction in criminal misdemeanor and infraction cases and civil cases within the district involving $25,000 or less. These local trial courts also handle small claims cases (not exceeding $5,000).[26]

Prior to November 1994, California's lower trial court system was divided between municipal courts and justice courts. This trial court system was established in 1952. Previously, before voter approval of a constitutional amendment (Proposition 3) on the 1950 general election ballot, California had nine different layers of courts with varied and sometimes overlapping jurisdictions. Proposition 3 reduced the maze of 800 trial courts across the state to 51 municipal courts and 215 justice courts.[27] The geographical formula enacted by the legislature for the reorganization of courts with jurisdiction inferior to superior courts was simple. County boards of supervisors were vested with the authority to draw the boundaries for judicial districts. Their only limitation was that no city could be divided by judicial districts; cities had to be included entirely within one district, although one judicial district could encompass multiple cities. Those districts having a population of 40,000 or more were given a municipal court; if less, a justice court. At that time there was a clear distinction between municipal and justice courts, with municipal courts, not justice courts, serving as courts of record.[28]

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23. Judicial Council of California, The California Judicial System 1 (June 1992).

24. Cal. Const. art. VI, §19. Salaries for all justices and judges are set in the state Government Code, sections 68200 through 68203. As of 1994, these salaries were: chief justice—$133,459; associate justices—$127,267; justices of courts of appeal—$119,314; superior court judge—$104,262; municipal court judge—$95,214; and full-time justice court judge—$95,214.

25. Cal. Const. art. VI, §10.

26. Cal. Penal Code §1462; Cal. Code Civ. Proc. §§86, 116.220 (West Supp. 1994).

27. Association of Municipal Court Clerks of California, Meet the Municipal Courts 4 (1957).

28. The judgment of a court of record cannot be collaterally attacked, whereas the judgment of justice courts could have been questioned collaterally. Therefore an appeal from a justice court required that the entire case be retried at the superior court level, complete with the reintroduction of all evidence and arguments. Unlike courts of record, justice courts at that time could have been staffed by non-attorney judges.

In 1989, justice courts became courts of record.[29] The only remaining distinction of any significance between municipal and justice courts was the size of the community they served.[30] In the 1994 general election, voters approved Proposition 191, which ended the designation of justice courts and incorporated them as municipal courts.

Even though county boards of supervisors are still empowered to draw judicial district lines for municipal courts—constrained by certain constitutional limits, such as the requirement that cities cannot be subdivided into more than one district—the legislature determines the number of judges in a municipal court. California currently has 143 municipal courts, each with one or more judges, for a total of 669 judges. (For a discussion of state jurisdiction over superior and municipal courts, *see* Chapter 5, Section E, "Implementation of the Commission's Recommendations.")

3. Selection Procedures

All trial court judges are either elected to office on competitive but nonpartisan ballots for fixed six-year terms or appointed in the case of an interim vacancy. Vacancies in superior and municipal courts are filled by the governor. To serve as a superior court judge, a nominee must have been a California attorney for at least 10 years or have served as a judge of a court of record. To serve as a municipal court judge, a nominee must have been admitted to the practice of law in California for at least five years.[31]

C. Several Agencies Exercise Control Over California's Trial Court System

The state constitution creates two agencies to monitor trial court administration: the Judicial Council, which studies and recommends improvements in the administration of justice,[32] and the Commission on Judicial Performance, which conducts judicial censure proceedings and determines or recommends the removal or retirement of judges for misconduct or disability.[33]

Other organizations also affect judicial administration. The State Bar of California, for example, is a public corporation to which all licensed attorneys (but not judges) in the state must belong.[34] The bar determines admission standards for attorneys to practice law, develops rules of professional conduct, investigates misconduct by attorneys and recommends disciplinary actions to the state supreme court. The California Judges Association, a voluntary professional association, performs similar obligations for judges—who must relinquish membership in the bar immediately upon assuming a judgeship.

1. Judicial Council of California

California's Judicial Council was established by mandate of the California Constitution on November 2, 1926.[35] It is the chief administrative agency of the California court system. The council has two principal functions: (1) to compile

29. Cal. Const. art. VI, §1.
30. Cal. Const. art. VI, §5.
31. Cal. Const. art. VI, §15.
32. Cal. Const. art. VI, §6.
33. Cal. Const. art. VI, §§8, 18.
34. A "public corporation" is defined as: "An artificial person created for the administration of public affairs, unlike a private corporation. It has no protection against legislative acts altering or even repealing its charter." Black's Law Dictionary (1990).
35. Cal. Const. art. VI, §6.

statistical and survey data on court performance and make recommendations to the governor and the legislature on ways to improve the judicial system; and (2) to establish rules on court administration and procedure that are consistent with statutory and constitutional law.

The Judicial Council has adopted various rules to facilitate and expedite court operations. Through its Administrative Office of the Courts (AOC), the council develops pretrial, trial and appellate rules, coordinates court functions by standardizing legal forms and overseeing records management and judicial assignments, and provides for court security and auditing services.

Policymaking is generally beyond the authority of the Judicial Council, except in an advisory capacity to the legislature and governor. The council, for instance, is not empowered to regulate judicial campaign financing or reform judicial selection procedures; these subjects are governed by statutory or constitutional law. However, the council's research and recommendations can be influential in encouraging the state government to initiate policy reforms.

Originally consisting of 11 members, the council has since been expanded to 21. Today the council consists of its chair, the Chief Justice of the California Supreme Court; one associate justice of the supreme court; three justices of the courts of appeal; five superior court judges; five municipal court judges; four attorneys; and one member of each house of the legislature. The chief justice appoints the judicial members for two-year terms. The attorney members are appointed for two-year terms by the State Bar of California. The Speaker, President Pro Tem or Rules Committee of the Assembly and Senate select one member representing each house. All members serve without compensation, except for related travel and business expenses.[36]

2. *Commission on Judicial Performance*

In 1960, Californians adopted a constitutional amendment which created, for the first time in the nation, a Commission on Judicial Performance. The commission is a quasi-governmental agency with the power to investigate public complaints against judges and, if the complaints were found to have merit, to censure the judge privately or remove a judge from office, subject to appeal to the state supreme court.[37] Public reprovals may be issued by the commission as an alternative to harsher punishment with or without the consent of the judge being investigated. Originally, the commission had no authority to require the retirement or removal from office of a judge for misconduct or inability; that authority had rested solely with the supreme court. But with voter approval of a constitutional amendment in 1994, the disciplinary authority of the commission has been significantly enhanced.

Currently, 11 members serve on the Commission on Judicial Performance. The membership includes three judges appointed by the supreme court, two members of the state bar appointed by the governor, and six public members, with the governor, Senate Rules Committee, and Speaker of the Assembly appointing two each. In 1995, for the first time since creation of the commission, public members out-number judicial and attorney members. All appointments are for four-year terms.[38]

The movement to create a Commission on Judicial Performance largely sprang from the failure of retention elections (at the appellate level) and recall elections as "safety valves" for removing incompetent or corrupt judges from office. No appellate

36. Cal. Gov't Code §68510 (West Supp. 1991).

37. Cal. Const. art. VI, §§8, 18.

38. Cal. Const. art. VI, §8.

judge was ever removed from office in a retention election until 50 years after the 1936 Proposition 3 was approved. Removing a sitting judge through a recall drive was just as difficult. In 1960, voters approved Proposition 10 by a three-to-one margin, creating the Commission on Judicial Performance and charged it with assessing incumbent judges' conduct, reprimanding non-judicious behavior or recommending to the supreme court the removal from office of a judge for incompetence or corruption. Immediately following establishment of the new "impeachment" procedure, law professor Dorothy Nelson argued: "The claim that a vote of the electorate is needed to provide a check on judicial appointments need be made no longer. With an effective and practical means to remove an incompetent or corrupt judge, an ideal system of appointment may be considered that need not necessarily involve a 'vote of the people' . . . ."[39] The new procedure was first employed to remove Supreme Court Justice Marshall McComb for senility in 1977.[40]

Rules governing the investigation of complaints were adopted by the judicial commission in 1961.[41] Preliminary investigations were kept strictly confidential. In fact, the commission's entire proceedings were private. Details of any case tended to emerge only when and if the commission issued a public reproval or recommended a harsher punishment to the state supreme court. The commission could order public hearings when a case involved "moral turpitude, dishonesty or corruption." For 15 years following 1979, however, no hearings had been made public. In that year, the commission publicly cleared the state high court of charges that the court delayed controversial decisions until after the 1978 election.[42]

While the Commission on Judicial Performance was once heralded as a model agency for the discipline of judges, it has since been criticized by many for being a *protective* rather than a disciplinary agency. For example, from 1990 through 1994 the commission had sent no recommendations for punishment to the supreme court and it had issued few public reprovals in recent years. In 1991, the commission dealt with 712 complaints—91 that warranted investigations—but issued no public reprovals. Instead, the commission issued nine private admonishments and 29 private letters advising caution. In the following year, the commission dealt with 975 complaints, investigated 148 of these cases and issued only three public reprovals, 11 private admonishments and 40 advisory letters.[43]

This lack of disciplinary activity prompted efforts in the California legislature to reform the commission's secretive system of investigating complaints.[44] These legislative efforts culminated in a ballot measure (Proposition 190) placed on the 1994 general election ballot, which was approved by the voters. The measure increased the number of public members on the commission so that non-judicial members

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39. Dorothy Nelson, *Selection and Tenure of Judges*, 36 So. Cal. L. Rev. 4 (1962).

40. In an interesting twist of irony, Marshall McComb had presided as a superior court judge over the 1929 trial of Justice Hardy, who was involved in the Aimee Semple McPherson scandal. McComb was later appointed to the California Court of Appeals to fill the vacancy created by the conviction of Justice Gavin Craig for accepting a bribe in 1936. Justice Gavin refused to resign his post on the court of appeals after his conviction. The state constitution had to be amended again in 1938 to allow the supreme court to remove any judge who has been convicted of a crime for moral turpitude, including Justice Gavin. Gerald Uelmen, *Standards for Judicial Retention Elections in California*, in Senate Office of Research (ed.), Chief Justice Donald R. Wright Memorial Symposium on the California Judiciary, fn. 32 (1986). Chief Justice Wright was an original member of the California Commission on Campaign Financing.

41. Cal. Rules of Court, Rules 901-922.

42. Philip Hager, *Judging the Judiciary*, California Lawyer 36 (1994).

43. Hager, *supra* note 42 at 38.

44. Henry Weinstein, *Panel OKs Bill on Judicial Reform*, Los Angeles Times, June 22, 1994. Although the bill (SCA 44) was approved by the state senate in 1994, it languished in the assembly.

constitute the majority. It also made most formal disciplinary proceedings open to the public and transferred authority to remove judges for malfeasance from the supreme court to the commission, subject to review by the courts. Consequently, the Commission on Judicial Performance has only recently adopted a more aggressive approach to disciplinary actions. In 1995, the year that Proposition 190 became effective, the commission removed San Diego Superior Court Judge D. Dennis Adams from the bench for accepting improper gifts from litigants and lawyers and for misleading the commission in the course of the investigation. Other disciplinary cases are currently pending.

3. State Bar of California

The State Bar of California is a public corporation to which all attorneys practicing law in California must belong, except those holding office as judges.[45] The state bar was created in 1927 for the express purpose of regulating the practice of law. Candidates for admission to the practice of law in the state are examined by the state bar which certifies to the supreme court those who meet the bar's admission requirements. Rules of professional conduct following admission are also developed by the state bar and, upon approval by the supreme court, become binding upon all lawyers.

Like the Commission on Judicial Performance, the bar itself has indirect enforcement powers, since its enforcement authority ultimately rests with the supreme court. A State Bar Court was established by the State Bar of California in 1989. Appointed by the supreme court, it conducts investigations into allegations of misconduct or violations of state bar rules by attorneys.[46] It may privately or publicly reprimand attorneys for misconduct or recommend to the supreme court that an attorney be suspended or disbarred.

Unlike the Commission on Judicial Performance, however, the disciplinary system of the State Bar of California is widely considered more active, albeit with some of its own problems. After 1988, the state bar implemented a centralized, full-time disciplinary system. Its investigations rose from 5,340 in 1988 to about 8,000 in 1993, and the number of cases that have been filed with the State Bar Court rose from 697 to 1,345 over the same time period.[47] Lawyers committing lighter infractions involving poor management or inadequate communications with clients are "diverted" by the bar into training classes rather than the disciplinary system.[48] The problem with the California Bar Association's disciplinary system is not so much one of effectiveness but of cost. Mandatory bar dues have nearly doubled since 1988, reaching $478 annually in 1994, with about 75% of the dues financing the lawyer discipline system.[49]

The state bar also performs educational services for attorneys and the public and recommends improvements in the administration of justice to the governor and legislature. Operations of the state bar are entirely funded by membership dues fixed by statute.

In California, as in most other states, a number of local bar associations funded by membership dues also flourish. Membership in these local bar

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45. Cal. Const. art. VI, §9.
46. The California Supreme Court appoints nine authorized hearing judges to the State Bar Court and three appellate judges.
47. Dana Coleman, *'Model' California Disciplinary System Has Its Own Quakes*, The New Jersey Lawyer, January 31, 1994.
48. Thom Weidlich, *Minor Discipline Cases Get 'Diverted' by the Bars*, National Law Journal, March 14, 1994.
49. Dana Coleman, *supra* note 47.

associations, however, is strictly voluntary. (For a discussion of the role state and local bar associations have played in regulating judicial campaigns, *see* Chapter 4, Section B, "Those Reforms that Have Been Tried Have Generally Met With Little Success").

As nongovernmental entities, state and local bar associations may develop contractual arrangements with their members that affect judicial election activities in ways that extend further than the bar's rules of professional conduct. Several examples of such contractual arrangements by bar associations outside of California, including programs to prohibit lawyer contributions to judicial candidates, are cited elsewhere in this report. These programs are enforceable either as optional incentives (such as the Dade County, Florida Bar Association's offer of bar association funds for voluntary relinquishment of private contributions) or as legally binding contracts (such as the Wayne County, Michigan Bar Association's imposition of monetary penalties for violations of contribution pledges). (For more detailed information on judicial election and campaign financing procedures in other states, *see* Chapter 4.)

4. California Judges Association

Once a lawyer is elected or appointed to a judgeship, membership in state or local bar associations is prohibited under a 1929 Supreme Court decision.[50] The California Judges Association, however, is a voluntary professional association which serves organizational and educational roles for judges similar to those which the state bar performs for attorneys, minus official disciplinary authority. Most judges subscribe to the association; in 1993, only 12 active judges declined membership.[51] The group conducts numerous educational activities and monitors and recommends improvements in the administration of the courts. Most importantly, the association promulgates the Code of Judicial Conduct, which details rules of ethical professional behavior. Enforcement of the ethical rules is primarily the responsibility of the Commission on Judicial Performance and the state supreme court. Although the California Judges Association has never sought to reform judicial elections as have other state bar associations, it is not precluded from doing so. The organization's efforts to set up public forums for judges to meet their constituents are discussed later in this report (*see* Chapter 4).

D. Los Angeles County Has the Nation's Largest Trial Court System

Both the Los Angeles County Superior Court and the Los Angeles City Municipal Court systems are the largest courts of their kind in the nation. The Los Angeles County Superior Court is 142 years old. As of 1992, it had an authorized complement of 238 judges (30% of the total number statewide) and 60 commissioners—temporary judicial officers appointed by the trial courts and agreed to by all parties to handle specific hearings.[52] The Los Angeles City Municipal Court

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50. State Bar of California v. Superior Court, 207 Cal. 323 (1929). This was the infamous *Hardy* case involving evangelist Aimee Semple McPherson described earlier in the chapter.

51. Telephone interview with Richard Piedmont, Legislative Coordinator, State Bar of California (Oct. 14, 1993).

52. Under current law, all parties to a dispute must consent to having their hearing handled by a commissioner. Usually, commissioners are limited to carrying out subordinate judicial duties, such as conducting traffic court adjudication, small claims actions and uncontested divorces. Commissioners may also act as temporary judges by written stipulation, allowing them to perform some magistrate duties.

In order to address an increasingly clogged courtload—a load that is expected to increase substantially with the "Three Strikes, You're Out" legislation—the California Judges Association sponsored a bill in the 1994 legislature (AB 2657) designed to grant commissioners more sweeping powers, such as allowing commissioners to sign search and arrest warrants and conduct preliminary hearings in felony criminal cases without mutual consent from the parties involved. Opponents to the bill argue that commissioners are not subject to the same screening process as

has 88 judges (14% of the total number statewide), 25 commissioners and a varying number of temporary judges each day. There are 189 municipal court judges in Los Angeles County. Prior to November 1994, only one justice court existed in Los Angeles County—on the island of Catalina. It has now been incorporated as a municipal court.

California's Constitution of 1879 established the superior court system as a replacement for district and county courts,[53] for which judicial records dating as far back as 1850 are held in the archives of the Los Angeles County Clerk's office. In 1880, the Los Angeles County Superior Court had only two judges serving the needs of a population of 33,381 (a ratio of one judge to 16,690 people). A total of 633 actions were filed in superior court in that year. In 1992, the number of actions had increased to 312,880. The municipal court bears a considerably heavier caseload, disposing of 1,252,325 actions in 1991 in Los Angeles City alone.

Superior and municipal courts are distinguished primarily by their subject jurisdictions. The municipal court has criminal jurisdiction over misdemeanors and infractions and may handle preliminary hearings on felony charges to determine whether there is sufficient evidence to send the case to trial in the superior court. The superior court has jurisdiction over any other criminal and civil matters, including felony, civil and probate actions as well as appeals from lower courts.

Due to the size of Los Angeles County, its superior court is subdivided into 11 administrative districts, including the county seat in the City of Los Angeles.[54] Although the superior court in each of the districts is fully staffed and provides all services, more than 45% of the court's caseload is handled by the district in the City of Los Angeles. The county's municipal court system contains 24 judicial districts.[55] Most municipal court districts outside the City of Los Angeles are staffed by fewer than six judges. As with the superior court system, more than 40% of the municipal court's caseload countywide is handled by the court in the City of Los Angeles.

The costs of both court systems are borne primarily by the county and the state in a near 50-50 split, with some supporting revenues derived from fines and service fees.[56] In fiscal year 1991-92, maintaining the superior and all municipal court systems in Los Angeles County cost approximately $471 million.[57]

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judges; thus, removing the stipulation requirement in effect removes any screening out process over commissioners. The measure was defeated in committee. Hallye Jordan, *Battle Brewing Over Duties of Commissioners*, Los Angeles Daily Journal, March 25, 1994.

53. Cal. Const. art. VI, §1 (1879).

54. Los Angeles County's 11 superior court districts are based in: Pomona (East), Burbank (North Central), Van Nuys (Northwest), Compton (South Central), Torrance (Southwest), San Fernando (North Valley), Pasadena (Northeast), Long Beach (South), Norwalk (Southeast), Santa Monica (West) and Los Angeles (Central).

55. Los Angeles County's 24 municipal court districts are: Alhambra, Antelope, Beverly Hills, Burbank, Citrus (located in West Covina), Compton, Culver City, Downey, East Los Angeles, Glendale, Inglewood, Long Beach, Los Angeles, Cerritos, Malibu, Newhall, Pasadena, Pomona, Rio Hondo (located in Whittier), Santa Anita, Santa Monica, South Bay (located in Torrance), Southeast (located in Huntington Park) and Whittier.

56. Bill Ainsworth, *State Budget Has Good, Bad News for Courts: Trial Courts Will Be Cut but Judiciary Retains Budget Power that Counties Had Wanted*, The Recorder, June 22, 1993.

57. Administrative Office of the Courts, Report on Trial Court Expenditures and Revenues for Fiscal Year 1991-92 at 10 (1992).

E. Conclusion: The Uneasy Balance Between Judicial Independence and Public Accountability

Selecting judges in the Los Angeles area trial court system is a process that has rather haphazardly evolved from the tension between two competing objectives in the justice system: providing judges with a reasonable degree of independence from the emotive sentiments of mass society, and ensuring that the courts are not insensitive to the norms and values of the communities they serve.

California has developed a confusing, bifurcated system of selecting its judges. Under the California system, supreme court and court of appeal justices are appointed by the governor, subject to approval by the Commission on Judicial Appointments, and subsequent regular confirmation by the electorate. Voters are asked only whether the justice should be retained in office. California trial judges are chosen in nonpartisan competitive elections. When vacancies occur prior to an election, as is the case in the selection of most superior and municipal court judges, the governor appoints replacements, who will then appear as incumbents on the ballot in a subsequent election at the end of the unexpired term. Consequently, most trial court judges are appointed, providing a certain degree of judicial independence. However, trial court judges may also be subject to competitive elections (or recall elections), providing some semblance of public accountability.

In the following chapters, the success of California's trial court judicial election system in reconciling the competing objectives of independence and accountability will be further examined. Particular attention will be given to how the *financing* of judicial campaigns impacts these goals.

CHAPTER 2

Voting Behavior in Judicial Elections

"Whatever else [judicial] campaign dollars may buy, they are not buying the attention of the voters."

— Ross Cheit and Sandy Golze, California State Bar Journal[1]

Every two years, one-third of all superior and municipal court judgeships are legally up for election in California, and seats may be contested by one or more contenders. In actuality, however, voters are only able to cast ballots for a few judgeships. A judicial incumbent who is not challenged, either by a declared opponent or a qualified write-in candidate,[2] does not appear on the primary or general election ballot at all; that incumbent is simply deemed reelected to office at the general election. Furthermore, open judicial seats—which are subject to electoral competition—are few in number. Sitting judges who do not wish to pursue another term in office regard it as common courtesy to the governor and the court system as a whole to resign early, thereby allowing the governor to fill the vacancy *prior* to the election cycle. This practice establishes a new incumbent for the same office and minimizes the chance of a competitive election.[3] Consequently, even

1. Ross Cheit and Sandy Golze, *Are Sitting Judges Sitting Ducks? The Case for Abolishing Judicial Elections*, California State Bar Journal, Oct. 1980.
2. In order for a write-in candidate to force a judicial incumbent's name to appear on the ballot, a petition signed by at least 100 registered voters on behalf of the write-in campaign must be submitted to the county clerk within 20 days after the final date for filing nomination papers for the primary election or not less than 59 days prior to election day for the general election. Cal. Elec. Code §25304 (West 1977).
3. The governor must fill a vacancy for municipal court before the last day on which a candidate can file for the direct primary election. If a vacancy is not filled by that day *and* one or more persons have filed declaration papers for the primary election, the selection for office of judge is be postponed until the next November general election. Candidates must then file declaration of candidacy papers for the general election in accordance with normal procedures, and whoever receives the most votes in the general election (even if just a plurality) shall be deemed elected judge of the court. If no one has filed declaration papers in the primary election, the office may be considered vacant and open for gubernatorial appointment prior to the general election. Cal. Gov't Code §71180 (West Supp.

though a large number of judicial seats must be filled every election cycle, voters are rarely asked to select more than a handful of judges on election day.

In contested races, candidates first vie for office during the statewide primary election. Any candidate receiving a majority of votes cast in the primary is elected and begins the term of office in January of the following year. If no candidate for a given judicial office receives a majority of votes cast, the two highest vote recipients compete in a runoff election held concurrently with the general statewide election in November.

A. Los Angeles County Recently Has Witnessed a Rise in Contested Judicial Elections

Although election contests for judicial positions are relatively uncommon, it is usually the case that more judgeships are contested in Los Angeles County than in any other county. However, this trend merely reflects the larger number of judgeships in the county. Between 1958 and 1978, for example, 24.3% of all contested superior court elections were held in Los Angeles County, but the county also contained 30% of the state's judges.[4] Moreover, the trend in Los Angeles—until 1994—has been toward fewer and fewer contested judicial races. In 1986, three superior and 13 municipal races were contested, down from a high of 28 in 1978. In 1988, seven superior and six municipal seats were contested. In 1992, contests occurred for only three superior court seats and four municipal court seats. All seven contested elections that year involved incumbents, and two of the incumbents (both at the municipal court level) were defeated. There were no open superior or municipal court seats in Los Angeles County in 1992, which indicates that judges retired before their terms were up and permitted the governor to fill their open seats.

The 1994 election year has seen a temporary reversal of this trend toward fewer judicial elections due to unique circumstances. Not since 1988—two years after the bitter defeat of Chief Justice Rose Bird and two other California Supreme Court justices—have judgeships across the state been so highly contested, including 37 incumbents facing challengers who sought to unseat them.[5] Los Angeles County has similarly experienced a significant increase in the number of contested judicial elections. While there were only seven contested judicial elections in 1992, that number more than doubled to 15 in 1994. Six Los Angeles superior court seats and nine municipal court seats were contested. Of these, two superior court incumbents were challenged, and a like number of municipal court judges faced challengers (one incumbent municipal court judge was defeated).

This recent spate of contested judicial elections may have been triggered by three factors, in declining order of importance: the possibility of state court consolidation, legislative term limits and a downturn in the economy for private law practice.

The prospect of passage of a court consolidation bill (SCA 3) introduced in the legislature in 1994 spurred the recent rise in contested judicial elections. SCA 3 would have unified the trial courts across the state into a single trial court system.

1994). Presumably, this appointment procedure applies to superior court judgeships chosen by the same competitive election system of the municipal courts, although the law is not explicit in this case. Cal. Const. art. VI, §16. If a pressing workload demands it, the governor may temporarily fill a vacancy in the courts after the filing deadline, but the appointed judge is precluded from running for election at least 10 months after the appointment, effectively preventing the judge from running in either the next primary or general election for any judicial or nonjudicial post. Barton v. Panish, 18 Cal. 3d 624 (1976).

4. California Judges Association, Summary of Staff Research into Judicial Selection and Elections 20 (1989).

5. Jean Guccione, *Election Fever Runs Unusually High as Judges Gear Up for this Year's Races*, San Francisco Daily Journal, May 20, 1994.

Municipal courts would have ceased to exist; judges in those courts would have all become superior court judges, and superior courts would have become the only trial courts of general jurisdiction.

Although the legislature did not approve SCA 3, the possibility that the bill would have become law impacted judicial elections. Two elements in particular of this court unification plan affected the 1994 judicial elections. First, as the plan was written, all trial court judges would have to run for election countywide.[6] Presently, municipal court judges run for election in smaller districts, making campaign costs far more affordable. (For a discussion of potential violations of the Voting Rights Act caused by countywide judicial elections, *see* Chapter 5, Section C, "Reforms Worthy of Further Study"). Second, the salaries of municipal court judges would have immediately been raised to that of superior court judges. These proposed changes encouraged numerous challenges for municipal court seats as candidates sought to achieve superior court judge salaries and status without having to wage costly countywide campaigns. Once elevated to superior court status, the sheer cost of countywide campaigns would discourage any further challenges to these new superior court incumbents and seal their incumbency advantage. Indeed, the bulk of competitive judicial campaigns across the state in 1994 occurred at the municipal and justice court levels; six of the state's 37 justice court judges faced challengers.[7] (Justice courts today have been incorporated as municipal courts.)

Other factors that encouraged greater electoral competition for judicial office in 1994 were legislative term limits and a declining economy. Two former legislators facing term limits—Lloyd Connelly in Sacramento and Terry Friedman in Los Angeles—recently became superior court judges. "I think we are going to find more and more legislators as term limits kick in finding the judicial is a wonderful profession," said Los Angeles Municipal Court Judge John Harris.[8] Harris also highlighted economics as another factor contributing to the surge in judicial election contests. "People want to get into fairly stable government jobs. . . . Every year there are attorneys who feel the practice of law is tough and business is bad and pressure is great."[9]

B. Strong Incumbent Advantages and Low Voter Information Characterize Most Judicial Elections

Some legal scholars and social scientists contend that because the judiciary is a policymaking branch of government, it must be directly or indirectly accountable to the public.[10] For reasons that emphasize some judicial accountability to the public, a wide majority of states—39 in all—select most of their judges through competitive or retention elections.[11] Although the actual operation of judicial elections between states and between jurisdictions in the same state varies considerably, some general patterns are discernible. Foremost among these is the electoral success of incumbents.

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6. For further discussion of the impact of countywide judicial elections, and their possible violation of the federal Voting Rights Act of 1965, *see* Section C(1) of Chapter 5, "Reforms Worthy of Study."
7. Jean Guccione, *supra* note 5.
8. *Id.*
9. *Id.*
10. Judge Ellis Reid, *Popular Elections the Fairest Way to Select Judges,* Chicago Daily Law Bulletin, May 3, 1993; Justice L. Thaxton Hanson, Presentation Before the California Newspaper Publishers Association, Los Angeles County Courthouse (March 24, 1980); Paul Gewirtz, *Legal Views Do Matter,* New York Times, April 28, 1993; Jeff Riggenbach, *Change the System, Elect Federal Judges,* USA Today, Aug. 10, 1988.
11. For a listing of state judicial selection procedures, *see* Appendix F, "Selection and Retention of Judges Among the States for Specified Courts."

1. Incumbent Advantage

In all judicial elections, incumbency is the greatest single factor associated with electoral success. One study found that over 20-year periods, incumbent judges on major trial courts in Ohio were challenged only 27% of the time, those of Michigan 26% of the time and those of California only 7%.[12] Until 1994, the pattern in California had steadily been toward fewer and fewer incumbents being challenged. Only 23 sitting judges in superior, municipal and justice courts in California were challenged in 1988. Two years earlier, 34 judges faced competition; six years earlier, about 65 were challenged.[13] According to the Commission's data base, in Los Angeles County alone, only 29 superior court incumbent judges out of a possible 705 from 1976 through 1992, or 4%, have ever faced an election challenge.

States that select judges on nonpartisan ballots, such as California, experience far fewer challenges to incumbents than states using partisan ballots. In nonpartisan systems, a judge typically serves until retirement age, which usually occurs during the term, and the governor then appoints a successor who serves until the next election. The appointed successor consequently enters the next election with the full advantages of incumbency and, if challenged, is nonetheless usually reelected—only to repeat the cycle by retiring during some future midterm and paving the way for another gubernatorial appointment.

In partisan systems, more judges are challenged at election time and thus fewer are appointed. Political parties usually feel compelled to nominate and run their own candidates for judicial office, particularly if the positions are filled by an incumbent judge of another party. This practice of challenging sitting judges undercuts much of the incumbency advantage gained by midterm appointments, thereby making appointments to fill vacancies less strategically valuable in partisan systems.

Overall, in states that utilize nonpartisan ballots for judicial selection, only 43% of judges were initially elected; the bulk of judges were originally appointed to their positions. In states that utilize partisan ballots, 70% of judges were initially elected to their posts.[14] California's statistics are even more extreme. In California's system of nonpartisan judicial elections, the vast majority of California's superior court judges from 1959 through 1977—662 (or 90% of 739 judges)—initially reached the bench through gubernatorial appointment rather than election.[15]

Even when incumbent judges are challenged, few are defeated. From 1958 to 1980 in California, for example, 93% of incumbent superior court judges (1,587 of 1,714) won reelection without opposition, whereas 83% of contested incumbents (105 of 127) fended off their challengers. Nearly all appointed judges (99%) were successful in seeking reelection immediately after their appointment. Overall, incumbents have enjoyed a reelection success rate in California of 98.7%—a rate exceeding that of incumbents in most partisan legislative offices. In the words of political scientist Philip Dubois, most of California's judges have "neither reached nor left the bench" by the route of elections.[16]

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12. Lawrence Baum, American Courts: Process and Policy 102 (1990).
13. Joe Applegate, *Few Judges in State Face Challengers, Continuing a Trend*, Los Angeles Daily Journal, May 27, 1988.
14. John Ryan, Allan Ashman, Bruce Sales and Sandra Shane-DuBow, American Trial Judges: Their Work Styles and Performance 122 (1980).
15. Philip Dubois, *The Influence of Selection System and Region on the Characteristics of a Trial Court Bench: The Case of California*, 8 The Justice System Journal 63 at fn.4 (1983).
16. Philip Dubois, *Voting Cues in Nonpartisan Trial Court Elections: A Multivariate Assessment*, 18 Law & Society Review 399 (1984).

2. *Voter Awareness*

Many voters do not vote for judges at all. In California, for example, about 35% of those voting simply ignore judicial candidates altogether. Low levels of voter participation in judicial elections appear to be largely a function of inadequate information. Voters have consistently expressed frustration at receiving so little information about judicial candidates. It is not unusual even for *lawyers* and others in the legal profession to be in the dark about the candidates running for judicial office, especially for the less publicized trial court positions. In one superior court race, for example, most prosecutors and criminal defense attorneys had only limited knowledge, if any, of one candidate—simply because he had recently been appointed to the position shortly before the campaign period—and they knew nothing about his opponent. The district attorney and several judges endorsed the incumbent. His opponent claimed that their endorsements were automatic because of the judge's rookie incumbent status and not "considered judgments" based on knowledge of the candidates.[17] In open races with no incumbents, voters and many members of the legal profession may cast their ballots with even less knowledge of the candidates.

With few exceptions, most studies have shown that voters have very little awareness of the court system, judicial contests and the identities of sitting judges and judicial candidates.[18] Low voter awareness of judicial contests is particularly evident in trial court elections, which are largely ignored by the media. But even in highly publicized and controversial races, voter information can be low. One such race occurred in California's 1986 retention election of six supreme court justices. Three of the justices—Chief Justice Rose Bird and Justices Cruz Reynoso and Joseph Grodin—were targeted by the insurance industry and other special interest groups as "too liberal." An $11 million campaign for and against the justices plastered California's airwaves and news sources with messages about the "Bird Court."

According to Mervin Field's California Poll, voter awareness about the supreme court retention election was high—but largely limited to Rose Bird, the central figure. About 43% of respondents said that they had heard a lot about Chief Justice Bird's candidacy three months before the election; only 6% had heard nothing.[19] But just weeks before the election, voters were still quite unclear about the other judicial candidates. Although only 11% of voters did not know how they would vote on Rose Bird's confirmation, 29% and 32% of voters expressed uncertainty how they would vote on Reynoso and Grodin, respectively. [20] Nonetheless, Justices Bird, Grodin and Reynoso were all defeated, while the other three (who were not targeted) were retained. (For a discussion of voter awareness of judicial elections in other states, *see* Chapter 4, Section A, "High-Profile Judicial Campaigns.")

C. California Voters Have Limited Information on Judicial Candidates, Which Makes Campaign Spending Levels Critically Important

Providing voters with adequate information in judicial elections encounters two distinct problems. The first problem concerns the *type* of information that might be

17. Donna Wasiczko, *Two 'Nice Guys' Vie for Superior Court Seat*, Contra Costa Times, May 15, 1994.

18. *See*, for example, Charles Johnson, Roger Sheafer and R. Neal McNight, *The Salience of Judicial Candidates and Elections*, 59 Social Science Quarterly 371 (1978); and Robert Roper, *Model Building in Judicial Elections: The Case of the Irrational Voter?* Paper presented to the annual meeting of the Western Political Science Association, Denver, March 26-28, 1981.

19. Field Institute, California Poll (July/Aug. 1986). It should be noted that former Justice Grodin is a member of this Commission.

20. Field Institute, California Poll (Oct. 1986).

considered relevant to an intelligent voter. A dominant though by no means exclusive view in the legal community is that voters should only be provided with a narrow range of "objective" information, such as information on the candidates' legal experience and judicial temperament. In contrast, some political scientists and others, who start from different premises about courts and judges, view political information, such as party identification and positions on current policy issues, as highly relevant for voters to make an intelligent electoral decision.[21]

A second problem involved in providing voters with sufficient information involves the *availability* of that information. The single most important source of voter information in most political candidate elections, for example, is party identification.[22] But because judicial elections in California are nonpartisan, party labels are largely (though not entirely) removed as sources of voter information. Media coverage of trial court elections is also sparse. The remaining sources of voter information in California's nonpartisan judicial contests include: incumbency, ballot descriptions, bar ratings, endorsements, campaign activities and the voter pamphlets.

1. Unpaid Sources of Voter Information

Incumbency is a great advantage in judicial elections.[23] Although four times as many voters view incumbency as a favorable factor as those who do not,[24] the greatest strength of incumbency lies in its relationship with other voting cues.

Incumbency, for instance, provides a judicial candidate with a positive ballot label ("incumbent") not available to challengers. Many voters in judicial elections do not know who the incumbent is until they step into the voting booth and read the ballot.[25] While the "incumbent" label *per se* may not carry much weight in today's political environment, its association with the category of "judge" is connected with a very high rate of electoral success. In a June 1988 primary election, for example, every judicial incumbent in Los Angeles County won reelection except one, Superior Court Judge Roberta Ralph, who made the mistake of listing herself merely as "incumbent" rather than "judge."[26] Apparently, to many voters, it was not clear what was meant by the "incumbent" ballot label, but the label of "judge" was far more reassuring. As Griffin and Horan suggest, the designation of "judge" on the ballot "informs the voter that it is, after all, an experienced and presumably qualified judge whose future is being decided. . . ."[27]

Even without the use of "incumbent" on the ballot, the label "judge" still enhances election chances. A survey of California's superior court elections found that municipal and justice court candidates using the label of "judge" on the ballot

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21. Lawrence Baum, *Judicial Selection and Appointment at the State Level: Voters' Information in Judicial Elections*, 77 Kentucky Law Journal 645 (1989).

22. Peverill Squire and Eric Smith, *The Effect of Partisan Information in Nonpartisan Elections*, 50 Journal of Politics 169 (1988). For further discussion of the role of party identification in affecting voting behavior and judicial elections, *see* Chapter 4, "Other States' Limited Success with Judicial Campaign Finance Reforms."

23. Herbert Jacob, *Judicial Insulation—Elections, Direct Participation, and Public Attention to the Courts in Wisconsin*, 1966 Wisconsin Law Review 801 (1966); Kenyon Griffin and Michael Horan, *Merit Retention Elections: What Influences Voters?* 63 Judicature 78 (1979); Susan Carbon, *Judicial Retention Elections: Are They Serving Their Intended Purpose?* 64 Judicature 210 (1980); Philip Dubois, Voting *Cues in Nonpartisan Trial Court Elections: A Multivariate Assessment*, 18 Law & Society Review 402 (1984).

24. William Jenkins, *Retention Elections: Who Wins When No One Loses?* 61 Judicature 79 (1977); and Kenyon Griffin and Michael Horan, *supra* note 23.

25. Philip Dubois, From Ballot to Bench: Judicial Elections and the Quest for Accountability 81 (1980).

26. Kenneth Reich, 'Judge' *Was the Winning Word on Ballots*, Los Angeles Times, June 9, 1988.

27. Griffin and Horan, *supra* note 23 at 82-83.

won election 81% of the time. Candidates using a judicial ballot label were also victorious in 90% of general election run-off contests. Far less successful were candidates using such labels as "District Attorney" (37% election rate) or "Attorney at Law" (23% election rate).[28]

Bar association ratings can be a significant source of voter information, but they do not appear on the ballot and hence carry less clout than "incumbent" and "judge" ballot labels. In the 1988 election that saw incumbent judge Roberta Ralph defeated after using an "incumbent" label, the other three judges who handily won reelection were each rated less qualified by the Los Angeles County Bar Association than their opponents. Superior Court Judge Patrick Nelson, accused by the bar of lacking judicial temperament and rated "not qualified," captured 76% of the vote to defeat attorney Joe Ingber rated "qualified." Los Angeles Municipal Judge Michael Nash, also rated "not qualified," trounced attorney Enda Brennan rated "qualified." And Municipal Judge Russell Schooling, accused of both racial bias and lack of judicial temperament, won 58% of the vote to defeat attorney Carlos de la Fuente rated "well qualified."[29] Evidence of the effectiveness of bar ratings in influencing voting behavior in other judicial races is inconclusive.[30]

Bar association ratings could be quite influential in low-key judicial contests, where other sources of election information are not easily available. But most bar associations simply issue their ratings as a "public service" and do not publicize them in any other way. Bar associations apparently think it the responsibility of the candidates and the media to disseminate the bar ratings on their own. As a result, most bar ratings receive only a minor news article in the local newspaper and, perhaps, mention of the ratings by candidates in their campaign literature and ballot statements.

This lack of attention to bar ratings is most unfortunate. Bar association ratings are traditionally developed by a special committee of members who make careful inquiries about the abilities and experience of judicial candidates. The people surveyed, usually experienced trial lawyers representing both plaintiffs and defendants, tend to give candid answers to these inquiries because they are assured of anonymity. Bar association ratings are thus descriptive of candidates' abilities, and the ratings enjoy high credibility among most lawyers and the press.

There are exceptions. Candidates receiving poor ratings sometimes question the rating as biased or unrepresentative. The judicial evaluation committee of the Los Angeles County Bar Association, which issues bar ratings of all trial court judicial candidates in the county, has on occasion been accused of favoritism. "They claim the judicial evaluation committee represents a cross-section of the legal community," charged Thomasina Reed, an unsuccessful minority candidate, who did not receive a favorable bar rating in her challenge to incumbent Superior Court

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28. Philip Dubois, *supra* note 23 at 404.

    In California, candidates are permitted a ballot label of up to three words that reflect the vocation, profession or occupation of the candidate, but not a statement of belief on any issue or the name of any political philosophy. Candidates and election officials frequently argue over legitimate ballot labels generating 120 such disputes in the 1988 primary election alone. Election officials have the final say over ballot labels, unless they are overruled by the courts. Some candidates can get quite creative in their designations. For example, one candidate for state senate, Roger Batchelder, wanted to be labeled as "peon" on the ballot. Elections officials initially were reluctant. But the candidate pointed out that a dictionary definition of the term was "a member of the laboring class" and convinced officials that "peon" was an accurate description of his vocation. Kenneth Reich, *Candidate in 3 Words or Less*, Los Angeles Times, March 29, 1990.

29. Kenneth Reich, *supra* note 26.

30. William Jenkins, *supra* note 24; Mary Volcansek, *An Exploration of the Judicial Election Process*, 34 Western Political Quarterly 572 (1981).

Judge Joyce Karlin. "I saw mostly downtown Anglo lawyers [on the committee], and there were more men than women, too."[31] Disputes of the fairness or accuracy of bar ratings are not limited to the Los Angeles County Bar. Evaluation procedures and criteria tend to vary from bar association to bar association, with each procedure periodically leaving some candidates dissatisfied.[32]

Endorsements from groups and opinion leaders are also valued by many voters as important sources of voter information. It is routine for incumbent judges nearing an election period to gather a long list of endorsements from sitting judges,[33] district attorneys, police associations and other groups in order to deter potential challengers.[34] If that fails, or if candidates are competing for an open seat, endorsements are a dearly sought-after means to demonstrate widespread support within the legal community and associate the candidate with particular causes or political sentiments.

Endorsements from judges, public attorneys and private attorneys help coalesce support from those most likely to vote in judicial elections—the legal community. It also helps build a contributor base for raising campaign funds. Endorsements from outside the legal community can be equally important to campaign strategy. Outside endorsements give the general public implicit voting cues on candidates' stands on political issues or partisan leanings that may or may not be accurate. An endorsement by the local police association, for example, may vest the judicial candidate with an image of being "tough on crime." Endorsements by labor unions and consumer groups may suggest that the candidate is consumer-oriented. Perhaps most importantly, endorsements by political leaders hint at the candidate's party affiliation.

Even in so-called nonpartisan elections, candidates frequently make considerable efforts to inform voters of their partisan leanings through prominent endorsements. An endorsement from a Republican governor, for example, may suggest that the judicial candidate is a life-long Republican—even though the candidate is supposed to refrain from publicly making such partisan declarations.[35] Partisan cues provide such important election information to voters that the League of Women Voters' election guide suggests that voters read between the lines to get the real message: "Although judges must run as nonpartisan candidates, they often signal their party affiliation (or their opponent's) by mentioning which governor appointed them. If all the individuals listed as endorsers are prominent members or elected officials of one political party, that is also a signal."[36]

In order for endorsements to become effective, they must be widely disseminated to voters. Political groups will sometimes publicize their endorsements through newsletters or press conferences. More often, the candidates themselves must assume responsibility for disseminating this information to voters through paid advertising.

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31. Arleen Jacobius, *Rating Panel Often Focus of Dispute*, Los Angeles Daily Journal, June 1, 1992.
32. *See*, for example, Roy Gutterman, *Sore Losers Criticize Bar Association Poll*, Cleveland Plain Dealer, October 14, 1993; and Nina Schuyler, *Candidates Call Judicial Ratings Biased*, San Francisco Weekly, May 2, 1990.
33. In California, the state code of judicial conduct prohibits judges from issuing endorsements of any political candidates for nonjudicial office. Only the endorsement of judicial candidates is deemed acceptable political behavior. Cal. Code of Judicial Conduct, Canon 7 (A).
34. Interview with campaign consultant Joseph Cerrell, Los Angeles, Oct. 3, 1990.
35. Judicial candidates are prohibited outright by state statute from declaring party affiliations in the ballot pamphlet or on the ballot. California's Code of Judicial Conduct restricts judicial candidates from any "political activity which may give rise to a suspicion of political bias or impropriety." Cal. Code of Judicial Conduct, Canon 7.
36. League of Women Voters, Courts, Judges & Voters 6 (1990).

2. *Paid Sources of Voter Information*

Because voters have such limited sources of information about judicial candidates in California, paid advertising has become the major force influencing voting behavior. As a consequence, money is usually the decisive factor in determining election outcomes in judicial campaigns. (*See* Chapter 3, "The Influence of Money.") Judicial candidates use campaign funds to finance literature, lawn signs, newspaper and radio advertisements, slate mailers, statements in the voter's pamphlet and, occasionally, television advertisements. These sources of election information can easily convey more information to voters than the muted efforts of nonpaid sources.

Although campaign spending is an important factor in judicial elections, judicial trial court candidates generally have a harder time raising campaign funds and thus spend far less than political candidates. Consequently, most voters do not hear much, if anything, about judicial candidates as compared with candidates for political office.

Inadequate voter information is a serious problem at the trial court level. Despite escalating election costs, judicial candidates spend far less money than political candidates in comparable size districts. In California, for example, candidates for the major trial courts spent an average of $.11 per vote in 1982, compared with $2.55 per vote by candidates for the state legislature.[37] The Commission's data analysis found even more of a disparity in Los Angeles County. From 1976 through 1992, Los Angeles superior court candidates in contested races spent an average of $.07 per vote, while nonjudicial candidates in local races spent an average of $9.61 per vote. If California's current system of judicial elections depends on private campaign spending to inform the public, then the candidates' low levels of spending translate into low levels of voter information. This problem is compounded by rules of judicial ethics, which severely limit the ability of candidates to discuss issues. A key provision of the ABA's Model Code of Judicial Conduct, which has been adopted in whole or in part by most states (including a less restrictive version in California), provides that a judicial candidate should not "announce his views on disputed legal or political issues" and "should not engage in any other political activity except on behalf of measures to improve the law, the legal system, or the administration of justice."[38] One consequence of these rules is that candidates tend to focus on innocuous matters, such as their family experience, instead of issues that might be relevant to their ability to hold judicial office. One 1980 judicial candidate in Ohio, for example, placed a campaign advertisement in the community newspaper picturing his three-year old son with a caption reading, "Vote for My Daddy. . . he takes real good care of me . . . ."[39] With modest campaign funds and stringent ethical restrictions on the issues that judicial candidates may discuss, the media usually finds little newsworthiness in judicial races—further contributing to a lack of voter awareness.

Perhaps because of candidates' inability to discuss meaningful issues, their need to raise campaign dollars has intensified. As the Commission's data base reveals, the candidate that spends the most—even in low spending campaigns—usually wins. Judicial candidates may not spend as much as other political candidates—leaving most of the electorate in the dark about judicial contests—but the candidates who outspend their opponents reach a few more voters. Thus, even

37. Philip Dubois, *Penny for Your Thoughts? Campaign Spending in California Trial Court Elections, 1976-1982*, 38 Western Political Quarterly 272 (June 1986).

38. American Bar Association, Code of Judicial Conduct, Canon 7 (1972).

39. Lawrence Baum, *supra* note 12 at 103.

in low-spending judicial campaigns, money still tends to define the difference between electoral success and failure.

In Los Angeles County, the two most effective forms of paid campaign advertising are the voter's pamphlet and slate mailers. With a 200-word statement in the voter's pamphlet costing $18,340 in November 1994 ($36,680 for a bilingual statement), and inclusion in a slate mailer often contingent upon hiring the right professional campaign consulting firm, these avenues of voter information are largely the domain of the wealthiest judicial candidates. According to the Commission's data base, these two sources of voter information have consumed nearly 60% of all campaign dollars spent on judicial elections between 1976 and 1992.

Candidate statements in the voter's pamphlet and slate mailers are not only expensive but often directly or indirectly *misinform* voters. The voter's pamphlet only provides information on those candidates who can afford to purchase a statement in it—which, more often than not, is limited to incumbents. Voters reading the pamphlet may conclude that the candidates whose statements it contains are unopposed (or somehow face opponents who lack sufficient "official imprimatur" to be included.) Even the statements that do appear are required by legal and ethical rules to avoid partisan positions or controversial social issues.

Slate mailers are notoriously deceptive. They are usually designed to "imply" a candidate's party identification or position on social issues, neither of which may be true. Although slate mailers have been used for decades, they matured in the early 1980s into a powerful form of political advertising. Originally, political parties and other ideological organizations prepared slates of recommended candidates for distribution to their members or a targeted audience. But much has changed in recent years. Instead of allowing like-minded groups to inform voters of candidates and ballot issues that are in conformity with the organization's political philosophy, slate mailers have become a profitable and frequently deceptive business. They are often run by private campaign consulting firms on behalf of paying clients or simply by profit-making entities with little concern about election outcomes. Slate mailer endorsements are frequently sold—often to the highest bidder.

The payment-for-endorsement aspect of slate mailers is made all the worse by the fact that this for-profit arrangement is not disclosed to the voters—leaving them with the deceptive impression that the mailer represents an official endorsement by a political party or by respected elected officials. Although such deceptive tactics do not violate existing laws, it is evident that slate mailers mislead many voters who believe they represent an official party endorsement. Indeed, many mailers are carefully designed to create precisely this impression. They select the "top" names on the slate to suggest that the mailer represents a single partisan stance; the mailer is constructed in an official format, frequently as a sample ballot; the mailer is labeled with a partisan name; and the committee behind the operation always uses a pseudonym that suggests an official party organ. Voters have been deluged, for example, with for-profit slate mailers from the private consulting firm of Berman/D'Agostino (BAD Campaigns, Inc.) that are labeled "Democratic Voter's Guide," compiled and distributed by BAD Campaigns, Inc. under the pseudonym of "Californians for Democratic Representation." The official Democratic Party symbol of a donkey is plastered across the mailer, and the well-recognized Democratic candidates for governor and U.S. Senate are prominently displayed at the head of the ticket.

The potential for slate deception can be particularly effective in low-level contests and ballot measures. One mailer by Cerrell and Associates, a Democratic consulting firm, on behalf of a liberal client running for a judicial position in conservative Orange County, featured the leading Republican candidates for

national and state offices. The mailer prominently endorsed Ronald Reagan for president and other well-known Republicans for state offices—and then included the liberal judicial candidate. Reagan and other top Republican endorsees neither paid for nor authorized the use of their names in the mailer. Even though Cerrell's client was diametrically opposed to the Republican party's positions, Orange County voters who received the mailer assumed that Reagan and other Republicans had endorsed the unknown judicial candidate and decided that the judicial candidate was "one of them."[40] (For further discussion of the abuses of slate mailers, *see* Chapter 5.)

D. Conclusion: The Financing of Judicial Campaigns Poses Problems for Voter Information and Judicial Integrity

Home to the largest number of contested judicial races in the nation, Los Angeles County exhibits many of the problems experienced nationwide with electing judges. Judicial elections in Los Angeles County are plagued both by too little campaign resources to inform voters adequately and, at the same time, too much pressure on candidates to raise campaign dollars—thereby undercutting the integrity of the courts and giving rise to the appearance of corruption. While voters are asked to weigh the merits of judicial candidates, shoe-string campaign budgets usually do not give them enough information to make informed decisions. Although judicial campaign budgets pale in comparison to campaign war chests for other political offices, judges must nonetheless collect a great deal of campaign money. As discussed in Chapters 3 and 5, candidates most frequently do so by drawing, first, on their own financial resources and those of their families and, second, on the resources of lawyers who appear in court before them. Because the cost of campaigning and purchasing a candidate statement in the local voter's pamphlet (the principal source of voter information on judicial candidates) can run into tens of thousands of dollars, campaigning and fundraising can be a taxing experience for judicial candidates—and one that can create the specter of partiality in courtroom proceedings.

40. Although Cerrell is a Democratic consultant, he felt justified in sending out a mailer in Orange County that endorsed Republican candidates along with his liberal judicial client. "Orange County was going to vote for those Republicans, anyway. Why not use those names to help my guy on the way?" Personal interview with Joseph Cerrell, October 3, 1990.

CHAPTER 3

The Influence of Money in Los Angeles Superior and Municipal Court Elections

"Here are all these lawyers appearing before you all day long and you're out there at night asking them to contribute money to your campaign. It's nothing for a judge to be proud of."

— *Roger Warren,*[1]
Superior Court Judge

Los Angeles County municipal and superior court candidates raise and spend far less than other Los Angeles area contested local candidates, yet they believe campaign money is essential to creating an election year identity.[2] They rely on increasingly expensive slate mail-based campaign methods to create public familiarity with their names and backgrounds. To fund these strategies, judicial candidates engage in a pressured search for campaign dollars, securing contributions from friends, colleagues and attorneys. When this contributor base proves insufficient (as in most cases), they finance the remainder of their campaign

1. *Quoted in* Sheryl Stolberg, *Politics and the Judiciary Coexist*, But Often Uneasily, Los Angeles Times, March 21, 1992.

2. Candidates for judicial office—incumbents, challengers and open seat hopefuls—run for election in an environment of widespread political anonymity, not only for themselves but for the offices they seek.Voters' lack of knowledge about judicial candidates is pervasive. In a 1982 Alabama Supreme Court race, for example, voters nearly rejected the chief justice's bid for reelection because his challenger shared the same name with the owner of a famous Alabama bakery. The nearly-defeated state supreme court justice said, "Our surveys showed a substantial number voted for [my opponent] because they thought he was the bakery man." Roy Schotland, *Elective Judges' Campaign Financing: Are State Judges' Robes the Emperor's Cloths of American Democracy?*, 2 J. Law & Politics 89 (1985).

budgets themselves, contributing as much as $176,000 to their own efforts.[3] In 1994 superior court races studied, candidates alone contributed nearly half of the total funds raised.

Judges acknowledge the importance of money in judicial contests. Over "incumbency," judges ranked the "amount of money raised" as having the most significant impact on their chances at the polls, according to a 1989 California Judges Association (CJA) survey.[4] Approximately 69% of superior court judges surveyed felt that campaign money is "necessary to victory" at the polls.[5] Among municipal court judges polled by the CJA, 64% believed that electoral success hinges on the amount of money raised.[6] Los Angeles County Superior Court Judge Leon Kaplan communicates that fundraising is "the most important element" to winning.[7]

To track the growing importance of campaign money in judicial elections, the Commission created an extensive computerized data base to analyze contribution and spending information in Los Angeles County superior and municipal court contested elections.[8] The Commission examined campaign finance data for Los Angeles County candidates in all contested superior court contests from 1976 to 1994 and all contested municipal court races from 1988 to 1994.[9] In total, the Commission computerized approximately 25,000 separate campaign contribution and spending records amounting to $16 million from 212 candidates. The Commission's data base included 136 individual superior court candidates (32 incumbents, 42 challengers and 62 open seat candidates) and 76 individual municipal court candidates (14 incumbents, 16 challengers and 46 open seat candidates). (*See* Appendix E for a complete description of the Commission's Judicial Campaign Financing Data Analysis Project.)

A. Fundraising in Judicial Campaigns May Be a Cause for Worry

While judicial elections have become expensive, judicial campaign spending in general pales in comparison with other elective offices. Indeed, if campaign expenditures are viewed as "tuition" for the public's political education, it can reasonably be argued that voters are poorly educated about judicial candidates because such tuition has been poorly funded.

This is not to say that judicial campaigns are cheap affairs for judicial candidates. Partisan, nonpartisan and even retention judicial elections are frequently costly. In a 1986 state supreme court retention election, then-Chief Justice Rose Bird, along with Justices Cruz Reynoso and Joseph Grodin, spent $4.5 million in an unsuccessful attempt to retain their seats—including about $1 million on television and radio advertising in the final week alone. Their opponents, however, spent $7 million.

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3. In 1994, successful Los Angeles Superior Court candidate Marlene Kristovich personally contributed approximately $176,000 to her own campaign.
4. California Judges Association, Judicial Elections Survey: Initial Report 11 (May 1989).
5. *Id.*
6. *Id.*
7. Interview with Los Angeles Superior Court Judge Leon Kaplan, Aug. 25, 1993.
8. Elections for superior and municipal court seats occur only if an incumbent is challenged or if the seat falls open. (For a full discussion of judicial election circumstances and procedures, *see* Chapter 1.)
9. While the California Secretary of State's office keeps complete campaign disclosure records for state superior court candidates back to 1976, the Los Angeles County Registrar-Recorder (as allowed by state law) destroys such campaign disclosure material for local municipal court races when it is older than six years. Thus, the Commission has only been able to obtain and examine municipal court campaign disclosure statements back to 1988.

Although spending during this 1986 California Supreme Court race holds the national record, high spending levels have been recorded in other judicial campaigns across the country. In the 1990 partisan race for three contested seats on the Texas Supreme Court, for example, the six candidates combined spent nearly $6 million. Two years earlier, when six seats were up for election, the 12 contenders together spent more than $10 million. The 1986 nonpartisan race for chief justice of Ohio's Supreme Court cost about $2.7 million, up from less than $100,000 six years earlier.[10] Nevertheless, instances of extremely high campaign financing costs in judicial elections tend to be uncommon, especially below the appellate courts. (For a discussion of financing judicial elections in other states, *see* Chapter 4, Section A, "High-Profile Judicial Campaigns.")

When the cost of campaigning for judge rises, the premium for campaign contributions similarly rises. This can be cause for alarm. Campaign contributors—especially those who make large contributions—become increasingly important players in judicial campaigns. Judicial candidates desperately need these campaign contributions; otherwise, the candidates themselves must put up more of their own money or risk election defeat. The fact that judges and judicial candidates are obliged to solicit campaign contributions raises the spectre of whether they feel a sense of obligation to any of the contributors in return.

Some public opinion poll results have confirmed such suspicions. In Ohio, for example, the Institute for Policy Research surveyed state residents in 1994 for their opinions on whether campaign contributions to judicial candidates affects judicial rulings. Only 7% of Ohioans believed that judges' decisions are never influenced by campaign contributions. According to the poll, 8% believed that judicial decisions are always influenced by campaign contributions, 23% said judges' decisions are influenced most of the time by campaign money and 58% said sometimes.[11]

Not surprisingly, a large percentage of financing of judicial campaigns comes from lawyers and law firms—the very people who conduct their business in judicial chambers. Clearly, lawyers who try cases have the most at stake in who sits on the bench and how the judges feel towards them. Such lawyers are the only group in society which deals with judges on a continual basis. The success of trial lawyers depends largely on their ability to gain favorable rulings. It is inevitable that lawyers, especially those who frequently appear in a judge's courtroom, will feel pressure to contribute to the judge's reelection campaign or, at the very least, not to offend the judge by contributing to an opponent. The dependence of judicial candidates on this contributor base is a double-edged sword: lawyers may feel compelled to contribute to judicial campaigns; and judges may feel a sense of obligation to their contributors. Thus the flow of money between lawyers and judges gives the impression that justice is for sale.

Several problems emerge from this current system of financing judicial campaigns. First, in those instances where very large contributions are received, corruption or the appearance of corruption often ensues. It is not altogether uncommon, for example, for attorneys to contribute to judicial candidates who are running unopposed or who face little serious opposition, suggesting that these attorneys hope to curry favor with the judges.[12] Such practices cannot create confidence in the integrity of the judges who are elected.

Second, the mere act of a judge collecting contributions from those who appear before them can create the appearance of impropriety. Judges themselves report

10. Mark Hansen, *The High Cost of Judging*, ABA Journal 44 (Sept. 1991).

11. Editor, *May Reform Please the Court*, The Plain Dealer, Mar. 20, 1995.

12. Nicholson and Weiss, The Price of Justice: The Funding of Judicial Campaigns in Cook County 71 (1988).

feeling nervous when hearing a case involving a contributor. One judge confessed that the knowledge of the identity of a contributor was always "in the back of the mind. . . ."[13] Soliciting campaigns funds from lawyers and other possible litigants by judicial candidates can undermine the public's expectation of a neutral judiciary.

Third, judges may have to spend a great deal of their time pursuing campaign contributions. In the intensity of the campaign period, judges adjudicate by day and solicit money by night. Fundraising is tedious at best and distracting from judicial duties at worst.

Fourth, any system that heavily relies on a candidate's own funds disproportionately favors wealthier candidates. Whether competing in high-financed or low-financed campaigns, candidates who have substantial resources of their own enjoy a significant advantage over their competitors. Not only can they outspend their opponents, but they can also allocate less time to fundraising. Potential judicial candidates who may have outstanding qualifications but little money are thus deterred from running for office.

B. High Spending Is Closely Linked to Electoral Success

As noted in Chapter 2, compared to other significant elective offices in Los Angeles County, candidate spending in non-partisan municipal and superior court races is small. Between 1988 and 1994,[14] the *highest* municipal court candidate expenditure was $168,000.[15] The most spent by a countywide-running Los Angeles County superior court candidate since 1976 was $378,000.[16] By contrast, Los Angeles County supervisorial candidates—who run in districts one-fifth the size of superior court districts—routinely spend over $1 million, and Los Angeles area state assembly and senate candidates have spent up to $3 million in their contests. (For a discussion of how district size impacts campaign spending, *see* Section B(1) of this chapter.)

Ironically, however, judicial candidates appear even more heavily reliant than other candidates on campaign money for success. Voters have few cues—such as party affiliation, committee assignments, voting records or press releases—by which to make informed decisions. Judicial incumbents, challengers and open seat hopefuls are therefore more dependent on money to create name identification. The Commission's study shows that the more money a judicial candidate spends, the greater chance of success at the polls.

The Commission's judicial data analysis confirms the important conclusion that—especially in contested races—campaign money is significant to victory. In the contests studied, winning candidates spent far more than losing candidates. Overall municipal court winners spent a median amount more than twice the amount spent by their opponents ($47,000 to $18,000) in the years studied (1988 to 1994).[17] Over the same period, superior court winners spent a median dollar amount of $56,000 to losers' almost $27,000.[18] (See Table 3-1.)

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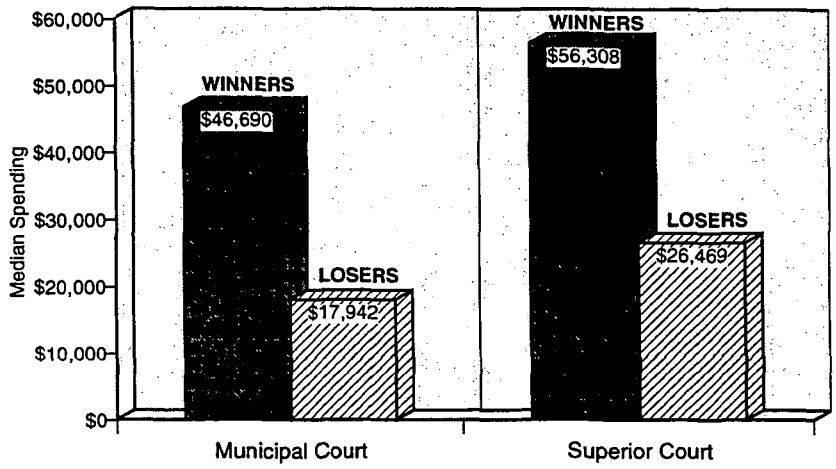
13. Joe Applegate, *The High Cost of Judging,* Los Angeles Daily Journal, Nov. 2, 1988.
14. The Commission's 1994 figures include disclosure data through the June primary election only.
15. Beverly Hills Municipal Court challenger Brian S. Braff spent $167,419 in his unsuccessful 1988 challenge of incumbent Judith Stein.
16. In the 1994 superior court open seat for Office #2, personal-injury attorney John L. Moriarity spent $378,317 and lost to former state Assemblyman Terry Friedman. Friedman spent $295,403.
17. These tabulations do not include figures for 1994 general election.
18. For purposes of equal comparison, both winner/loser municipal and superior court figures were taken from elections between 1988 to 1994. Over the Commission's entire superior court sample (from 1976 to 1994), the median amount spent by winners was $32,912; losers spent a median amount of $12,941.

Table 3-1

WINNERS vs. LOSERS: MEDIAN EXPENDITURES in L.A. COUNTY TRIAL COURT RACES, 1988-1994



Source: California Commission on Campaign Financing Judicial Data Analysis Project

Open seat races perhaps offer the best glimpse of the impact of campaign spending on superior and municipal court judicial contests. Because most open seat judicial candidates begin with the same lack of incumbency advantage, name identification and general voter awareness, their contests become intense competitions to penetrate voter sensibilities. The highest spending candidate usually wins. (See Table 3-2.) In municipal court contests during the period studied, open seat winners outspent losers by nearly 3-to-1, $47,000 to $16,000. Over the same period in superior court races, open seat winners also outspent losers by four times, $128,000 to $32,000.[19]

In races between incumbents and challengers, incumbents easily dominate spending and win nearly every time. In the municipal court races studied (1988 to 1994), incumbents outspent challengers $42,000 to $19,000. Since 1988, only two of 13 Los Angeles County municipal court contested incumbents have been defeated. In superior court contests over the same period, incumbents outspent challengers $55,000 to $29,000 in median expenditures.[20]

1. Superior Court Expenditure Patterns: Rising Spending and Slate Mailer Dominance

"I would like to think that I did so well because of all the hard work by my friends and those familiar with my qualifications. But realistically speaking, Los Angeles [County] is so big that I can't have that many friends."

— Superior Court Judge David Ziskrout[21] (1982 open seat election winner)

19. Over the entire 1976 to 1994 period studied, superior court open seat winners outspent losers by over 4-to-1, $84,000 to $19,000.

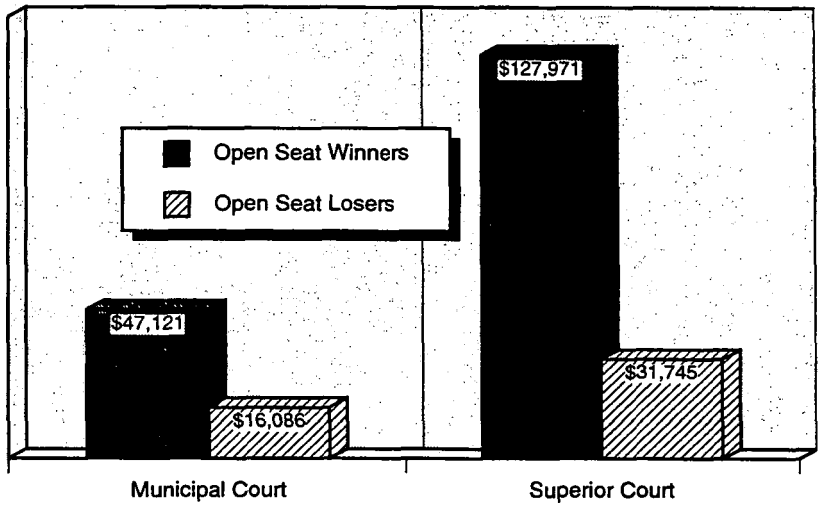
20. Over the entire 1976 to 1994 period studied, incumbents outspent challengers $22,000 to $10,000.

21. *Quoted in* Gail Diane Cox, *Slate Mailers Help Candidates Who Buy Endorsements*, Los Angeles Daily Journal, June 14, 1992.

Table 3-2

THE IMPORTANCE OF HIGHER CAMPAIGN SPENDING IN OPEN SEAT RACES

Median Expenditures in Los Angeles County Municipal and Superior Court Open Seat Races, 1988 to 1994



Source: California Commission on Campaign Financing Judicial Data Analysis Project

Running as political unknowns in the state's largest jurisdiction, candidates for Los Angeles County superior court face the toughest task of any candidates running for elective office in California. Lacking widespread visibility, political party affiliation and tangible issues on which to run, they must persuade a majority of the county's 3.6 million registered voters—scattered over an area nearly four times the size of Rhode Island[22] —not only to go to the polls but actually to vote in a judicial contest once they are there and to vote for them. It may be for this reason that so few incumbents are challenged. Indeed, only 31 Los Angeles County superior court incumbents out of a possible 785—or four percent have been challenged since 1976.[23]

"Superior Court judges in Los Angeles County have a voting constituency larger than that of 88 U.S. senators," says judicial political consultant Joseph Cerrell. "Yet 75% of the people who go to the polling place don't even bother to vote for judge."[24] Though Cerrell's 75% figure is an exaggeration, in fact a significant median 35% of voters voting in countywide elections from 1976 to 1994 did not vote in any superior court contests.[25] In 1994 general elections, a median 41% of voters going to the polls did not vote in superior court races. No other countywide elective office has drawn such a consistent pattern of voter avoidance.

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22. Los Angeles County's land area is 4,083 square miles; Rhode Island's land area is 1,045 square miles.

23. There are 238 Los Angeles County superior court judges. Approximately one-third (80) are eligible for challenge every two years. There have been 15 open seats since 1976.

24. *Quoted in* Kenneth Reich, *Consulting Firm Paves Judges' Road to Courthouse,* Los Angeles Times, May 24, 1988.

25. The median voter drop-off rate for all *primary* election superior court races was 34%; for *general* election superior court run-off contests, it was 35%.

Only in the highly-charged and uncharacteristically visible 1992 campaign to unseat Superior Court Judge Joyce Karlin did voters (83%) participate at a level similar to campaigns for higher-profile offices.[26] Three candidates unsuccessfully challenged Karlin after her controversial decision to sentence to probation instead of prison a Korean grocer convicted of killing African-American teenager Latasha Harlens. The decision and subsequent election contest was covered thoroughly on talk-radio shows, evening news programs and in the *Los Angeles Times*, *Daily News* and other local newspapers. Karlin was interviewed by several local news outlets.[27]And losing challenger Donald Barnett further publicized the race by spending over $73,000 on local broadcast advertising. Karlin won 50.13% of the vote in the primary election, thus narrowly avoiding a run-off in the general election.

Judicial candidates find it unusually problematic trying to reach voters with whatever campaign money they have available. Except for the Karlin contest, Los Angeles County superior court candidates find it difficult to motivate voters although they spend nearly three-quarters (71%) of their campaign budgets on direct voter contact expenses.[28] By contrast, Los Angeles County supervisorial candidates previously studied by the Commission spent less than one-third (30%) of their total spending on voter contacts and yet are much more successful at getting their names out to the voters.[29]

Since 1976, challengers—generally the least known of all superior court candidates—devoted the highest percentage (80%) of their total expenditures to voter contacts. In 1994 alone, challengers spent 96% of their expenditures on voter contact. Local city council and supervisorial challengers previously studied by the Commission, by contrast, spent just 53% of their total expenditures on voter contacts.[30] Judicial incumbents spend 69% of their total budgets on voter contacts, compared to 29% by council and supervisorial incumbents.[31] Judicial open seat candidates spend 70% of their total dollars on voter contacts.

a. Rising Expenditures

As Los Angeles County superior court candidates have attempted to meet the increasingly difficult task of persuading voters to take part in judicial contests, *spending in Los Angeles County Superior Court races has increased 22-fold*, from just over $3,000 in 1976 to $70,000 in 1994.[32] (See Table 3-3.)

Median incumbent spending jumped 95-fold, from just over $1,000 in 1976 to nearly $95,000 in 1994. Challenger spending, however, was less consistent. In 1976, challengers spent a median $10,862; in 1978, the median challenger expenditures decreased to just over $2,500; in 1984, median challenger expenditures climbed to nearly $19,000. Though challenger expenditures have generally been low, there have been some notable exceptions.

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26. In contests for more visible elective offices, the voter drop-off rates are consistently very low. In the 1994 general election, for example, only 4% of county voters voting did not vote in the governor's race (while 41% decided not to vote in superior court contests).

27. Interview with Los Angeles County Superior Court Judge Joyce Karlin, Aug. 16, 1993.

28. "Voter contact" includes all spending on broadcast advertising, slate mail, direct mail, the candidate ballot pamphlet statement, newspaper advertising, outdoor billboards and surveys.

29. California Commission on Campaign Financing, Money and Politics in Local Elections: The Los Angeles Area 341 (1989).

30. California Commission on Campaign Financing, Money and Politics in the Golden State: Financing California's Local Elections, 484 (1989).

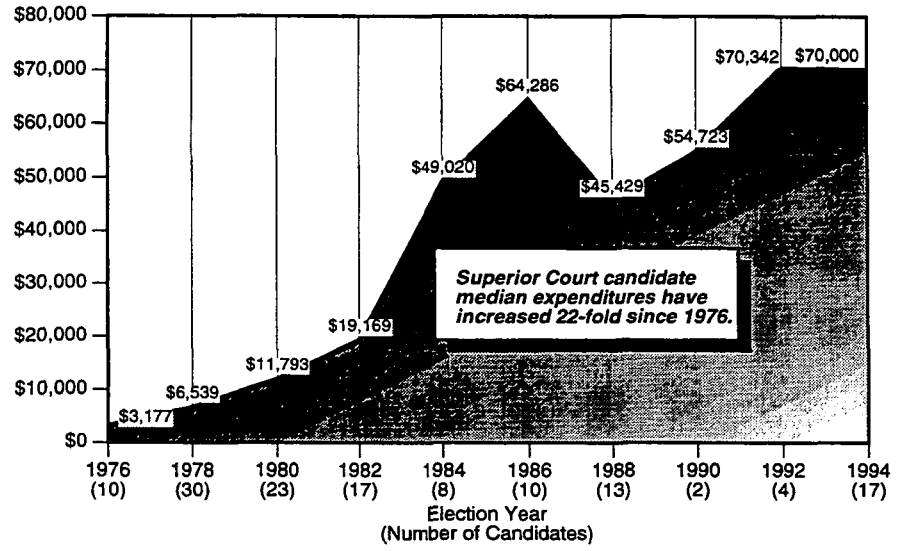
31. *Id.* at 485.

32. State law did not require candidates to file detailed campaign disclosure forms prior to 1976.

Table 3-3

RISING CAMPAIGN EXPENDITURES IN LOS ANGELES COUNTY SUPERIOR COURT CONTESTS

Median Candidate Expenditures in Contested Races, 1976 to 1994



Source: California Commission on Campaign Financing Judicial Data Analysis Project

In 1990, Michael Ezer (the single superior court challenger of that year) spent over $81,000 and lost. In the 1992 race against incumbent Joyce Karlin, the median challenger Donald Barnett spent over $120,000, but got the least number of votes. In 1994, challenger Charles Fleishman spent over $31,000 and received just 31% of the vote against incumbent Ronald Coen. Open seat candidates increased their spending from under $4,500 in 1978 to over $77,000 in 1994. The highest spending open seat race by far occurred in 1994: former Assemblyman Terry Friedman spent just over $295,000 to defeat John Moriarity who spent over $378,000.

b. The Growth of Slate Mailers as a Substitute for Ballot Pamphlet Statements and Broadcast Ads

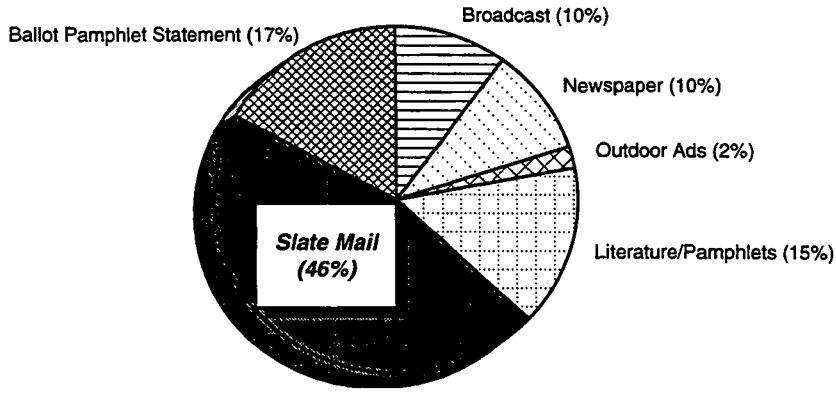
With limited resources most Los Angeles County superior court candidates must choose to devote the highest percentage of their voter contact expenditures to one of two principal campaign methods: buying a written statement in the Los Angeles County voters' pamphlet which is mailed to every registered county voter; or using targeted slate mailers. (See Table 3-4.) With few exceptions, most superior court candidates find broadcast spending in the Los Angeles media market far too expensive and inefficient because of its vast reach. Some candidates supplement their strategies with spending on outdoor billboards, campaign pamphlets and newspaper advertising.

Candidate Ballot Statements. Superior court candidate access to the county voter's pamphlet is generally limited to better-financed candidates. Between 1978 and 1994, the candidate's cost of placing a 200-word statement of qualifications in the Los Angeles County primary election voter's pamphlet ballooned more than four-fold from $11,500 to $46,000. (Including both English and Spanish language versions doubles the price.)

Table 3-4

SUPERIOR COURT VOTER CONTACT SPENDING PATTERNS

Contested L.A. County Superior Court Races, 1976 to 1994



Source: California Commission on Campaign Financing Judicial Data Analysis Project

Due to lower printing and production costs, the Los Angeles County Registrar charges considerably less for inclusion in the general election voter's pamphlet. In 1994, for example, the cost of placing a statement in the county's general election voter's pamphlet was just over $16,000.

The cost for a statement in the voter's pamphlet fluctuates from year to year. In 1992, for example, a statement in the primary election voter's pamphlet cost approximately $65,000. These shifts in price are not driven by public policy considerations, but purely by production costs—the candidates are simply reimbursing the county for printing their statements. According to assistant Los Angeles County Registrar Janice Cull, the county bases its price on the voter's pamphlet's "cost of printing and production" multiplied by the number of registered voters and then divides that figure by the number of pages in the voter's pamphlet; the candidates thus are paying for a "page" in the voter's pamphlet.[33]

The printing prices, amount of registered voters and number of pages in the voter's pamphlet changes from election to election. Generally, the primary election statement price is considerably higher because the county prints more variations of the pamphlet to accommodate different political party primaries. The county passes on the higher printing costs associated with printing numerous small batches of party primary voter's pamphlets to the candidates. It is ironic that judicial candidates bear this cost considering the non-partisan nature of their elections.

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33. In calculating "production costs," the registrar generates a "cost per page" figure, which is derived by dividing the total number of pages in the ballot pamphlet into total cost of producing the ballot pamphlet. (Excluded in the production costs are the cover and mailing.) The cost per page figure can vary from election to election. Production costs can change: printing venders change their prices and set-up costs vary.

    The "cost per page" figure is then multiplied by the number of registered voters in the city (for municipal court) or county (for superior court) to produce the candidate statement "price." In county superior court races, the prices per candidate are the same. In municipal court races, the cost for inclusion varies greatly. Prices for municipal court candidates in the city of Los Angeles, for example, are far higher than for candidates running for judge in the city of Agoura Hills, due to the vast differences in the number of registered voters. Telephone interview with Janice Cull, Assistant Registrar of Voter for Administration in Los Angeles County, Nov. 3, 1994.

Judicial candidate use of the voter's pamphlet statement seems driven by these fluctuating prices. As the statement cost reached its historic high in 1992 ($65,000) only one of four superior court candidates running that year (successful incumbent Joyce Karlin) paid for inclusion. As the statement price declined during the 1994 primary election to a still considerably high $46,000, four of 17 judicial candidates submitted a statement. When the price dropped to just over $16,000 for the general election voter's pamphlet, six of six run-off candidates participated.

As a result of these high and fluctuating costs for inclusion in the voter's pamphlet over the last two decades, many superior court candidates have chosen not to utilize this relatively direct but expensive means of reaching the voters. Since 1976, only 26 of 136 (19%) superior court candidates studied by the Commission published their statement of qualifications in the county voter's pamphlet.

Though participation in the county voter's pamphlet is generally low, incumbents appear far better able to afford it than challengers. Of the 32 Los Angeles County superior court incumbents studied by the Commission, nine (28%) paid for a voter's pamphlet statement and all nine incumbents won their races. Of the 42 challengers studied, only four (10%) paid for a statement in the voter's pamphlet; two won and two lost. Thirteen of the 62 superior court open seat candidates studied (21%) paid for inclusion in the voter's pamphlet.

Many judicial candidates believe that printing a candidate statement in the judicial voter's pamphlet is very important to electoral success. Los Angeles County Superior Court Judge John Leahy calls the voter's pamphlet statement "the most effective tool" in judicial campaigns.[34] Municipal Court Judge Michael Luros says a statement in the voter's pamphlet is the "most effective and cheapest" form of advertising.[35] A countywide "mailer," Luros says, would cost far more than the county charges. (Luros ran and lost a campaign for an open Los Angeles County superior court seat in 1982.)

Superior Court Judge Leon Kaplan (who won his position in an open seat race in 1986) says that he paid for inclusion in the voter's pamphlet simply as a defensive measure against his opponents.[36] During the primary election, Kaplan had written and paid for a statement for inclusion in the voter's pamphlet. When none of his opponents decided to appear in the voter's pamphlet, he pulled his statement and received a refund. In his successful runoff campaign, Kaplan decided to include a statement in the voter's pamphlet only after his opponent indicated he was paying for inclusion as well.

Many judges oppose making the voter's pamphlet free to all candidates. Some fear that such a change would simply invite more challenges. Free access to the voter's pamphlet might offer a cheap advertising platform to lawyers trying to get themselves known. Superior Court Judge Kaplan said that such "challenges" would force incumbent judges to raise more money to place counter candidate statements in the voter's pamphlet. The current high cost of the ballot statements in the primary election ($46,000 in 1994), these judges maintain, acts as a "threshold" for serious candidates.

Other judges disagree. According to the 1989 California Judges Association poll, 75% of California trial court judges surveyed "favored offering a limited amount of space to candidates in the voter's pamphlet at no cost to the candidate."[37]

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34. Interview with Los Angeles County Superior Court Judge John Leahy, Aug. 24, 1993.

35. Interview with Los Angeles County Municipal Court Judge Michael Luros, Aug. 27, 1993.

36. Interview with Los Angeles County Superior Court Judge Superior Court Judge Leon Kaplan, Aug. 25, 1993.

37. *Quoted in* California Judges Association, *supra* note 4 at 8.

Slate Mailers. Instead of devoting the bulk of their funds to one countywide mailing (through the voter's pamphlet), superior court candidates increasingly use multiple slate mailers directed at "likely voters." The proportion of judicial campaign budgets allocated to slate mailers has risen dramatically through the years. In 1976, for example, superior court candidates spent just 4% of their total voter contact budgets on slate mailers. By 1980, slate mailer organizations consumed 27% of voter contact expenditures. In 1982, 50% of all voter contact expenditures went to slate mailers. In 1990, candidates spent 84% of their voter contact budgets on slate mailers.[38] In 1994 primary election races, candidates devoted 87% of their voter contact expenditures to slate mailers.

Unlike the "candidate statement" in the voter's pamphlet, which contains a detailed review of the candidate's background and accomplishments, slate mailers simply list a number of candidates which are grouped in a politically advantageous configuration for a given precinct or constituency. Candidates pay for inclusion on slates representing a wide spectrum of political views in hopes of motivating particular voting groups. In some cases, liberal judges have appeared on a slate mailer filled with conservative Republican candidates for various offices mailed to Republican voters; in others, conservative judges have inserted their names onto slates of liberal candidates. For the voter, slate mailers provide information—sometimes misleading—based on a judicial candidate's "association" with *other* office-seekers, rather than on concrete facts about the judicial candidate.

Woven together, the slate mail strategy often results in an image of political schizophrenia. During the primary election phase of his 1994 run for an open superior court seat, for example, former Democratic Assemblyman Terry Friedman paid $2,800 for a slot on the "Citizens for Republican Values" while at the same time paying $10,000 for a space on the "California Democratic Checklist" and $7,000 for a listing on the "Independent Voters League" slate. Friedman also purchased inclusion on the "Your Law and Order Voter Guide," ($10,500) in addition to the "Your Pro-Choice Voter Guide" ($10,500).

While the county simply mails a single voter's pamphlet to every registered household, slate organizations send multiple mailers to narrow demographic slices of the electorate. In 1982, for example, one slate organization, "Californians for Democratic Representation" or CDR, an independent slate organization which conveys the image of a Democratic Party affiliation, mailed 300 variations of its slate mailer to different constituent groups.[39]

Inclusion on a slate mailer often depends on money and not ideology. In one 1982 Los Angeles County superior court race, Californians for Democratic Representation chose to include on their slate a better-financed Republican candidate over a lesser financed Democrat. The Democrat complained, "There was a bidding war and I lost, even though I'm a Democrat and [my opponent] is a registered Republican. You can't believe what this industry has become . . . and for

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38. In 1992, the rigorous race over Joyce Karlin's seat was the only seriously contested superior court race of that year. Two of the three challengers relied heavily on slate mailers. Bob Henry, the second highest vote-getter (receiving 24% of the vote), devoted 99% ($11,000) of his voter contact expenditures to slate mailers. The third highest finisher (receiving 15%), Thomasina Reed, spent nearly half (49% or $6,000) of her voter contact expenditures on slate mailers. Challenger Donald Barnett, receiving just 10% of the vote, spent nearly $73,000 on broadcast advertising, accounting for 66% of his total voter contact budget; Barnett devoted just 5% ($5,600) of his voter contact spending to slates. Incumbent Karlin, by contrast, spent most of her voter contact expenditures (71% or $65,000) on the ballot pamphlet candidate statement; her remaining voter contact expenditures went to slate mailers (20% or $18,000) and campaign pamphlets (9% or $8,000). Due to the high visibility of this contest in the media, however, it is difficult to isolate the impact of these specific campaign strategies on the final outcome.

39. Cox, *supra* note 21.

the candidates, it's blackmail."[40] Also in 1982, one Republican superior court candidate who paid $15,000 to appear on the CDR slate in the primary was refused slate inclusion in the run-off because he declined to pay another $15,000 (he wanted to pay $5,000); his opponent paid $12,000 and was included instead.[41] Thus, Californians for Democratic Representation sent voters a slate "endorsing" one candidate in the primary and then a slate "endorsing" that candidate's opponent in the runoff. Harland Braun, then treasurer of CDR, defended the slate organizations "bidding war" practices. "It's like, how much are you willing to pay for a seat on a plane going to New York? How crowded is the plane and how badly do you need to get there?"[42] Superior Court candidate Terry Friedman paid $20,000 for a slot on the coveted and effective "Voter Guide" slate in the 1994 primary.

The slate "business" has thrived in recent years. As of early 1994, a total of 78 slate mail organizations had registered with the California Secretary of State's office.[43] While the number of ideologically-based slates has indeed grown, the number of "slate entrepreneurs" producing mailers simply for profit (selling slots to the highest bidder) seems to have flourished as well. This pattern has clearly impacted candidate slate spending and has clearly led to a decrease in useful voter information.

Sacramento Bee political columnist Dan Walters observes, "Do these slate mailers actually influence voters? Probably not in the high profile contests for governor or U.S. Senator. Voters are already aware of candidates' names and positions due to media coverage and the candidates' own television advertising." Walters concludes, "But in lesser known offices, where candidates are not as well known, slate mailers are considered to be potentially decisive."[44]

The pressure for judicial candidates to spend more on slates is clear: the candidate appearing in the most slates and having the largest slate mailer budget has the greatest chance of victory. Between 1982 and 1994, for example, winning superior court candidates outspent their opponents *by four times* in median slate mail expenditures ($23,500 to $5,900). Thus, competing candidates engage in "slate races," spending higher and higher amounts for inclusion on several different slates aimed at specific constituencies. In 1976, the most spent on slate mailers was $1,000; in 1984, one candidate spent over $73,000 on slate mailers; in 1990, one candidate spent $60,000 on slate expenses. In just the primary race of 1994, successful open seat candidate Marlene Kristovich spent $75,000 on slates. Superior court open seat candidate Friedman spent over $96,000 on slate mailers and made it into the 1994 runoff.[45]

Since 1982, when slate mail use became common, incumbents have spent more than three times the median slate expenditures of challengers ($18,810 to $6,000). In one 1994 primary contest, incumbent Irving Shimer outspent challenger Stuart Hirsh in slate mail spending $19,000 to $2,000 and received 71% of the vote. The only challenger victories since 1982 have come after the challenger outspent the incumbent in slate expenditures.

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40. *Quoted in* Schotland, *supra* note 2 at 70.

41. *Id. at* 71.

42. *Quoted* in Schotland, *id.* at 71.

43. Brad Hayward, *Voter Beware: Slate Mailers*, Sacramento Bee, May 28, 1994.

44. Dan Walters, *Slate Mailers Deceive Voters,* Sacramento Bee, April 22, 1994.

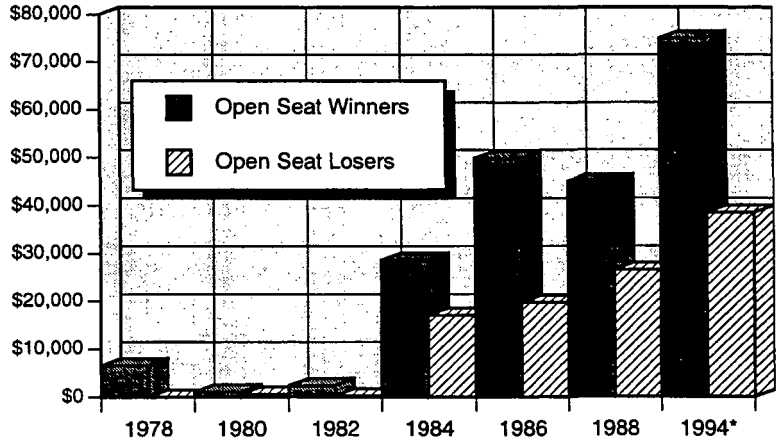
45. Friedman's high expenditures on slate mailers is surprising, considering his high visibility in the community as a former state legislator and sponsor of high-profile legislation.

Open seat candidates increased their median slate mail expenditures more than 50-fold (from less than $1,000 in 1978 to $45,000 in 1988 and over $56,000 in the only 1994 superior court open seat race to be decided in the primary). The percentage of voter contact expenditures open seat candidates devoted to slate mailers has jumped from 7% in 1978 to 64% in 1994. Winning open seat candidates have consistently outspent losers. (See Table 3-5.) In 1986, winners spent nearly three times the amount of losers on slate mailers. In 1988, winners outspent losers $45,000 to $26,000. In one 1994 superior court open seat race, successful open seat candidate Marlene Kristovich outspent her opponent H. Ronald Hauptman by nearly two-to-one on slate mailers ($75,000 to $38,500) and received 61% of the vote.

Table 3-5

MEDIAN SLATE EXPENDITURES OF WINNING VS. LOSING OPEN SEAT CANDIDATES

Los Angeles County Superior Court Open Seat Contests, 1978 to 1994



* Includes data from the only open seat contest decided in the primary election of 1994 in which Marlene Kristovich defeated H. Ronald Hauptman. No open seats occurred in 1976, 1990 and 1992.

Source: California Commission on Campaign Financing Judicial Data Analysis Project

Many judicial candidates view the need to use slates as distressing. In the California Judges Association survey, 78% of the respondents "were disturbed by the implications of slate mailer use in judicial elections."[46] Superior Court Judge Burton Bach said, "I find this so offensive, to think that people think these so-called slates mean more than newspaper endorsements. People would call me up and ask me if I wanted to put up three grand or something to get on their slates, and I'd say 'Who the hell are you?' . . . But I guess even the results in my race prove it worked."[47]

Some judges felt slate mailers were crucial to spreading name identification. Los Angeles County Municipal Court Judge Michael Luros likened the mailing of slates to precinct walking.[48] Superior Court Judge Leon Kaplan said slates are much more "effective" than the candidate voter's pamphlet statement because slate mailers more efficiently target "likely voters," as opposed to the voter's pamphlet

46. California Judges Association, *supra* note 4 at 3.

47. *Quoted in* Cox, *supra* note 21.

48. Interview with Los Angeles County Municipal Court Judge Michael Luros, Aug. 27, 1993.

which is sent to all the county's 3.6 million registered voters.[49] Sacramento political consultant Max Besler says of slates generally, "For a low visibility race, it's a hell of a good way to get your message across. It's a lot cheaper than going on TV."[50]

Broadcast Spending. Some superior court candidates have utilized large amounts of radio and/or television advertising. Two open seat candidates vying for a superior court seat in 1978, Irwin Nebron and Ricardo Torres, spent considerable amounts on radio advertising. Torres spent over $20,000; Nebron, however, spent over $32,000 and won by just 7,000 votes.[51]

Since the Nebron/Torres race, however, few candidates have used heavy broadcast strategies. The candidates who based their campaigns on electronic media have found little success. In 1986, for example, open seat candidate John Dickey spent over $25,000 on broadcast media and failed to make the runoff against eventual winner Leon Kaplan. In his 1992 challenge of Los Angeles County Superior Court Judge Joyce Karlin, Donald Barnett spent over $73,000 on broadcast advertising but received the least number of votes. Superior court candidates clearly find slate mailers more effective and therefore increasingly depend on them. In the 1994 primary election races, not one candidate devoted campaign expenditures to broadcast advertising.

c. Campaign Overhead: Increasing Dependence on Professional Consultants

For most judicial candidates, running a campaign is as foreign to them as performing brain surgery. "[Incumbent] senators have a political operation to use in retaliation. For the most part, judges are standing naked in the political process not knowing what, when or how to do anything," says consultant Joseph Cerrell.[52]

As a result, judicial candidates are increasingly turning their complete campaign operations over to professional political consultants. (See Table 3-6.) Most superior court campaigns are formulated and waged, not through political speeches or precinct walking, but in political consultants' offices. In 1976, superior court candidates spent 1% of their total budgets on professional consultants; by 1992, this figure had risen to 15%. In 1994 primary races, candidates spent 13% of their total expenditures on consultants. These figures now exceed the percentage Los Angeles area city council and supervisorial candidates generally spend on professional consultants in their campaigns (8%).[53]

Los Angeles consultant Joseph Cerrell is the main beneficiary of this increased dependence on political professionals in Los Angeles County Superior Court campaigns. "He's the only show in town for judges," says one-time Los Angeles County Superior Court judge Lourdes Baird.[54] (See Table 3-7.)

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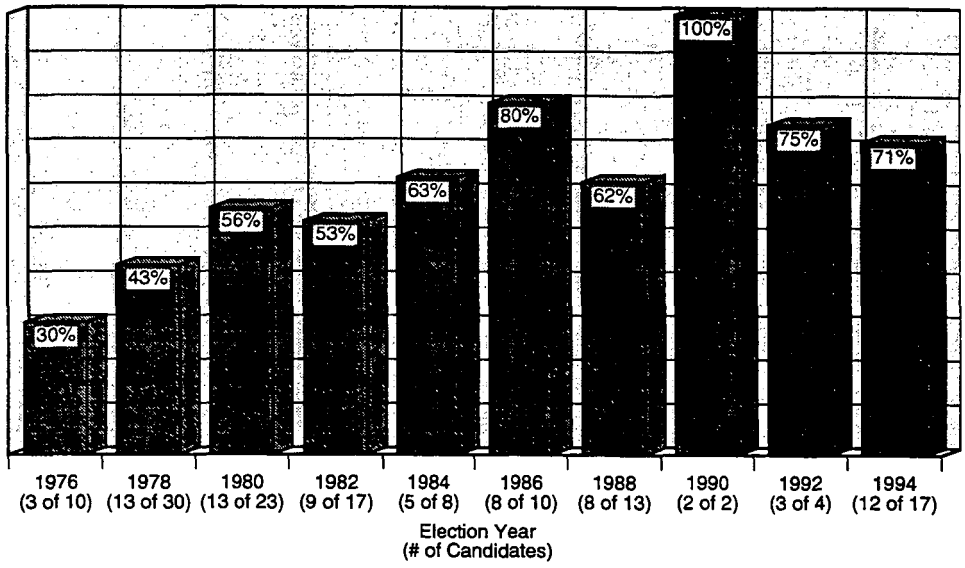
49. Interview with Los Angeles County Superior Court Judge Leon Kaplan, Aug. 25, 1993.
50. *Quoted in* Tupper Hull, *Truth Behind Slate Mailers; Voter Guides Are Really Profit-Making Political Junk Mail*, San Francisco Examiner, May 22, 1994.
51. The contest was one of the closest L.A. County Superior Court open seat races of the last decade. Nebron received 693,436 (50.25%) votes to Torres' 686,396 (49.74%).
52. *Quoted in* Schotland, *supra* note 2 at 72.
53. California Commission on Campaign Financing, *supra* note 29 at 334.
54. *Quoted in* Susan McRae, *Judicial Candidates Pay Premium for Consultant*, Los Angeles Daily Journal, June 4, 1990.

Table 3-6

PERCENTAGE OF SUPERIOR COURT CANDIDATES USING POLITICAL CONSULTANTS

Contested L.A. County Superior Court Races, 1976 to 1994



Source: California Commission on Campaign Financing Judicial Data Analysis Project

Since 1976, his firm has handled the largest number of contested superior court candidates (29)[55] and has earned the most in fees (approximately $417,000[56] from all his contested candidates). Although only three of Cerrell's six Los Angeles County Superior Court clients won in 1994 (three won in the primary election and three lost in the general election), Cerrell's firm has the highest overall success rate (76%). "He's made as many appointments as the Governor," says Los Angeles County Superior Court Judge John Leahy.[57] Cerrell will handle only incumbents and serious open seat candidates. Many challengers are thus left to fend for themselves.

This increased dependence on Cerrell has propelled median incumbent consultant expenditures up from under $1,000 in 1976 to a median amount of over $23,000 in 1990 and 1992.

As of June 1994, successful incumbent and Cerrell client Ronald Coen had paid Cerrell's firm over $19,000; the other successful incumbent and Cerrell client, Irving Shimer, paid over $10,000. While most incumbents generally hire Cerrell to represent them, superior court challengers rarely hire political consultants; challenger spending on consultants has never exceeded $6,500.

55. This figure is derived from professional consultant expenditures reported in campaign finance disclosure statements for contested elections only and is current through the 1994 primary election. It does not include figures or results from the 1994 runoff election.

56. *Id.*

57. Interview with Los Angeles County Superior Court Judge John Leahy, Aug. 24, 1993.

Table 3-7

TOP FIVE POLITICAL CONSULTANTS TO LOS ANGELES SUPERIOR COURT CANDIDATES

Contested Elections, 1976 To 1994

Consultant	#/Cand's	#/Inc's	#/Chal's	#/Open	Win %*	$ Paid**
Cerrell & Assoc.	29	11	0	18	76% (19/25)	$417,000
Bob Scheinberg	4	0	1	3	25% (1/4)	$44,000
Gould & Assoc.	3	0	0	3	0% (0/1)	$22,500
Braun Campaigns	1	0	0	1	100% (1/1)	$18,000
Booth & Assoc.	1	0	9	1	100% (1/1)	$17,000

* Winning percentage complete for contests decided through the 1994 primary elections.

** Only includes fees paid by candidates in contested elections. Approximate figures based on data reported in candidate campaign finance disclosure statements.

Source: California Commission on Campaign Financing Judicial Data Analysis Project

Incumbents and open seat candidates alike often hire Cerrell to demonstrate their seriousness and deter opponents and their contributors. Superior Court Judge Leahy said one of his first acts in running for an open seat in 1990 was to hire Cerrell in 1988 as a "preventive strike" against potential opponents.[58]

Leahy ultimately received weak opposition. In 1980, after beating a Cerrell client in the primary, superior court open seat candidate Warren Deering hired Cerrell for his own run-off campaign and won. Again in 1982, successful open seat candidate Coleman Swart hired Cerrell for the run-off campaign after defeating a Cerrell client in the primary. With the increasing importance of Cerrell, open seat candidate median professional consultant spending climbed more than 18-fold (from less than $1,000 in 1978 to over $19,000 in 1988).

2. Municipal Court Expenditure Patterns

Like their superior court counterparts, Los Angeles County municipal court judges also confront widespread political anonymity. In the cities and unincorporated areas that comprise Los Angeles County's municipal court districts, significant differences exist in how judicial candidates weave themselves into the local political scenes. Therefore, wide differences also exist in campaign spending amounts and strategies.

The most significant factor in determining campaign methods and spending is the size of the municipal court district. In the Commission's study of contested races in 14 separate Los Angeles County Municipal Court districts, the most dramatic contrast in how judicial candidates campaign exists between the large Los Angeles city municipal court district and small-to-medium-sized districts.

a. Los Angeles City Municipal Court District

For practical purposes, running for municipal court judge in Los Angeles City is tantamount to running for mayor. Both mayoral and municipal court candidates must reach a citywide constituency of 1.3 million registered voters ranging from San Pedro to the San Fernando Valley.[59] And both mayoral candidate and municipal

58. *Id.*

59. The California Constitution forbids cities to be divided into more than one municipal court district.

court candidates must receive a majority of the vote in the primary election or finish in the top two to make the runoff.

For political purposes, however, the two experiences could not be more different. Serious mayoral candidates, for example, have access to millions of dollars in campaign contributions to create not only name identification, but a carefully structured "image" which connects them with the community. Mayoral candidates also face an electorate that has some knowledge of the office they seek and run for office in a blizzard of media coverage.

By contrast, Los Angeles City municipal court candidates not only are weakened by a lack of campaign money but must also confront voters who have little knowledge of or interest in the municipal court system. Moreover, the media generally ignore most judicial races, except for a few papers which make recommendations. The only certain way for judicial candidates to reach a large segment of the city's registered voters—placing a statement in the voters' pamphlet—is too expensive for most non-incumbents ($17,000 in the primary election of 1994). Most municipal court candidates thus devote the bulk of their resources to motivating targeted groups of voters in various pockets of the city—generally through slate mailers and targeted direct mail.

Like county superior court candidates, Los Angeles City municipal court candidates spend nearly three-quarters (72%) of their campaign budgets on direct voter contacts. The candidate who spends the most is generally successful. Overall, Los Angeles City municipal court winners outspend losers by more than four times ($65,000 to $15,000). Incumbents outspend challengers by more than three-fold ($64,000 to $18,000). And winners in open seat contests outspend open seat losers by five-fold ($75,000 to $15,000).

Los Angeles City municipal court district candidates overall spend most of their voter contact budgets on slate mailers (37%) and other self-generated campaign pamphlets and literature (27%). (See Table 3-8.) Candidates also spend small amounts on community newspaper advertising and outdoor advertising. According to the Commission's data analysis, incumbents spend the largest percentage of their voter contact expenditures on the voter's pamphlet candidate statement, while no recent challenger has paid for voter's pamphlet inclusion.

As in Los Angeles County Superior Court races, the level of spending on slate mailers in L.A. City Municipal Court races appears to be strongly linked to election success. Winning open seat candidates, for example, spend a median slate expenditure amount or more 18 times that of losers ($32,000 to $1,750). In addition, Los Angeles City municipal court incumbents far outpace challengers in slate expenditures. Incumbents spend a median amount of $13,000 on slates to challengers' $4,500. Incumbent Barbara Meiers in 1988 spent the most on slates of any incumbent studied ($17,500) and won. By contrast, of the challengers surveyed, Ray Siegal in 1990 spent the most ($8,000) and lost. In 1994, the only Los Angeles City Municipal Court district challenger, Norman Goldberg, did not purchase any slate inclusions. Even when challengers are able to afford slate placement, incumbents and well-established open seat candidates generally get the pick of the more effective and more widely distributed slates.

b. Small and Medium-Sized Municipal Court Districts

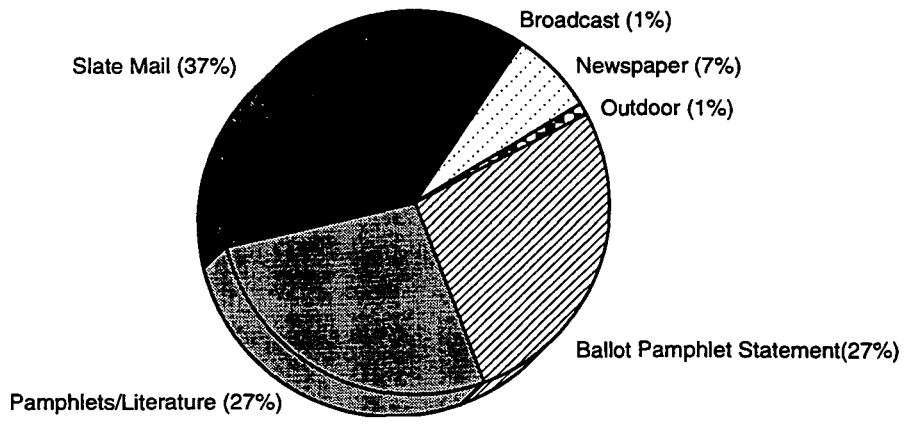
While judicial candidates in the municipal court district of Los Angeles City exist essentially as faint blips on a vast political radar screen, municipal candidates running in small and medium-sized municipal court districts are slightly better known. They run their campaigns on a far more personal level, generally

competing for community support by using campaign literature containing family photographs and stressing their long-term residence and local involvement.

Table 3-8

LOS ANGELES CITY MUNICIPAL COURT CANDIDATE VOTER CONTACT EXPENDITURES

Contested Races, 1988 to 1994



Source: California Commission on Campaign Financing Judicial Data Analysis Project

Despite the homespun nature of these campaigns, the role of money in smaller districts has recently become significant. Prior to 1994 races, open seat winners and losers spent about the same overall, a median $35,000 each. In 1994, however, the spending gap widened dramatically: open seat winners outspent losers by nearly 3-to-1 in median expenditures ($29,000 to $10,000). Incumbent spending advantage also occurred: over the entire 1988 to 1992[60] period studied, incumbents outspent challengers $29,000 to $19,000 in median expenditures.

Candidate Ballot Pamphlet Statements. The frequent use of the voter's pamphlet by most municipal court candidates in small and medium-sized districts offers one of the most striking contrasts to Los Angeles City municipal court contests and Los Angeles County superior court races. (See Table 3-9.) Of the 57 candidates in small and medium-sized municipal court districts studied, 44 (77%) printed a statement in the voter's pamphlet. In 1990, nine of 10 candidates in these districts paid for inclusion in the voter's pamphlet. In 1994, 20 of 26 (77%) candidates in these smaller districts paid for a statement in the voter's pamphlet. By comparison, just 37% of candidates in the Los Angeles City municipal court district (seven of 19) and 19% of Los Angeles County superior court candidates (26 of 136) paid for inclusion in the voter's pamphlet.

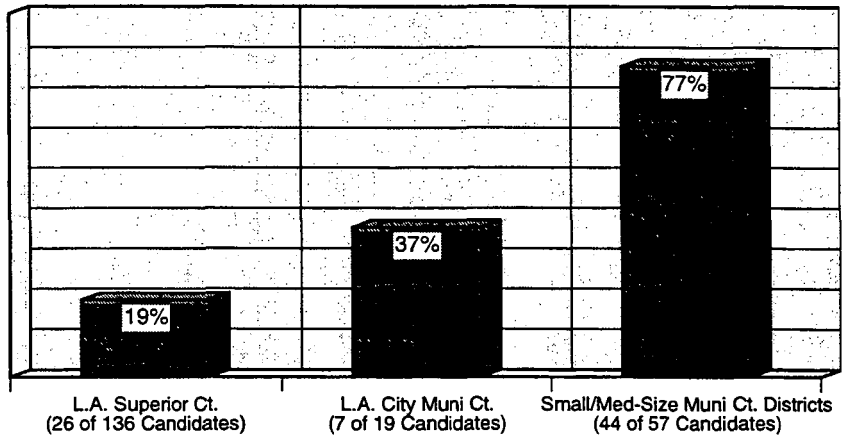
Generally, more candidates smaller districts use the voter's pamphlet because the costs are far less (due to smaller numbers of registered voters). In the districts studied, the price for candidate statement inclusion ranged from approximately $600 in the Culver City municipal court district to just over $3,500 in the Santa Monica municipal court district. These prices are far less burdensome than the costs paid by superior court candidates in Los Angeles County and municipal court candidates in Los Angeles City.

60. In 1994, there were no contested incumbents in small and medium-sized districts.

Because of the lower costs, candidates in small and medium-sized municipal court districts need not choose between a "voter's pamphlet" strategy *or* a "slate mail" strategy. In fact, candidate voter's pamphlet statement costs account for 20% or less of total expenditures for 32 of the 44 candidates using the voter's pamphlet since 1988.

Table 3-9

PERCENTAGE OF LOS ANGELES COUNTY SUPERIOR AND MUNICIPAL COURT CANDIDATES PAYING FOR INCLUSION IN THE VOTER'S PAMPHLET*



*Municipal court figures include candidates running in contested elections from 1988 to 1994. Superior court figures include candidates running in contested elections from 1976 to 1994.

Source: California Commission on Campaign Financing Judicial Data Analysis Project

Only two of the 44 voter's pamphlet users spent more than 30% of their total budgets on the voter's pamphlet. Thus, rather than simply being available to better-funded candidates, the voter's pamphlet is accessible as a "platform" for most candidates. Consequently, voters in small and medium-sized districts generally have far more information about judicial candidates than voters in larger judicial districts.

Campaign Literature Expenditures. Other than the voter's pamphlet, self generated (non-slate) campaign mail and pamphlets account for the largest single percentage of expenditures in small and medium-sized Los Angeles County Municipal Court districts. Candidates in these smaller districts devote 41% of their total campaign budgets and 65% of their voter contact budgets to the use of non-slate campaign mail and pamphlets. Culver City open seat candidate Jacqueline Powell in 1988, for example, spent 68% of her *total* campaign budget on campaign mail. Several candidates studied spent 50% or more of their total budgets on campaign literature. In 1994, candidates in smaller districts spent a median 63% of their voter contact budgets on campaign literature.

In their use of campaign pamphlets and literature, candidates in smaller municipal court districts attempt to reach out to the community. In the 1990 Santa Monica municipal court district, for example, the two leading candidates in a highly competitive open seat race (James Bambrick and David Finkel) both produced campaign literature emphasizing their strong ties to the community. One of Bambrick's mail pieces explained, "We all know Jim Bambrick and how hard he's worked for Santa Monica." Finkel's literature appealed to voters in similar ways.

Incumbents spend 36% of their total campaign budgets and nearly two-thirds (64%) of their total voter contacts budgets on campaign literature.[61] Challengers overall expend one-third of their total campaign budgets and 63% of the total voter contact budgets on campaign literature.[62]

Despite similarly high percentages of expenditures on campaign literature, incumbents easily outspend challengers in actual campaign literature dollars spent. In the contests studied, incumbents spend a median amount of $13,331 to challengers' $4,866.

Open seat candidates on average devote 44% of their total campaign expenditures and nearly two-thirds (66%) of their voter contact budgets to campaign literature. It is unclear, however, how effective campaign literature is in these races. Open seat winners, for example, spend slightly more than open seat losers ($12,000 to $8,000) on campaign literature expenses. And, in one 1994 race losing Downey municipal court district open seat candidate Benjamin Margolis spent approximately $80,000 on campaign literature and received only 27% of the vote. His successful opponent spent half that amount and easily won.

C. Superior and Municipal Court Candidates Largely Fund Themselves; The Largest Outside Contributors Are Attorneys

Unlike candidates for higher profile state and local offices, who can tap a large universe of willing contributors and a constellation of interest groups, lower profile judicial candidates generally vie for contributions from a relatively small, fixed base of contributors made up of colleagues, attorneys, interested individuals, friends and judges. Because this fundraising pool is small, most candidates for judge in Los Angeles County ultimately run on their own bank accounts. In many cases, contributions from outside sources only serve to supplement the judicial candidates' own contributions, a marked contrast to patterns in other candidate races.

1. Superior Court Contribution Patterns

Because of pressure to raise more campaign money to fund ever-increasing slate mailer budgets in countywide races, superior court candidates generally cover the balance of their spending needs with their own funds. The candidates' own money is their largest source of funding, followed by contributions from attorneys. Superior court office is thus increasingly limited to wealthy candidates who can personally afford to run, or who have easy access to contributions from lawyers.

Many judicial candidates contribute to their own campaigns simply because they detest the process of fundraising. On one level, they feel embarrassed about having "to raise money from your buddies;"[63] on another level, they feel uneasy asking for contributions from attorneys that may one day appear before them.

Superior Court Judge Joyce Karlin says that despite the expensive challenge being waged against her, she *never* made fundraising calls in support of her 1992 reelection bid. "I am not a politician," says Karlin; the act of fundraising "is opposite to what a judge is."[64] In addition, Karlin refused to take campaign contributions

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61. In 1988, Santa Anita Municipal Court judge Clark Moore spent 61% of his *total* campaign expenditures on campaign literature expenses. In 1992, Rio Hondo Municipal Court judge Richard Van Dusen spent over half (54%) of his campaign budget on campaign mail.

62. In 1988, Malibu Municipal Court challenger Raymond David spent 70% of his total campaign budget on campaign literature. Also in 1988, Glendale Municipal Court challenger Scott Howard spent 54% of his total expenditures on campaign literature.

63. Interview with Los Angeles County Superior Court Judge John Leahy, Aug. 24, 1993.

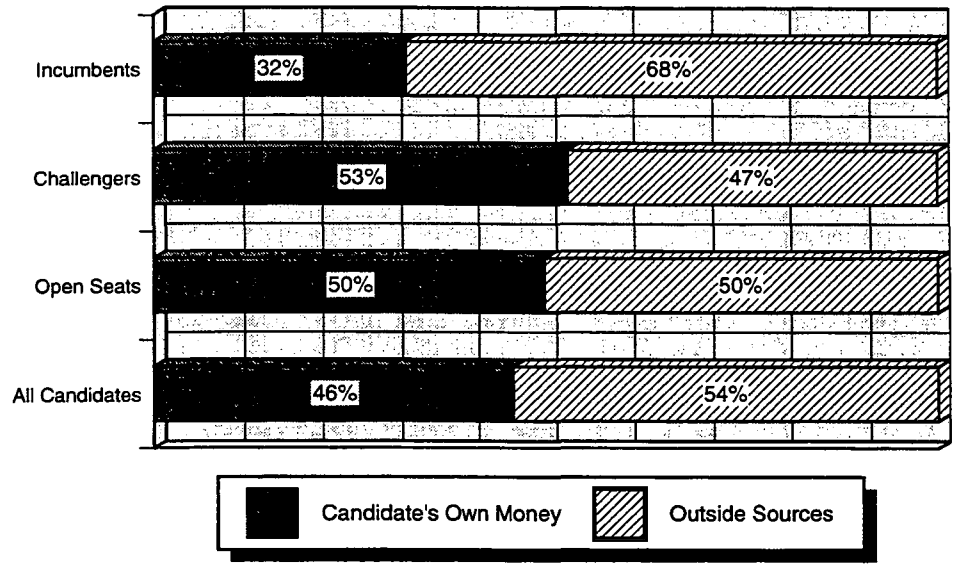
64. Interview with Los Angeles County Superior Court Judge Joyce Karlin, Sept. 16, 1993.

from any attorney who had appeared or was scheduled to appear before her. Instead, Karlin political consultant Joe Cerrell and a group of four friends (who were also judges) raised money on her behalf. Karlin also contributed $25,000 of her own money.

Table 3-10

OVERALL SOURCES OF CAMPAIGN FUNDS IN SUPERIOR COURT RACES: CANDIDATE MONEY VS. CONTRIBUTIONS FROM OUTSIDE SOURCES

Los Angeles County Contested Superior Court Contests, 1976 to 1994



Source: California Commission on Campaign Financing Judicial Data Analysis Project

Overall, 46% of total campaign dollars raised in Los Angeles County Superior Court contests comes from the candidates themselves and their families. (See Table 3-10.) Challengers pay for over half of their total campaign expenses (53%), and open seat candidates contribute 50% of their total funds. Incumbents find it easier to raise funds from outside contributors and thus contribute just under one-third (32%) of their own campaign funds. These figures still far outpace Los Angeles County supervisorial candidate personal contributions, where candidate contributions amount to just 1% of total funds raised.[65]

Superior court candidates personally contribute in large amounts to their own campaigns. Approximately 79% of all candidate contributions were given in amounts $20,000 or more. About 63% of candidate contributions were given in amounts $50,000 or more. Approximately 28% of candidate contributions were given in amounts over $100,000. (See Table 3-11.)

Open seat superior court candidates and challengers give the largest personal contributions. Approximately 86% of all superior court open seat candidate contributions were made in amounts $20,000 or more and 72% of their total contributions in amounts $50,000 or more. The largest personal candidate contribution ($176,000) came from successful 1994 open seat candidate Marlene Kristovich. Her contribution amounted to nearly 100% of all of her funds raised. The

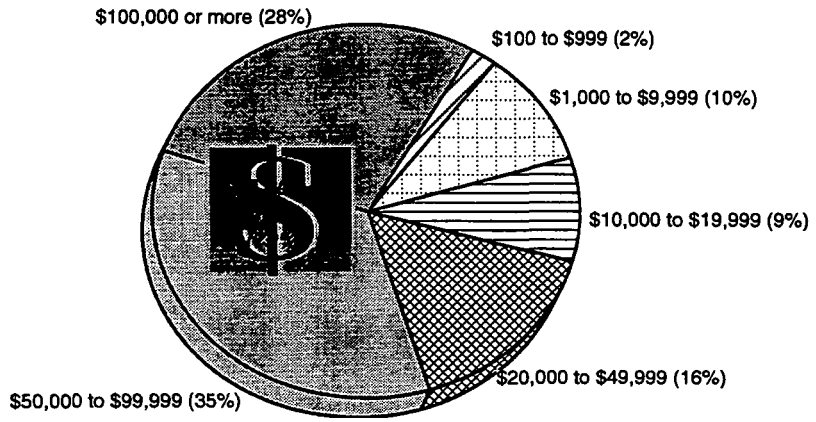
65. California Commission on Campaign Financing, *supra* note 29 at 342.

second largest personal candidate contribution ($167,435) came from successful open seat candidate Leon Kaplan in 1986. Kaplan's contribution amounted to 81% of his total fundraising.

Table 3-11

SIZES OF CANDIDATE CONTRIBUTIONS TO THEIR OWN CAMPAIGNS

Los Angeles County Superior Court Contested Elections, 1976 to 1994



Source: California Commission on Campaign Financing Judicial Data Analysis Project

Superior Court challengers give 65% of their contributions in amounts $20,000 or more. In 1992, Donald Barnett contributed the largest challenger candidate contribution ($115,800) in his unsuccessful campaign against incumbent Joyce Karlin. Barnett's contribution amounted to 95% of his total funds raised. Several other challengers personally funded all or nearly all of their campaigns. In 1982, challenger W. Sternfield's $20,000 contribution to his own campaign, for example, amounted to 99% of his total funds raised. Incumbent contributions were also somewhat substantial; the largest incumbent candidate contribution to his own campaign came from Malcolm Mackey in 1988 ($58,000).

Personal wealth and spending in superior court open seat races appears closely correlated with electoral success. Winning open seat candidates, for example, contributed over half of their total funds (57%), while losing candidates gave just 38% of their total funds. Since 1978, the median contribution amount given by winning open seat candidates to their own campaigns was approximately $10,000; losing open seat candidates since 1978 gave a median amount of $2,500. The personal contribution spending gap in recent years has widened dramatically. Since 1986, the median winning open seat candidate gave 10 times the amount of their unsuccessful opponents ($82,000 to $8,000). (See Table 3-12.)

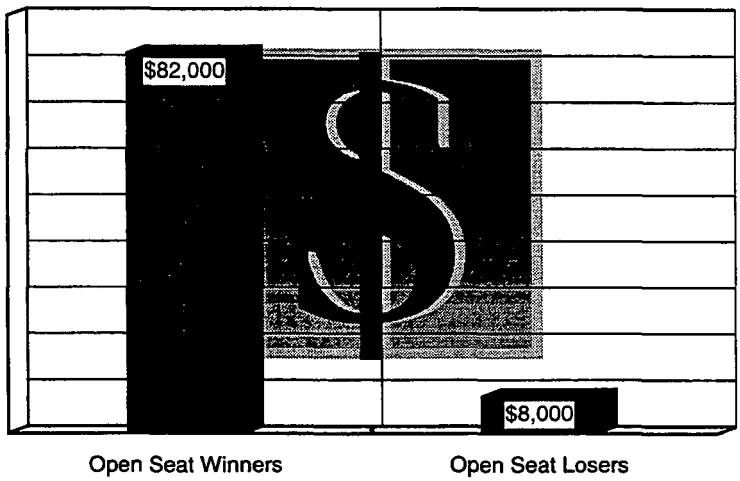
Many superior court candidates end their campaigns in substantial debt to themselves. Some judicial candidates choose simply to "forgive" the debt and chalk it up as a cost of being a judge. Others, however, raise campaign contributions to retire their personal debt. In 1980, for example, open seat winner John Stanton contributed over $56,000 to his own campaign. After the campaign ceased, Stanton repaid this debt by raising contributions—as an incumbent judge. The prospect of *incumbent* judges engaging in a pressured search for contributors to repay themselves is unfortunate. "Repayment" contributions go directly into the

incumbent judge's pocket and create the appearance of personal payments to a judge instead of contributions given to sustain the expenses of a campaign.

Table 3-12

OPEN SEAT WINNERS VS. LOSERS: MEDIAN CONTRIBUTIONS TO THEIR OWN CAMPAIGNS

Los Angeles County Superior Court Open Seat Candidates, 1986 to 1994



Source: California Commission on Campaign Financing Judicial Data Analysis Project

Superior court candidates depend on attorneys for the largest single percentage of outside contributions. (See Table 3-13.) One judge who preferred not to be identified observes, "Where else are we going to get our money from? Who else cares?"

Excluding contributions from themselves, superior court candidates receive nearly half (45%) of all their outside donations from attorneys. Non-attorney individuals contribute slightly more than one-quarter (27%) of total outside contributions. Showing the clear difference in constituencies, business sources contribute two-thirds of all the money to Los Angeles County supervisorial campaigns;[66] in county superior court races, they contribute just 8% of total outside contributions.

Legal contributors (individual attorneys, law firms and legal associations) appear to be most active in more competitive open seat races. Since 1976, open seat candidates have raised more than $600,000 from attorneys. During the same period, incumbents raised under $300,000 and challengers less than $200,000.

After the candidates' contributions to their own campaigns, contributions from attorneys amount to the single largest contributor block to open seat candidates. Open seat candidates may attract more contributions from attorneys simply because the races are more competitive and more uncertain. In addition, some attorneys with their contributions may simply be taking prudent action, attempting to indicate "support" for a potential judge that they one day may appear before.

Some open seat candidate fundraising efforts are dominated by attorney contributions. Several superior court open seat candidates studied raised more than $10,000 in legal community donations.In just the primary election phase of his

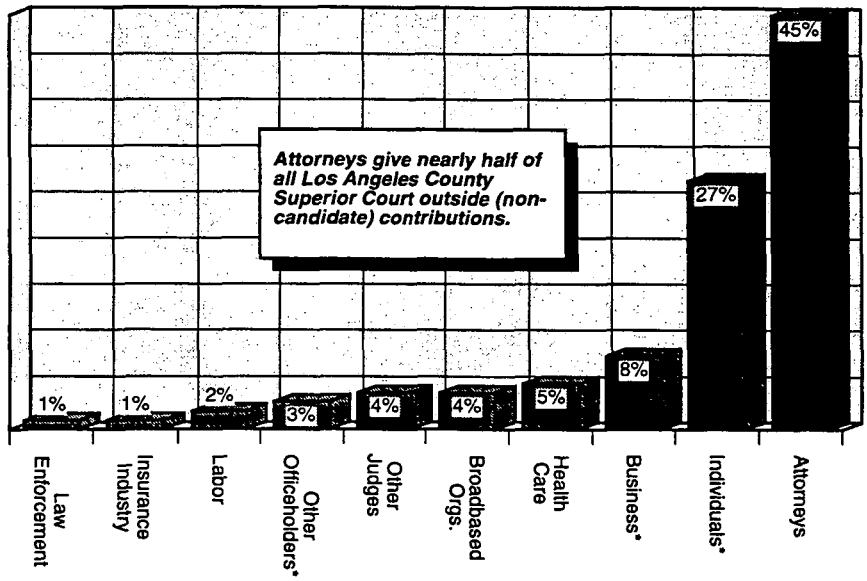
66. California Commission on Campaign Financing, *supra* note 29.

campaign, 1994 open seat candidate (and former state Assemblyman) Terry Friedman raised nearly $40,000 from attorneys. In 1984, successful open seat candidate Michael Tynan received more than $86,000 from attorneys.

Table 3-13

SOURCES OF OUTSIDE (NON-CANDIDATE) CONTRIBUTIONS: SUPERIOR COURT

Contested Superior Court Elections, 1976 to 1994



* "Other officeholders" include all non-judicial elected officials. "Business" includes all non-legal, non-medical and non-insurance related businesses. "Individuals" include all non-legal, non-medical and non-insurance related individuals.

Source: California Commission on Campaign Financing Judicial Data Analysis Project

Legal contributors generally select successful open seat candidates with their contributions, giving in larger amounts to successful open seat candidates. Open seat winners since 1976 received a median $8,000 from attorneys, while losing open seat candidates received a median amount of just $1,400 from attorneys.

In the less competitive incumbent/challenger races, attorneys clearly favor incumbents with their contributions. The average incumbent receives over $6,500 in total attorney contributions.[67] By contrast, the average challenger receives just $600 in total contributions from attorneys.[68] While most challengers received small percentages of their outside donations from lawyers, several superior court incumbents studied had received over 60% of their outside contributions from attorneys. In 1982, for example, superior court judge (and former legislator) William McVittie, accepted 74% of his outside contributions from attorneys, totaling $33,000. In 1988, superior court judge Burton Bach received 75% of his outside contributions from lawyers, totaling $30,000. Incumbents raised nearly half (47%) came from attorneys.

67. This figure represents a median amount of all attorney contributions raised per L.A. County Superior Court incumbent.

Though attorneys give the highest single percentage of outside contributions to superior court candidates, individually most attorneys make donations in relatively small amounts. Of all the contributions given by individual attorneys and law firms to superior court candidates, two-thirds (67%) came in amounts under $500. Approximately 44% came in amounts less than $250. Three-quarters (74%) of the *number* of attorney contributors gave their contributions in amounts less than $250. Attorneys donated only 2% of their total contributions in amounts over $5,000; no contributions were provided in $10,000 amounts or over.[69]

2. *Municipal Court Contribution Patterns*

Los Angeles County municipal court candidates collect from an even smaller base of outside contributors. In the municipal court contests studied, candidates funded their own efforts at a considerably higher rate than their superior court counterparts. Overall, municipal court candidates themselves contributed 52% of the total funds raised. Compared to incumbents and open seat candidates, challengers had the hardest time finding outside contributors: they contributed 57% of their total funding. Open seat candidates gave over half (55%) of their total overall funding. Even incumbents were forced to carry the largest single percentage of their funding burden, giving 41% of their total dollars raised. (See Table 3-14.)

a. Los Angeles City Municipal Court District

In the Los Angeles City municipal court district alone, incumbents funded 39% of their total campaign budgets. Challengers in Los Angeles City municipal court elections gave themselves 50% of their total campaign budgets. Open seat candidates funded 43% of their efforts. These figures easily eclipsed those of Los Angeles City Council races, where candidates contributed just 4% of their total campaigns themselves.[70]

Some candidate donations were large. Incumbent judge Barbara Meiers in 1988, for example, contributed over $46,000 to her own campaign (83% of the total funds raised) and won. Challenger Tony Cogliandro funded nearly $27,000 of his own campaign and lost. Challenger Stephanie Sautner gave more nearly $14,000 in support of her successful campaign. In 1994, incumbent Robert Wallertstein donated over $11,000 (28% of his total fundraising). His challenger, Norman Goldberg, contributed approximately $4,600 (100% of his total funding).

Heightened open seat competition attracts large candidate contributions. In 1988, open seat candidate John C. Gunn contributed $56,000 to his own campaign (70% of the total funds raised). Also in 1988, open seat candidate Stephen Leventhal donated $33,000 to his own campaign (64% of the total funds raised).

As in superior court races studied, open seat contest victory appeared to hinge on the candidate's ability to contribute personal funds. Open seat winners in the city

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68. This figure represents a median amount of all attorney contributions raised per L.A. County Superior Court challenger.

69. In his 1986 study of California judicial election campaign financing, Philip Dubois (now at the University of North Carolina) found that among California's 1980 superior court elections, the average contribution from individual lawyers amounted to $160, while the average law firm contribution amounted to $176. Approximately 80% of all lawyer contributions were less than $250, while fewer than 5% were $500 or more. In Los Angeles County superior court campaigns he studied, more than two-thirds of all attorney contributions came in amounts under $500. The largest individual contributions came from non-lawyer groups. Police and law enforcement groups gave average contributions of $389, with about 70% of their donations in amounts of $250 or more. Political interest groups also gave larger amounts to judicial candidates—an average of $355, nearly half (47.8%) of which was given in amounts of $250 or more. Philip Dubois, *Financing Trial Court Elections: Who Contributes to California Judicial Campaigns?* 10 Judicature 70 (1986).

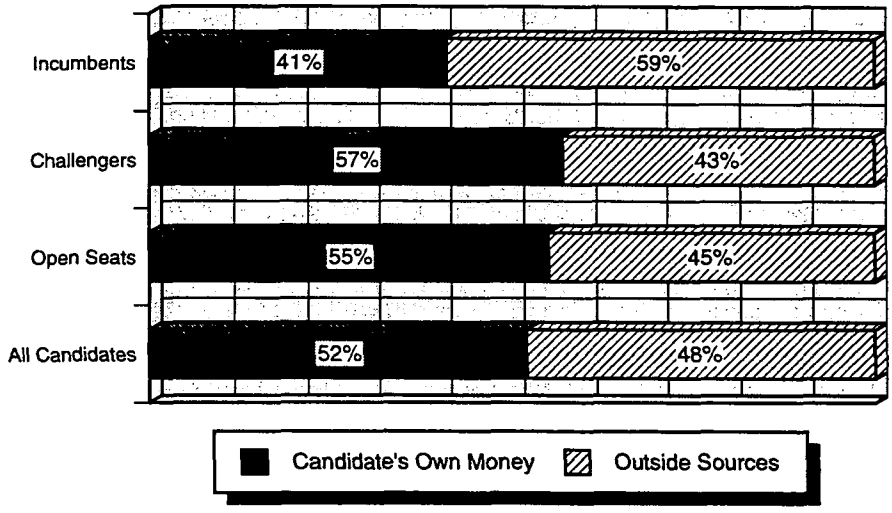
70. California Commission on Campaign Financing, *supra* note 29 at 340.

municipal court district contributed a median amount of $33,000 to their own campaigns. Open seat losers averaged four times less, giving a median amount of just $8,000.

Table 3-14

OVERALL SOURCES OF CAMPAIGN FUNDS IN MUNICIPAL COURT RACES: CANDIDATE MONEY vs. CONTRIBUTIONS FROM OUTSIDE SOURCES

Los Angeles County Contested Municipal Court Contests 1988 to 1994



Source: California Commission on Campaign Financing Judicial Data Analysis Project

Excluding contributions from the candidates themselves, attorneys donated more than half (54%) of the total outside source contributions to Los Angeles City municipal court district candidates. Non-attorney individuals contributed 26% of all Los Angeles City outside contributions. Contributions from business and other judges in addition to small percentages of contributions from labor groups and the medical industry accounted for the bulk of the remaining outside contributions.

Incumbents received the largest share of their contributions from attorneys (44% of the total outside source contributions) and non-lawyer individuals (26%). Approximately 16% of incumbent outside contributions came from other judges. Of the 50% of total challenger funds coming from outside sources, 57% are from attorneys while non-attorney individuals gave 35% of the total. Among outside source contributions to open seat candidates, attorneys contributed 60% of the total outside contributions, while non-attorney individuals gave 24%.

b. Small and Medium-Sized Municipal Court Districts

Candidates in Los Angeles County's small and medium-sized municipal court districts have an even smaller contributor base from which to tap funds. Consequently, candidates contributed well over half (56%) of all their total fundraising. Approximately 68% of this candidate funding came in amounts of $20,000 or more.

Incumbents funded a major percentage of their campaign budgets (44%). In one hotly contested municipal court race in Beverly Hills, municipal court judge

Judith Stein contributed $58,000 to her own successful campaign. (Her opponent, Brian Braff, contributed $127,000 to his unsuccessful effort.) South-East municipal court incumbent Frank Gafkowski donated more than $30,000 to his successful reelection campaign.

Challengers overall funded 60% of their total contributions. Several challengers studied financed nearly their entire campaign budgets. Beverly Hills challenger Braff's $127,000 in contributions amounted to 75% of his total fundraising. Antelope Valley challenger Dell Falls made contributions totaling $16,000 (91% of his total funding).

Open seat candidates overall also contributed over half (58%) of their total funding. Even in small and medium-sized municipal court districts, open seat candidates gave in large amounts. Downey municipal court open seat candidate David Perkins in 1990 contributed over $88,000 to his own successful campaign. Also in the Downey district, 1994 successful open seat candidate Roy Paul gave his campaign $60,000 (78% of the his total funds raised). In a 1990 Santa Monica open seat race, two of the four candidates gave substantial contributions to their own efforts. Sonya Molho gave more than $51,000 (85% of her total funding) and James Bambrick personally contributed over $41,000 to his own campaign. Both candidates lost (although Bambrick made the runoff).

In contrast to Los Angeles County superior court and Los Angeles City municipal court campaigns, the effectiveness of high personal contributions by open seat candidates in small and medium-sized municipal court district campaigns appears questionable. Smaller communities may know the candidates better, thus generally diminishing the link between for campaign money and success. Though 1994 successful Downey Municipal court candidate Roy Paul contributed $60,000 in personal funds, for example, his opponent (Benjamin Margolis) actually gave his own campaign more ($65,000). In the 1990 Santa Monica race, furthermore, both Molho and Bambrick's personally expensive efforts were thwarted by successful David Finkel's long ties to the community as a local city councilmember and his participation in other local endeavors.

Of the remaining 44% of outside source campaign contributions to smaller district municipal court candidates, attorneys contributed 38%. Individuals gave 38% of the total outside contributions.

Incumbents received 43% of their outside contributions from attorneys. Non-attorney individuals gave 33% of the incumbents' outside source contributions and businesses gave 12%. Challengers received the lowest percentage of their outside contributions from attorneys. Lacking attorney support, challengers raise the largest percentage of their contributions from non-attorney individuals (55%). Individuals can give significant cumulative dollar amounts to some challengers. South-East municipal court district Challenger Salvador Alva received nearly $15,000 from largely Latino-surnamed individual contributors, amounting to 40% of his outside source contributions.

D. Conclusion: The Impact of Money in Judicial Races is Significant and Growing

The money raised and spent by municipal and superior court judges is far less than the amounts raised by their legislative and local counterparts. Unlike campaigns for other state and local offices, Los Angeles County superior and municipal court campaigns lack political party identification, party support and the overwhelming presence of special interest contributors. Although attorneys do contribute to judicial races, for the most part they give small amounts. Businesses,

significant players in other state and local campaigns, largely stay out of local judicial campaigns. Ideologically-based independent expenditure groups (such as the gun lobby or the Peace Officers Association) also do not get involved.

Despite these differences, the impact of money in local judicial races is significant and growing and the influence of wealth in a candidate's success has reached critical proportions. Lacking ongoing campaign organizations and non-election year fundraising, judicial candidates are political unknowns. They must rely on their campaigns alone to educate the public about the offices they seek *and* their particular candidacies. In such low profile contests, voters may make their decisions based on any one of a variety of factors related to each individual candidate: incumbency, occupation, overall service to the community, newspaper endorsements or ethnicity. Campaign money—through expenditures on slates and other campaign methods—has thus been an essential tool in motivating voters. And money is a significant contributor to electoral success.

The sheer size of the Los Angeles County Superior Court district and Los Angeles City municipal court district, but even more, the huge expense of the written statement in the voter's pamphlet, forces candidates with limited resources to campaign "by association"—using expensive targeted slate mailers to associate their names with other candidates running on a certain platform. In smaller districts, candidates can better afford the less-costly voter's pamphlets.

Los Angeles County judges run countywide in the County's superior court district and citywide in the Los Angeles City municipal court district. As a result, voters in Los Angeles County are under-informed and consequently disinterested in judicial campaigns and always will be so long as the voting districts are so huge.

In most cases—and most importantly in most open seat contests—winners far outspend losers. In addition, without access to a large pool of contributors, personal wealth is directly related to electoral success: the wealthier candidate or candidate contributing the most to his or her own campaign usually wins.

CHAPTER 4

Other States' Limited Success With Judicial Campaign Finance Reforms

"Let's be realistic: the reason lawyers contribute [to judicial candidates] is because they want that edge in court."

— Gerald Uelman, Former Dean, Santa Clara University[1]

Some state and local jurisdictions throughout the country have experimented with a variety of techniques to address the problems of financing judicial elections. Semi-private organizations, such as bar associations, have administered most of these reform programs, although governmental agencies have operated a few regulatory programs.

As in the case of all elections, court rulings have limited the government's power to develop comprehensive limitations on the financing and conduct of campaigns for office that are both workable and politically acceptable. Thus, the courts have ruled that governments can impose contribution limits on candidates but not free-standing expenditure ceilings; the candidates must accept spending ceilings voluntarily, typically in exchange for some government-offered incentive, such as partial public financing of campaigns.[2] With only a few exceptions, most state and local governments have not attempted to provide partial public financing of judicial campaigns; almost all judicial election campaigns have been conducted without the restraints of expenditure ceilings. Professional associations and semi-private organizations, on the other hand, are relatively free to impose codes of

1. Quoted in Reynolds Holding, *Like Other Office-Seekers, Judges Are Bashing Politics*, San Francisco Chronicle, May 25, 1992.

2. *See, e.g.*, Buckley v. Valeo, 424 U.S. 1 (1976).

ethical conduct in campaigning or to encourage voluntary compliance with privately-run campaign financing programs.

The unique nature of judicial campaigns has blunted efforts to place restraints on judicial campaign financing. Unlike most non-judicial races, the problems associated with large contributions and excessive campaign expenditures are usually not as severe in judicial races as the problem of inadequate voter information. More than any other office or issue on the ballot, judicial candidates usually run for office amidst high levels of voter ignorance. Attempts by bar associations and other semi-private organizations to address this lack of voter awareness have met with moderate to poor levels of success or total failure.

A. High-Profile Judicial Campaigns Are Plagued by Excessive Spending, but Most Judicial Races Are Low-Key Campaigns

Competitive elections are the most common method—used in 29 states—to select judges. Twelve of these states conduct partisan elections in which the candidates can identify themselves with a particular political party.[3] The remaining 17 states using competitive elections require their judicial candidates to run on a non-partisan basis, oftentimes prohibiting them from publicly stating their political party affiliation.[4] Ten states primarily use some form of retention election process for judicial selection in which judges are initially appointed to their posts—either directly by gubernatorial appointment or indirectly by the governor with the consent of a merit selection committee—and later subject to a popular "yes" or "no" vote to remain in their seats.[5] The remaining 11 states plus the District of Columbia appoint their judges for life or for fixed terms and do not conduct judicial elections at all.[6] (*See* Appendix F.)

Depending on its particular style and manner of election, each state has its own unique judicial campaign financing problems. In response, state and local governments and other bodies have experimented with a variety of techniques to regulate the role of money in judicial elections, each attempting to address the special problems most prevalent in that jurisdiction.

1. Patterns in Campaign Financing

Campaign financing problems range from excessively high spending, which excludes qualified but lesser-funded candidates and forces the remaining candidates to spend inordinate amounts of time fundraising, to campaigns lacking the financial resources to educate voters about the candidates altogether. As shown in Chapter 3, even though the costs of electing judges at all levels are rising, exorbitantly expensive election campaigns tend to be limited to upper-level judicial

3. States predominantly selecting judges on competitive partisan ballots include: Alabama, Arkansas, Illinois, Indiana, Mississippi, New Mexico, New York, North Carolina, Pennsylvania, Tennessee, Texas and West Virginia.

4. States that predominantly select their judges through competitive nonpartisan contests are: California (trial courts), Florida, Georgia, Idaho, Kentucky, Louisiana, Michigan, Minnesota, Montana, Nevada, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Washington and Wisconsin.

5. The 10 states that use retention elections to fill most judgeships are: Alaska, Arizona, Colorado, Iowa, Kansas, Maryland, Missouri, Nebraska, Utah and Wyoming. Several other states use retention elections to fill some but not most judgeships. These states include: California, Indiana, Oklahoma and South Dakota.

6. Several states, such as California, use one type of selection process for judges in some courts and an entirely different type of selection process for judges in other courts. When a state is categorized as predominantly selecting its judges through, say, partisan competitive elections, *predominant* is the operative word here. The same state may select some of its judges through nonpartisan and/or retention elections. For example, while California selects judges for the appellate courts through retention elections, judges for superior and municipal courts—the vast majority of judges in the state—are selected by nonpartisan competitive elections. Thus, California is categorized as primarily employing nonpartisan competitive elections for selecting its judges.

posts, such as supreme court justice, or highly controversial contests involving inflammatory decisions, business interests or social norms.

At the upper ranges of campaign spending, judicial elections can be extraordinarily expensive. In 1989, for example, one successful supreme court candidate in Pennsylvania spent more than a half million dollars in the Democratic primary and a total of $1.2 million by the end of the campaign. A year earlier, 12 candidates competing for six supreme court seats in Texas together spent more than $10 million through the course of the campaign. In 1986, the race for chief justice of the Ohio Supreme Court cost $2.7 million, up from $100,000 in 1980. Similarly, the winning candidate for chief justice of Montana recently spent $250,000—a 320% increase since 1980.[7]

When judicial campaign financing costs become burdensome, large contributors can become critical players in the selection of judges—increasing the potential for corruption or for creating the appearance that judicial opinions might be skewed in favor of those contributors. High campaign costs and low levels of media coverage have made judicial candidates dependent on the financial assistance of a small group of contributors, usually lawyers and litigants who have a vested interest in judicial outcomes. As a result, the problems associated with judges taking money from those who appear before them in court have become the central concern of reform movements.

Despite the limited ability of candidates to reach voters, the need to raise campaign dollars has become a paramount factor in judicial elections. As the Commission's data base reveals in Chapter 3, *the candidate that spends the most—even in low spending campaigns—usually wins*. Consequently, fundraising remains critical to election outcomes.

Judges and judicial candidates in low-spending campaigns, however, have little in common with professional politicians. Distasteful of dallying in the public eye to win votes and dollars, judicial candidates usually are not professional campaigners, which makes it difficult for them to raise campaign funds. The media and voters give scant attention to most judicial races, making campaign contributions all the harder to collect. Thus, even though campaign budgets tend to be smaller in most judicial races, the pressures for fundraising are still intense. Judicial candidates rely heavily on the relatively few who *are* interested and willing to contribute to a judicial campaign. More often than not, those contributors are attorneys and others who have business in the courtroom.

2. The Possible Appearance of Corruption

The pressure to raise funds from those who conduct business in the courtroom makes the potential for corruption, and certainly the possible appearance of corruption, real problems even in lesser-funded judicial campaigns. "Any elected official who gets [most of his] money from very narrow interests is bound to be questioned," points out Assembly Member Ross Johnson, indicating that attorneys' contributions reflect at least in part the narrow interests of a special interest group.[8] Incidences of judges appearing to give special consideration to major contributors, or even accepting outright bribes, are by no means unknown throughout the country.

Following an investigation by the state Commission on Judicial Performance, for example, San Diego Superior Court Judge Michael Greer declared a mistrial in

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7. Sara Mathias, Electing Justice: A Handbook of Judicial Election Reforms 43 (1990).

8. Peter Asmus, *Financing Judicial Elections*, California Lawyer (Oct. 1986).

a case involving a $2 million judgment because he failed to declare $1,600 worth of gifts from the winning attorney.[9] In another incident that casts an appearance of justice for sale, after an appellate judge in Dallas ruled against lawyer Pat Maloney in a $3 million slander suit, Maloney financed the bulk of the campaign of a competing justice of the peace who defeated the incumbent. Maloney was quoted as saying: "I think that message has gotten across pretty substantially. . . . We have a pretty good court now. . . . We seem to have their undivided attention."[10]

The *Texaco v. Pennzoil* case provides an extreme example of how judicial campaign financing practices can cast a pall of corruption over the process. Immediately after a judge in Texas was assigned to a case involving a dispute between Pennzoil and Texaco, a Pennzoil attorney contributed $10,000 to the trial judge's campaign. Other Pennzoil lawyers gave a total of $335,000 to the campaign funds of members of the Texas Supreme Court where an appeal was expected—despite the fact that three of the justices were not even up for reelection. Texaco attorneys contributed a considerably smaller sum to the supreme court justices, approximately $73,000 in total. The trial court issued an $11.1 billion judgment against Texaco, and the high court refused to hear Texaco's appeal—leaving observers to speculate whether Pennzoil attorneys had "bought" the verdict.[11]

Making it common practice for judges to solicit funds from attorneys and clients who appear before them in court for campaign fundraising can also lead to outright corruption. Several states and communities which elect judges have undergone massive corruption probes of their judicial systems. The largest investigation by federal agents of graft occurred in Chicago in the late-1980s, in which 67 court officials and attorneys and 15 municipal court judges were convicted of buying and selling favors from the bench. The second largest such case recently occurred in Florida, in which four Dade County judges were accused of accepting $266,000 in exchange for acts such as lowering bail, disclosing arrest warrants, returning seized property and suppressing evidence (two of the judges were convicted).[12]

The problem of corruption can be especially prevalent in small counties where few lawyers dare to complain to authorities about a judge's conduct, appeal a judge's decision or challenge a judge's reelection. Judge Joseph O'Kicki from Ebensburg, Pennsylvania is a case in point. Judge O'Kicki used campaign fundraisers to pay off personal debts, demanded what he called loans and commissions from lawyers who appeared in his court and even coerced payments from employees in exchange for promotions. After presiding over the county's judicial system for 17 years, Judge O'Kicki fled to Slovenia rather than face corruption charges at home.[13]

Many other instances of questionable conduct have not resulted in a judge's dismissal or prosecution. For example, newly elected Ohio Supreme Court Justice Thomas Moyer, who was heavily supported by business interests and received $50,000 in contributions from medical PACs, announced that he would rehear 30 cases decided by the prior court, five of which involved major contributors to his campaign. California Supreme Court Justice Malcolm Lucas accepted $11,000 in travel payments between 1989 and 1992 from insurance groups who sometimes were

9. Associated Press, *Attorney's Gift to Judge Results in Mistrial*, The Daily Recorder (May 27, 1992).
10. Peter Fish, *Lawyer Dabbles in Politics for Fun*, Dallas Morning News, May 9, 1982.
11. Justice Robert Utter, *Judicial Campaign Election Reform Proposals*, The Guardian 4 (Aug. 1991).
12. Associated Press, *Two Florida Judges Guilty of Graft*, New York Times (April 28, 1993).
13. Michael Hinds, *Most Wanted Man: the County Judge*, New York Times (May 1, 1993).

litigants before the court.[14] In none of these cases were the judges charged with impropriety by the state's judicial watchdog agency.[15]

3. Limited Voter Information

An opposite problem that plagues the financing of contested judicial campaigns is that, more often than not, candidates have a hard time raising enough money to inform the public about the issues involved in the election contest. Inadequate voter information is particularly a problem at the trial court level. Despite the escalating costs of judicial elections, as a general rule far less money is spent electing judges than electing political representatives of comparable size districts. In California, for example, candidates in contested elections for the major trial courts spent an average of $.11 per vote in 1982, compared with $2.55 per vote by candidates for the state legislature.[16] The Commission's data analysis found similar figures for Los Angeles County. From 1976 through 1992, Los Angeles superior court candidates in contested races spent an average of $.07 per vote while non-judicial candidates for local races spent an average of $9.61 per vote. In a system of judicial elections wholly dependent on private campaign spending to inform the public of the issues involved, low spending translates into abysmally low levels of voter awareness of judicial races. (For additional discussion of low voter information in judicial elections, *see* Chapter 2, Section B, "Strong Incumbent Advantages.")

This problem is compounded by existing rules of judicial ethics which severely limit the ability of candidates to discuss issues. A key provision of the ABA's Model Code of Judicial Conduct, which has been adopted in whole or in part by most states (including a somewhat less restrictive version in California) reads that a judicial candidate should not "announce his views on disputed legal or political issues" and "should not engage in any other political activity except on behalf of measures to improve the law, the legal system, or the administration of justice."[17] One consequence of these rules is that candidates tend to focus on innocuous matters, such as the candidate's family, instead of issues that might be relevant to their ability to hold judicial office. One 1980 judicial candidate in Ohio, for example, placed a campaign advertisement in the community newspaper picturing his three-year old son with a caption reading, "Vote for My Daddy. . . he takes real good care of

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14. William Carlsen, *Assembly OKs Limit on Gifts for Judges*, San Francisco Chronicle, May 24, 1994.

15. Inadequate self-policing of the judicial profession has recently become a major issue in California as well. The Commission on Judicial Performance—California's internal judicial watchdog agency—has come under increasing fire for ineffectively monitoring and disciplining judicial misconduct. Preliminary investigations in California are conducted in private. Once formal findings are made, the judicial commission may issue press statements about investigations and may order public hearings when the case involves allegations of "moral turpitude, dishonesty or corruption." But no open proceedings were held by the judicial commission between 1979 and 1994, and exceedingly few reprimands are ever issued. (Under mounting criticism for failing to hold public hearings, the Commission conducted an open hearing into charges of misconduct by Kings County Municipal Judge Glenda Doan.) In the end, it is frequently difficult for the judicial commission to distinguish legitimate from illegitimate behavior in a system that requires judges to solicit campaign funds from interested parties.

    Unlike California, 29 states automatically open their proceedings once formal charges have been brought against a judge. In the state of Washington, a sex scandal resulted in a constitutional amendment requiring that all judicial conduct hearings be open to the public, regardless of formal charges. The amendment was adopted after the public learned that an elected judge—who committed suicide once the sex scandal broke—had previously been reproved secretly by the commission for sexual involvement with young boys in the juvenile court system. In Florida, disciplinary proceedings are even open to the television news media. In only 13 states, the judicial disciplinary commissions are dominated by judges, containing few citizen representatives on the panels. Philip Hager, *Judging the Judiciary*, California Lawyer 38-39 (1994).

16. Philip Dubois, *Penny for Your Thoughts? Campaign Spending in California Trial Court Elections, 1976-1982*, 38 Western Political Quarterly 272 (June 1986).

17. American Bar Association, Code of Judicial Conduct, Canon 7 (1972).

me . . . ."[18] With relatively modest campaign funds and stringent ethical restrictions on the issues that judicial candidates may discuss, the media usually find very little newsworthiness in judicial races, further contributing to a lack of voter awareness. (For further discussion, *see* Section B (2) of this chapter, "ABA's Regulation of Speech.")

It should not be surprising, then, that many voters do not vote for judges at all. In California, for example, about 35% of those voting simply ignore judicial candidates altogether. Judicial races traditionally have among the lowest voter participation rates of any election contests. Old as well as contemporary surveys of voter information on judicial elections in various states confirm this conclusion.

A poll conducted after the 1954 election in New York, for example, showed that only a small minority of voters pay close attention to the judicial contests. Even among those who cast ballots in the judicial races, few could recall the name of the chief justice of New York's highest court. While 78% of voters in New York City cast their ballots for chief justice based on party label, only 1% could actually name the candidate.[19] Nearly identical results were found following the 1960 election in New York.[20]

Survey results following two controversial supreme court campaigns in Wisconsin in 1964 and 1965 also revealed a considerable lack of voter awareness about judicial candidates. Only 46% of voters realized that the state's supreme court justices were elected, and only 30% knew which of the two candidates was the incumbent. About 15% of voters knew the partisan affiliation of the judicial candidates (which was surprising, since judicial candidates are elected on nonpartisan ballots in Wisconsin), but only 9% could remember any substantive issues raised during the campaign.[21]

Less than one-fifth of registered voters surveyed in Washington and Oregon felt they had enough information to cast an intelligent ballot in the 1982 judicial primary election; more than a third of the respondents reported that they had no information at all about the judicial candidates.[22] This sentiment is not lost on California voters, where even the most studious of voters—including attorneys—regularly express frustration about knowing little or nothing about the judicial candidates for or against whom they are about to vote.

Despite a generally dismal record of voter awareness of judicial campaigns, the electorate can have a high level of awareness in controversial contests. In a heated campaign for New York chief justice in 1973, the only statewide office contested that year, fully two-thirds of the voters had heard of the race, and 85% of those could identify the candidates. Even so, nearly half of those participating in the election wished that they could have had more information before voting.[23]

Even in highly publicized and controversial races, voter information can be low. One such race occurred in California's 1986 retention election of six supreme court justices. Three of the justices—Chief Justice Rose Bird and Justices Cruz Reynoso

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18. Lawrence Baum, American Courts: Process and Policy 103 (1990).
19. Alan Klots, *How Much Do Voters Know or Care About Judicial Candidates?* 38 Journal of American Judicature Society 141 (1955).
20. Cynthia Philip, Paul Nejelski and Aric Press, Where Do Judges Come From? 97 (1976).
21. Jack Ladinsky and Allan Silver, *Popular Democracy and Judicial Independence: Electorate and Elite Reactions to Two Wisconsin Supreme Court Elections,* 128 Wisconsin Law Review 1 (1967).
22. Charles Sheldon and Nicholas Lovrich, *Knowledge and Judicial Voting: The Oregon and Washington Experience,* 67 Judicature 235, at 237 (1983).
23. Philip *et. al, supra* note 20, at 95.

and Joseph Grodin—were targeted by the insurance industry and other groups as "too liberal." An $11 million campaign for and against retention of these justices filled California's airwaves and news sources with messages about the "Bird Court." According to Mervin Field's California Poll, voter awareness about the supreme court retention election was high—but largely limited to Rose Bird, the central figure. About 43% of respondents said that they had heard a lot about Chief Justice Bird's candidacy three months before the election; only 6% had heard nothing.[24] But just weeks before the election, voters were still quite unclear about the other judicial candidates. While only 11% of voters did not know how they would vote on Rose Bird's confirmation, 29% and 32% of voters expressed uncertainty how they would vote on Reynoso and Grodin, respectively.[25] Nonetheless, Justices Bird, Grodin and Reynoso were all defeated while the other three incumbent justices (who were not targeted) were retained in office.[26]

In sum, judicial election contests throughout the country tend to be plagued by five categories of problems:

- Exorbitant costs in many high-profile judicial campaigns, especially at the appellate level;
- Rising costs for judicial campaigns at all levels;
- Growing pressure on judicial candidates to raise funds from a limited pool of contributors;
- The appearance or actuality of corruption caused from a dependence of judicial candidates on contributions from a lawyer and litigant contributor base; and
- Inadequate voter information.

State and local governments have experimented with a variety of programs to alleviate one or more of these problems.

B. Those Reforms Which Have Been Tried Have Generally Met With Little Success

A number of state and local governments and other organizations have developed programs to regulate the role of money in judicial elections, either by reforming or by restricting campaign funds directly. Some of these reforms have established ethical codes of conduct to prevent campaign money and judicial behavior from coming into conflict; others have imposed restraints on campaign spending and contributions directly.

1. The American Bar Association Code of Judicial Conduct

The American Bar Association (ABA), a semi-private national organization, has devised one of the best known efforts to soften the deleterious effects of campaign financing. The ABA plan is part of its "Code of Judicial Conduct."

Prior to adoption of the 1972 Code of Judicial Conduct, judges throughout the United States had been guided by the 1924 Model Canons of Judicial Ethics proffered by the ABA. The old Model Canons addressed the problems of judicial campaign financing in Canon 32, entitled "Gifts and Favors," which stated: "A judge should not accept any presents or favors from litigants, or from lawyers practicing before

24. Field Institute, California Poll (July/Aug. 1986).

25. Field Institute, California Poll (Oct. 1986).

26. Former Justice Grodin is currently a member of this Commission.

him or from others whose interests are likely to be submitted to him for judgment."[27] Canon 32 was construed to prohibit judicial candidates from accepting campaign contributions from anyone who might be expected to appear in that judge's court.

But many members of the legal community viewed the old restrictions on campaign fundraising as unrealistic, and many states that selected judges through elections largely ignored them. Lawyers, especially those whose practices caused them to appear before judges in their courts and chambers, constituted the primary source of campaign contributions for those judges; few others were interested enough in a judge's election to make financial contributions. Revisions were made in the "Gifts and Favors" language when the American Bar Association replaced its old Model Code with the Code of Judicial Conduct in August 1972.

Canon 7 of the 1972 Code, later replaced by Canon 5 in 1990, abandons the notion of prohibiting campaign contributions from lawyers or litigants. Today, ABA guidelines allow judicial candidates to accept contributions from any lawyer or interested party, provided that the candidate receives the contributions indirectly through a campaign committee. Canon 5 specifically reads: "A candidate shall not personally solicit or accept campaign contributions or solicit publicly stated support. A candidate may, however, establish committees of responsible persons to solicit and accept reasonable campaign contributions . . . Such committees may solicit and accept reasonable campaign contributions and public support from lawyers."[28] The apparent purpose of this requirement is to keep the candidate from having direct contact with contributors or from knowing who contributed to the campaign by turning fundraising exclusively over to a campaign committee.

It is clear, however, that Canon 5 cannot achieve its intended purpose. For one thing, it is largely ignored by judicial candidates who feel increasingly compelled to contact potential contributors and solicit contributions directly. Los Angeles Municipal Court Judge Alban Niles, for example, complained that he felt uneasy asking lawyers for contributions, but that the pressures for fundraising gave him no alternative. "You really have to work overtime to protect your integrity," added Niles.[29] Another judicial candidate agreed with the dilemma of Niles' assessment, noting that "the judicial candidate cannot disentangle himself from the financial aspects of his campaign. I know, because I tried hard to do so."[30] Furthermore, Canon 5 does not prevent judicial candidates from learning the identities of their contributors; all states require campaign committees to file the names of contributors with a designated agency. Nothing in Canon 5 prevents a judicial candidate from reading the list of contributors submitted by the candidate's own committee. Most states even *require* judicial candidates to affirm that they have read their own campaign financing disclosure reports. Typically, as in California, the candidates themselves must sign the filings.

Since 1972, the Code of Judicial Conduct has been accepted in whole or in part by bar associations in 47 states and the District of Columbia. Only Illinois, Mississippi and Montana do not adhere to at least portions of the code. In some states, the code has the force of law, while in other states it is viewed as a set of principles enforced by disciplinary actions through an agency of the judiciary or state bar association. In a few states, the disciplinary agency can reprimand,

27. Model Canon of Judicial Ethics, Canon 32, at 225.

28. American Bar Association, Model Code of Judicial Conduct, Canon 5 (1990).

29. Sheryl Stolberg, *Politics and the Judiciary Coexist, but Often Uneasily*, Los Angeles Times, March 21, 1992.

30. Harold Spaeth, *Reflections on a Judicial Campaign*, 60 Judicature 14 (1976).

suspend or even remove judges, while in other states, the agencies only have the authority to censure and to recommend impeachment to the state's highest court.[31]

Even the ABA's mild code provision on campaign fundraising, however, has frequently been rejected or ignored by the states. The California Judges Association suspended the provision of the ABA Code that relates to campaign contributions in 1976. That provision of the ethics code was deemed both unenforceable and impractical: unenforceable because of the state's extensive campaign finance disclosure laws and impractical because the nature of competitive elections in California was considered to require extensive fundraising. Instead, California's state Code of Judicial Conduct prohibits judicial candidates from personally soliciting funds for non-judicial (*e.g.,* legislative) candidates but expressly allows them to solicit funds for their own or other judicial campaigns. The official commentary for Canon 5(a) of California's ethical code reads in part:

> *In judicial elections, judges are neither required to shield themselves from campaign contributions nor are they prohibited from soliciting contributions from anyone including attorneys. Nevertheless, there are necessary limits on judges facing election if the appearance of impropriety is to be avoided. It is not possible for judges to do the same sort of fundraising as an ordinary politician and at the same time maintain the dignity and respect necessary for an independent judiciary.*[32]

Despite the fact that the states have diluted the ABA's campaign finance code provisions, even the weaker state-level restrictions are still generally not enforced. It is unknown how many private censures have been issued because they are kept confidential. But since adoption of the ABA code in 1972, public disciplinary action has been taken against fewer than a handful of judges in the nation for the candidates' direct involvement in fundraising.[33] The reason is simply that all 50 states plus the District of Columbia require candidates to file financial statements that are open to the public, including to the candidate. Simply put, the ABA's Code of Judicial Conduct fails effectively to resolve the problems of judicial campaign financing. (For a discussion of the structure of California's state and local bar associations, *see* Chapter 1, Section C, "Several Agencies Exercise Control.")

2. *The ABA's Regulation of Campaign Speech*

The ABA Code also takes an alternative approach to the regulation of judicial campaigns. In addition to regulating contributions directly (by requiring them to be filtered through campaign committees rather than through judicial candidates themselves), the code also regulates the campaign *speech* of judges and judicial candidates. This approach seeks to reduce the politicization of judicial elections. Judicial candidates are allowed to address only their own professional qualifications and to refrain from discussing controversial issues which may be adjudicated or using campaign rhetoric that may indicate personal bias. According to the ABA's Model Code, during the campaign judicial candidates shall not: "(i) make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; [or] (ii) make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court . . ."[34] Presumably, this approach seeks to reduce the opportunities for

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31. Note, *The Ethical Dilemma of Campaigning for Judicial Office: A Proposal*, 381 Fordham Urban Law Journal 14 (1986).

32. California Judges Association, Code of Judicial Conduct, Canon 5(a).

33. See, for example, *In re* Lantz, 402 So. 2d 1144 (Fla. 1981); Florida Bar v. McCain, 330 So. 2d 712 (1976).

34. American Bar Association, Model Code of Judicial Conduct, Canon 5(A)(3)(d).

special interest politics to capture judicial elections and to steer judges away from taking sides on issues that may taint the appearance of impartiality in the court system.

Each state and local bar association adopts its own version of a judicial code of ethics. Most of these codes discourage, if not actually prohibit, judicial candidates from expressing viewpoints on issues that may end up as cases before the bench. The Los Angeles County Bar Association, for example, requires that candidates only disseminate information that relates to the candidate's "ability to be a capable and impartial judge."[35] Viewpoints on politically sensitive issues, such as abortion and other matters of concern to the community, are not to be voiced by judicial candidates. Moreover, all judicial candidates in California are prohibited by the state's professional ethics code from making campaign promises of any kind or discussing pending legal cases. Furthermore, they should not make any statements that appear to commit the candidates with respect to "controversies or issues" likely to come before the courts,[36] or participate in any political activity which might "give rise to a suspicion of political bias or impropriety."[37]

About three-quarters of states that elect judges have adopted verbatim the ABA's Model Code provision that a candidate "should not . . . announce his views on disputed legal or political issues."[38] Many of the other elective states have adopted similar restrictions on the speech of judicial candidates, but developed their own language in the ethical codes. Some of these restrictions can be narrow. For example, some of the topics that various judicial ethics bodies and bar association study groups have deemed inappropriate include: plea bargaining, criminal sentencing, capital punishment, abortion, gun control, the equal rights amendment, drug laws, labor laws, property tax exemptions, the regulation of condominiums, court rules, and even specific legal questions and hypothetical legal questions.[39]

The Santa Clara County Bar Association similarly prohibits any statement of a "candidate's political, social or legal views" that could be interpreted by voters as a pledge of how the candidate would decide specific cases as a judge. It would be a violation of Santa Clara's ethical code, for example, if a judicial candidate expresses support for community rent control ordinances during the campaign given the likelihood of future cases appearing before the judge challenging the constitutionality of rent control.

Not all states and local jurisdictions attempt to be so restrictive over the content of campaign speech by judicial candidates. A handful of states have eased the restriction on campaign speech or abolished Canon 7 altogether. Michigan's judicial ethics code, for example, permits candidates to take sides on disputed legal and political issues. Illinois allows candidates to advocate potential improvements in the law, and Kansas specifically permits judicial candidates to discuss an opponent's record. Other states that have ethics codes on campaign speech more liberal than the ABA Model Code include Alabama, Colorado, Nevada, Oregon and Texas.[40]

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35. Los Angeles County Bar Association, *Guidelines for the Conduct of Campaigns for Judicial Office*, 3 (Feb. 24, 1990).
36. California Judges Association, Code of Judicial Conduct, Canon 5(b).
37. California Judges Association, Code of Judicial Conduct, Canon 5.
38. Patrick McFadden, Electing Justice: The Law and Ethics of Judicial Election Campaigns 86 (1990).
39. Id.
40. Id. at 154.

Movements to liberalize the speech prohibitions of judicial ethics codes have sprung up in a number of states. In Pennsylvania, for example, Senator Stewart Greenleaf, the Republican chair of the Senate Judiciary Committee, introduced a reform bill in 1995 to allow judicial candidates to speak out on political issues. "Right now, we are voting completely blind," said Greenleaf about voting for judicial candidates. The present gag order, as it is known, is thought to contribute to the lack of interest in judicial races. Only about 25% of Pennsylvania's registered voters turned out for the 1995 primary election for judicial candidates. "It was really very lonely there at the polls," Greenleaf said. "People have no idea who these [judicial] candidates are or what their philosophies are."[41]

The ABA Model Code is oftentimes viewed as too restrictive to be enforceable. In fact, the widespread lack of enforcement of the speech restrictions in California and other states have produced what is sometimes called a "new style" of judicial campaigning, in which an increasing number of judicial candidates unabashedly take positions on controversial political issues. These are many of the issues that voters want to hear about, and these are the issues that can attract votes in an otherwise low-turnout election. Despite the restrictions on speech in California, for example, it is not uncommon for judicial candidates to appeal to voters by expressing opinions on political issues. All four candidates vying for a superior court position in Santa Cruz in 1994 spoke out against a mandatory sentencing initiative on the state ballot. All of the candidates, however, repeatedly stated that they would be sworn to enforce the law in spite of their personal beliefs. Similarly, the candidates expressed their views on the legalization of drugs, homosexuality, abortion and the death penalty.[42]

Depending on the jurisdiction, judicial candidates may also be restricted from talking about their opponents. Santa Clara County's Bar Association Code of Ethics are specific about the proper conduct of referring to opponents in judicial campaigns. The final provision reads:

> *Candidates should be primarily concerned with overall ability to perform judicial tasks in an impartial, competent and effective fashion. Candidates and their supporters are not to make any statements about individual cases or matters involving conduct by the opposing candidate, whether of a judge or a lawyer, which has no bearing upon one's ability to perform in the judicial position being sought. Candidates and their supporters are not to make any statements concerning personal character or traits of opposing candidates which have no bearing upon one's ability to perform the judicial position being sought.*[43]

In order to ensure compliance, Santa Clara requires candidates to submit to the bar association any advertisement which names or makes reference to another candidate at least three business days before its publication or broadcast date. The advertisement will then be made available to all opposing candidates to minimize the possibility of an unfair, last-minute attack. For any violations of the Santa Clara ethics code, the Fair Judicial Elections Practices Commission, the adjudicative body of the bar association, determines an appropriate remedy, including, but not limited to the following: i) a public statement by the commission; ii) a public retraction by the offending candidate; iii) an agreed upon resolution by the candidates involved;

41. Megan O'Matz, *Debate Rages on Ethics in Judicial Races*, The Morning Call, May 28, 1995.

42. Jindati Doelter, *Judicial Candidates Don't Like 3-Strikes*, Santa Cruz Valley Press, May 18, 1994.

43. Santa Clara County Bar Association, Judicial Election Campaign Code of Ethics, Canon III(F)(5).

and/or iv) consultations with the public group or groups offended by the candidate's actions.

In California, restrictions on judicial candidates referring to opponents have been codified into state law regarding candidates' statements in the voter's pamphlet.[44] California law dictates that a voter's pamphlet statement is limited to summarizing only the judicial candidate's own name, age and occupation and presentation of a "brief description . . . of the candidate's education and qualifications" in no more than 200 words.[45] The law further provides that any statement submitted by a candidate for judicial office "shall be limited to a recitation of the candidate's own personal background and qualifications and shall not in any way make reference to other candidates. . . ."[46] This restriction has been challenged in the courts and upheld by the California Supreme Court.[47]

If the ABA's Code's restraints on campaign contributions are ineffective, its attempted restraints on judicial campaign speech may be misdirected. If there are to be judicial elections, they clearly require *more* rather than *less* voter information. Not only may a prohibition on controversial speech outside the voter's pamphlet be unconstitutional (on grounds of "overbreadth" or "vagueness"), especially in the atmosphere of competitive elections, but it may also adversely affect the quality and quantity of election information available to the voters.[48]

3. Campaign Financing Restrictions

The three traditional pillars of campaign finance regulation available to the states—contribution limits, expenditure ceilings and public financing—are only occasionally employed in judicial elections. Twenty-two states restrict the total amount of contributions any one contributor—individual, corporation or labor union—may give to judicial campaigns. Five states provide some form of direct or indirect public financing programs for judicial campaigns, but these public financing programs are generally inadequate. Texas imposes both contribution and expenditure ceilings without public financing. California currently has no limits on contributions to judicial candidates.

Most states that limit contributions to judicial candidates include such restrictions as part of a general regulatory program covering candidates for all offices. Alabama, Alaska, Arizona, Arkansas, Colorado, Indiana, Kentucky,

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44. Voters in California usually receive two different types of voter's pamphlets. For purposes of clarification, the state pamphlet is referred to as the "ballot pamphlet" and the local pamphlet as the "voter's pamphlet." The former is a publication prepared and mailed by the Secretary of State that contains the text, analyses and arguments for and against statewide ballot measures. The latter is prepared and mailed by the individual city or county clerks, which includes at least a brief description of local ballot measures (communities may choose to elaborate on these descriptions), a sample ballot and brief statements of local candidates for public office, including judicial office, whose publication may be made contingent upon the candidates paying for access.

45. Cal. Elec. Code §10012 (West Supp. 1992).

46. Cal. Elec. Code §10012.1 (West Supp. 1992).

47. In June 1990, William Burleigh ran against incumbent Judge Richard Silver to fill a superior court seat in Monterey County. Burleigh devoted the bulk of his candidate statement to an attack on Judge Silver, labeling the incumbent a "Jerry Brown appointee" and stating that "I am greatly disturbed by his decisions." Burleigh challenged the county registrar's decision to strike the criticisms of his opponent. The California Supreme Court agreed with the registrar's decision to reject Burleigh's statement for publication in the voter's pamphlet and further admonished Burleigh by highlighting spelling errors in the candidate's statement. Clark v. Burleigh, 4 Cal. 4th 474, 14 Cal. Rptr. 2d 455 (1992).

48. The Supreme Court of New Mexico has ruled that the infringement on political activity and free speech by judicial candidates contained in Canon 7 of the ABA Code of Judicial Conduct was unconstitutional. It replaced New Mexico's version of Canon 7 with a provision allowing judges to participate in the political process to the same extent as other publicly-elected officials. New Mexico Code of Judicial Conduct, §21-700(a) (1989).

Louisiana, Maryland, Michigan, Minnesota, Mississippi, New York, North Carolina, Oklahoma, South Dakota, West Virginia and Wyoming impose a fixed limit on contributions from either individuals and/or corporate sources to candidates for any office—political or judicial. These contribution limits range from $250 from individuals in Arizona to $3,000 from any single source in Kentucky.[49]

Florida, Kansas, Montana, Texas and Wisconsin tailor their contribution limits to the particular judicial office sought. In Florida, contributors can give no more than $1,000 to any county or circuit court candidate, $2,000 to any district court of appeal candidate, and $3,000 to any supreme court candidate.[50] Kansas specifically limits contributions to local district judges and magistrates to $500 per election.[51] Montana similarly targets local district court judges to a contribution limit of $400.[52] Contribution limits in Texas range from $5,000 to any statewide judicial candidate to $1,000 to local judicial candidates. In both Kansas and Montana, contests for other judicial offices fall under general contribution limit guidelines for "statewide candidates."

Wisconsin distinguishes judicial contribution limits not just by the level of judgeship sought, but also by the size of the jurisdiction. Candidates for circuit court judge in jurisdictions with less than 300,000 population can accept no more than $1,000 from any single source and no more than $3,000 in jurisdictions with a population of 300,000 or above. Candidates for courts of appeal have a $2,500 contribution limit in counties with less than 500,000 population and a $3,000 contribution limit in larger counties. Supreme court candidates can accept no more than $10,000 from a single contributor.[53]

Restrictions on the size of contributions to judicial candidates have been pursued through ethical codes as well as statutes. Both the Los Angeles and San Diego County Bar Associations, for example, attempt to discourage excessively large contributions that can raise the specter of possible corruption, although the language is vague. For example, election guidelines for members of the Los Angeles County Bar read: "No sum should be accepted on behalf of a candidate which is so large as to create the appearance that the donor is seeking to gain advantage or special favor from the candidate in the performance of the duties of judicial office."[54] No further guidance is given.

Such bar association guidelines on contribution sizes are too general to be effective or enforceable. Both Los Angeles and San Diego bar associations, however, have recommended an amendment to state or local election law limiting the size of contributions to and from judicial candidates. They argue that the appearance of integrity in the judicial system would be vastly improved if lawyers, judicial candidates and others were not allowed to make political contributions so large as to raise suspicions of impropriety. They do not state precisely what contribution size would raise such suspicions, although they mention a contribution limit of $250 to $500 as reasonable. Judges and judicial candidates in California are already prohibited from making contributions to political parties or political organizations by the state Code of Judicial Conduct.

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49. Federal Election Commission, Campaign Finance Law 94 (1994).
50. Florida Stats. Ann. §106.08 (1982).
51. Kansas Stat. Ann §25-4153 (Supp. 1989).
52. Montana Code Ann. §13-37-216 (1989).
53. Wisconsin Stats. Ann. §11.26 (Supp. 1991).
54. Los Angeles County Bar Association, *supra* note 34 at 2.

Fund transfers from one campaign committee to another has sometimes been viewed in a light similar to contributions, requiring restrictions in order to avoid corruption or the appearance of corruption. San Mateo County, for example, prohibits the transfer of funds from judicial candidates to other judicial or non-judicial candidates.[55] The county's guidelines read: "No [judicial] candidate or candidate's committee should solicit funds for the campaign of any other candidate for judicial or non-judicial office." In addition, a judge or judicial candidate may not act as a leader of a political party or publicly speak on behalf of other candidates. San Mateo County's objective is to segregate the judiciary from traditional politics as much as possible.

A few states address the problem of fund transfers more forthrightly by requiring that surplus funds—funds not spent by the end of the campaign—be returned. Bar association rules in Michigan and Missouri informally guide the transfer of surplus campaign funds. The Michigan Bar Association requires candidates to refund surplus contributions to donors or give the funds to the Client Security Fund, the state bar's fund for victims of legal malpractice.[56] In order to avoid problems of interpreting what is a "charitable" organization and what is not, surplus funds may not be given to any charitable causes. Missouri's bar association requires candidates to return unused funds exclusively to donors and on a pro rata basis.[57] Statutory laws dictate the allocation of excess funds in Kentucky and Maryland. In Kentucky, judicial candidates may either return surplus campaign funds pro rata to contributors or save the surplus for future campaigns. In Maryland, judicial candidates have three options: return excess funds to donors or give the surplus to nonprofit organizations or local school boards.

4. Expenditure Ceilings and Partial Public Financing

A handful of states have attempted to regulate expenditures as well as contributions by offering candidates some form of partial public financing in exchange for voluntary limits on spending. These states include Montana, North Carolina, Texas, Utah and Wisconsin. But these public financing programs are either poorly constructed, under-financed or severely limited in scope. Texas also imposes voluntary expenditure ceilings on judicial candidates without the use of public funds.

Wisconsin has made the most serious attempt to reform judicial campaign financing practices through partial public financing. However, it has only applied these reforms to supreme court campaigns and the amounts of private contributions that candidates must raise in order to compete for office are still very substantial. The Wisconsin plan combines partial public funding with a spending ceiling in contested supreme court races. Limited appropriations from general revenues are allocated each year to a state-sponsored campaign election fund. The funds are disbursed equally to contested judicial candidates depending on available moneys up to a maximum grant set by law.[58] In exchange for accepting public funds, candidates agree to abide by a spending ceiling that is considerably higher than the public grant. Participating candidates can then collect private contributions to make up the shortfall.

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55. San Mateo County Fair Judicial Election Practices Committee, "Guidelines for Judicial Candidates" (1990). For a similar provision, *see* San Diego County Bar Association, "Ethical Guidelines for Judicial Campaigns" (1978).

56. Michigan Code of Judicial Conduct, Canon 7(B)(2)(e).

57. Missouri Bar Association, Formal Opinion 18 (1979).

58. The maximum grant of public funds to a judicial candidate is set by law at $40,000 in a primary election and $60,000 in a general election, plus a cost-of-living adjustment. Wisconsin Stats. Ann. §11.31 (1988).

The shortfall, however, is usually huge. In 1991, two candidates competing for a seat on the state's high court agreed not to spend more than the statutory ceiling of $215,625 in their campaigns in exchange for public grants. The grants amounted only to $38,000, forcing the candidates to fill the gap with private contributions. Each candidate raised over $150,000 in additional campaign funds from private contributors. In the prior election of 1989, it had been so long since a supreme court race was contested that monies had accumulated in the public campaign fund up to a level that enabled it to allocate the maximum grant of $97,000 to each candidate—both of whom still spent well over $200,000 in their campaigns.[59] The difference was made up through private contributions and personal loans and expenditures.

Montana provides an *add-on* checkoff system on state income tax return forms which permit taxpayers to make voluntary contributions to a public campaign fund. In an add-on system, taxpayers agree to contribute money above and beyond their tax dollars to a specific program. The money in this fund is designed to supplement (and theoretically reduce the need for) private campaign funds, but it is not conditional on acceptance of expenditure ceilings or reduced levels of private contributions. Revenues of the fund are distributed during the general election according to the following formula:

- Major party gubernatorial candidates (2) split 50% of the fund;
- Competing supreme court candidates (variable in number) split the other 50% of the fund.

The first disbursements occur five months before the general election. If late tax returns contribute more dollars to the fund, additional monies are disbursed three months before the general election. Since this is an add-on tax checkoff system,[60] very few taxpayers participate. In 1992, for example, the four competing candidates for two supreme court seats each received a paltry $486.69 in public funds.[61]

North Carolina's tax checkoff system (not an add-on system) allocates public funds to finance campaign activities of the recognized major political parties in the general election. The two major parties receive about $500,000 each to spend on party activities, which may or may not include financial support for candidates, including judicial candidates. The amount of public funds awarded to the parties is so limited that the parties usually finance voter registration drives or party convention operations. To date, the parties have not diverted any funds to assist the campaigns of judicial candidates.

Beginning in 1996, North Carolina will also allocate public funds to the two major gubernatorial candidates. These funds will be derived from an add-on surtax system that first became operational in 1988. As of this date, $100,000 has accumulated in the fund.[62] These moneys could, but are not expected to, benefit

59. Telephone interview with Gail Shea, Campaign Finance and Elections Administrator, State of Wisconsin (Oct. 27, 1992).

60. Add-on tax checkoffs allow taxpayers to check a box on their tax returns and increase their overall tax payments. The resulting funds are placed in a campaign fund. An add-on is simply a convenient way for taxpayers to make private contributions; however, because taxpayers cannot designate the individual candidate who is to receive the proceeds, many feel little incentive to make such contributions. By contrast, federal tax returns contain a simple tax "checkoff" which does not increase the taxpayer's total tax bill but instead transfers a comparable amount from the general fund (paid by all taxpayers) to qualifying candidates. Simple tax checkoffs, therefore, cost the taxpayer nothing; tax add-ons actually cost the taxpayer the amount check on the taxpayer's total tax bill.

61. Montana Code Ann. §13-37-304 (1987). Telephone interview with Dolores Colburg, Montana Commissioner of Political Practices, Oct. 6, 1992.

62. General Stats. of North Carolina §163.278.41 (1989).

judicial candidates if the gubernatorial campaigns decide to spend the money on partisan ticket campaigns which include high-profile (usually supreme court) judicial candidates. Judicial elections in North Carolina tend to be highly partisan contests.

Texas has created the framework for a public campaign fund which is derived from general treasury revenues and can be disbursed among qualified political parties. These public funds could potentially be used by the parties to support judicial candidates during primary races.[63] However, the Texas Ethics Commission, created by the state legislature in 1990 for the purpose of studying judicial campaign financing, has never heard of any party support for any judicial candidate in primary elections.[64]

Texas also offers a unique variable contribution limit program for judicial candidates. Following on the heels of well-publicized charges of corruption, Texas attempts to curtail money in judicial campaigns by imposing voluntary spending ceilings. Judicial candidates who chose not to comply to the spending ceilings remain bound by the contribution limits, while candidates for the same office who agreed to the spending ceilings have their contribution limits lifted.

Utah grants public funds to its political parties for party activities, which theoretically could include the funding of judicial campaigns. Funds are disbursed 50% to the state party and 50% to the designated party organization in the county from which the return originated.[65] Although Utah's tax checkoff system does not penalize taxpayers, its public campaign fund is so minimal that little more than regular party activities are financed through it.

These state public financing efforts essentially suffer from one major problem: too little funds. The states offering public financing either provide far too little funds to be effective, or they distribute their funds to the political parties which—to date, at least—have not provided any of the funding to judicial candidates. Furthermore, only one state, Wisconsin, links public financing to expenditure ceilings. But the amounts of money Wisconsin makes available also are too small to impose a tight ceiling on private contributions and overall expenditures.

5. Bar Association Public Forums

One innovative plan for regulating judicial campaign financing has been proposed but not yet implemented. This plan asks all judicial candidates to agree to forego any personal campaign expenditures in exchange for free participation in an extensive series of public campaign forums organized and subsidized by the local or

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63. Telephone interview with Ann Byerly, Budget Officer, North Carolina State Board of Elections, Oct. 6, 1992.

64. Texas Codes Ann., Elec. §173.032 (1986). Telephone interview with Andrew Martin, Texas Ethics Commissioner, Oct. 6, 1992.

65. As of September 30, 1992, the Utah State Tax Commission distributed the following amounts:

Party	*State*	*County*	*Total*
Republican	$24,781.50	$24,781.50	$49,563.00
Democratic	$17,336.00	$17,336.00	$34,672.00
Independent	$3,261.00	$3,261.00	$6,522.00
Libertarian	$836.00	$836.00	$1,672.00
New Alliance	$1.50	$1.50	$3.00

[Utah Code Ann. §20-4a-1 (1991)]. Telephone interview with Janice Perry, Community Relations Director, State Tax Commission of Utah, Oct. 6, 1992.

state bar association. This plan would replace all private campaign activity with public forums, debates and community discussion groups. These public forums would simultaneously be aired on community cable television programs and through the news media. The Kentucky State Bar Association has discussed this proposal but has taken no action to date.[66]

State and local bar associations have been known to organize limited educational forums and debates between judicial candidates although not on a sufficiently comprehensive scale to displace other campaign activities. Outside the realm of campaign activity, the California Judges Association put together a series of educational forums to familiarize the public with the workings of the judiciary. In 1988 and 1989, judges organized and conducted three experimental public forums—called "Access to Justice"—in Sacramento and San Francisco. The widely publicized forum in San Francisco was attended by over 600 people. Encouraged by that success, the California Judges Association organized a statewide "Meet the Judge Week" in March 1990. With the support of local community groups, such as the League of Women Voters, over 59 local forums were conducted. The forums were simultaneously carried by cable television, drawing an estimated audience of 10,000 people.

Since that time, several local bar associations or other civic groups in California have sponsored public forums for judicial candidates. The style and structure of these forums have ranged from amicable question and answer sessions from the audience, as in the 1992 contest between six candidates for the Southeastern Judicial District in Mount Shasta,[67] to bitter free-for-all debates in which candidates used the forum to launch personal attacks against each other, as in the 1990 Monterey County race for superior court between incumbent Richard Silver and municipal court judge William Burleigh.[68] The Mount Shasta forum was sponsored by the local chamber of commerce; the Monterey County forum by the county bar association. The organization of such forums for judicial candidates has become rather commonplace today.

Advocates of the public forum approach argue that partial public financing may be a good idea but, at least for judicial elections, it is politically untenable; voters will not accept spending tax dollars to elect judges. As a compromise, they propose a system in which the state or local bar association would finance certain judicial campaign activities out of an association fund in exchange for the candidates relinquishing their right to make personal campaign expenditures. The pertinent bar association would organize an extensive series of public forums throughout the jurisdiction in which participating candidates could address the public. Each forum would be open to the public and the press and televised on an appropriate cable television program. Furthermore, participating candidates could be given free inclusion in the voter information pamphlet—a powerful incentive to induce the participation of all candidates. Judicial candidates refusing the terms of this plan would not be allowed to participate in any of these bar-sponsored election activities.

It is doubtful, however, whether this plan could live up to the grandiose expectations of its advocates. First of all, it might not eliminate judicial campaign financing abuses. In highly competitive campaigns, candidates may feel that participation in public forums would not give them as much voter exposure as paid

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66 Letter to C.B. Holman, California Commission on Campaign Financing, from Professor Michael Avey, Northern Kentucky University (Aug. 24, 1990).

67. Editor, *Judge Candidates Hit with Questions*, Mount Shasta Herald, April 15, 1992.

68. Hortensia Lopez, *Candidates Square Off at Forum in Salinas*, Monterey County Herald, May 18, 1990.

direct mail and other advertising. Even a zealously run program with numerous public forums may be no match to a heavily financed professional campaign. Furthermore, in study after study, voters have demonstrated very little interest in judicial campaigns. While some concerned voters may be willing to attend a public forum and ask questions of their judicial candidates, it is unlikely that such forums could ever command widespread community interest in sizable jurisdictions. Public attendance at the forums could be expected to be light, and the print and broadcast media will have little incentive to grant more coverage to judicial candidates than is done currently. Although previous experience shows that public forums can be conducted by bar associations with some beneficial results, the limited success of forums that have been sponsored by local bar associations does not offer evidence that a more comprehensive program would persuade candidates in contested elections to forego personal campaign activities.

6. The Dade County Judicial Trust Fund

The Dade County (Florida) Bar Association had enacted its own proposal to reduce the financial burden of judicial campaigns. In July 1972, the bar association created the Dade County Judicial Trust Fund for county judicial races. Lawyers were invited to contribute to the election fund and then sign a voluntary pledge not to make any further contributions to judicial campaigns. Contribution sizes were set according to the number of years each lawyer had been admitted to the bar, ranging from $50 for those who practiced less then five years up to $150 for those who practiced more than 10 years.[69]

Judicial candidates who wanted to participate in the fund were screened by a panel of five trustees. The panel distributed a poll among attorneys who were members of the bar as well as to non-members to determine which candidates were "qualified" as well as "fund qualified." A judicial candidate was deemed "qualified" if 60% of those polled gave an approval rating. But a candidate could only be deemed "*fund* qualified"—and thus able to participate in the judicial trust fund—if at least 85% of those surveyed claimed sufficient knowledge of the candidate's qualifications. Qualified candidates were then required to sign a compliance pledge that they would accept no other contributions from lawyers (although contributions could be accepted from non-lawyer sources).

The fund was distributed to qualified candidates in the following priority: first, to cover the cost of filing fees for unopposed candidates; second, to finance the publication of candidate biographies and the results of the bar poll in various news media of general circulation; and finally, to cover the disbursement of the remaining funds (minus a reserve) equally among contested candidates to help pay their campaign expenses.

The Dade County trust fund registered only limited success. In 1976, just 26 judicial candidates out of 49 signed the pledge. Of those, 20 were found "qualified" and 12 were found "fund qualified." Only two fund-qualified candidates were in contested races; each received $7,950 toward their campaigns. The fund also expended $2,069 for ads on the day before the election reminding voters which candidates had signed the pledge, which were found qualified and which were

69. In Dade County, only about half of all practicing attorneys belong to the county bar association. The bar association invited all lawyers to participate in the fund regardless of membership in the bar. Similarly, the bar poll surveyed non-members as well as members for comments on candidate qualifications.

found fund qualified. In the entire three election years the fund was active, it only disbursed about $30,000 to judicial candidates.[70]

Following the 1976 election, a circuit court upheld a strict interpretation by the Florida Secretary of State that the fund violated state contribution limits. The secretary of state determined that any judge who accepted more than $1,000 from the fund would run afoul of the statutory $1,000 ceiling on individual contributions. Despite assertions by the bar that the fund was not a single contribution but a collection of contributions, the Florida Supreme Court in 1978 affirmed the lower court's decision, thereby ending the plan.

The Dade County Judicial Trust Fund was the first noteworthy plan to address directly the problem of attorney contributions to judges. The idea of establishing a blind trust fund so judicial candidates may still receive campaign contributions from one of their primary sources of funds—attorneys in general—while not receiving campaign money from any particular individual attorney quickly became popular among those seeking to reform judicial elections. The Dade County version of the blind trust, however, lacked the funds to be effective. It was premised upon *voluntary* contributions by lawyers, most of whom declined to make donations to the fund. As a result, little campaign money was available in the trust fund, making the program unenticing to most judicial candidates. An effective blind trust fund would have to ensure that virtually all attorneys donated.

7. *The Cleveland Plan*

In 1974, the Bar Association of Greater Cleveland banned both lawyer contributions to judicial campaigns and the solicitation of contributions by judicial candidates from lawyers. The ban was enforced by requiring candidates to sign a pledge to that effect in exchange for receiving a rating from the bar; otherwise, an endorsement would be withheld. The pledge required any candidate seeking the bar's endorsement "not [to] solicit or accept funds, directly or indirectly, from or through any individual attorney or member of his immediate family, or from or through any law firm practicing in Cuyahoga County, Ohio."[71] The candidate also had to pledge that no attorneys would serve on the campaign committee. Furthermore, if any member of the campaign committee ended up party to a case before the judge, recusal from the case was required. Most candidates complied with the pledge requirement.[72]

The total ban against attorney contributions, however, caused considerable controversy among judicial candidates because of the difficulty of raising campaign funds. The Bar Association of Greater Cleveland decided to end the ban in 1977 and turned instead toward limiting the amount of lawyers' contributions. For the next decade, the association conditioned bar endorsement on a candidate's agreement not to accept contributions in excess of $75 from individual attorneys and not to accept total contributions from a single law firm in excess of $750. Judicial candidates could solicit funds from an attorney or law firm only once via a written communication; no other type of solicitation to lawyers was permitted. In addition, the bar association allocated $40,000 from membership dues to campaign for candidates who received a certain percentage of votes in the bar poll.[73]

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70. Gerald Richman, *A New Solution to an Old Problem: The Dade Judicial Trust Fund,* The Florida Bar Journal 482 (Oct. 1976).

71. Agreement of candidate Seeking Bar's Endorsement, 45 Cleveland Bar Journal 157 (1974).

72. Roy Schotland, *Elective Judges' Campaign Financing: Are State Judges' Robes the Emperors Clothes of American Democracy?*, Journal of Law and Politics 81 (1986).

73. Sara Mathias, *supra* note 7 at 48.

Cleveland's "Judicial Campaign Fund" was again overhauled in 1988. Due to an IRS ruling that the association could not use members' dues to campaign for judicial candidates and retain its tax exempt status, contributions to the fund have now been made voluntary. Members are requested to donate $25 per year to the campaign fund, while the association attempts to raise additional revenues through social functions. The fund has accumulated more than $16,000 each year. It is generally used to promote bar-approved candidates. Since the fund is much smaller than in previous years, the suggested contribution limits for attorneys have been raised. The bar requests that candidates voluntarily limit the size of contributions to $150 from individual attorneys and their families and $1,500 from law firms.

As a volunteer program, the Cleveland Plan has lost much of its clout in regulating judicial elections. Much like the shortcomings of the Dade County Judicial Trust Fund, the Cleveland trust fund now draws too few participants and too little money to have a substantial impact on judicial campaigns. It also lacks a viable enforcement mechanism to ensure compliance with contribution limits. Once regarded as a fairly successful and innovative judicial blind trust fund, it is now relegated to little more than suggested guidelines for campaign behavior, bolstered somewhat by an advertising program to inform voters of the candidates' bar ratings.[74]

8. *Detroit's Fair Plan*

In 1975, Wayne County Circuit Court Judge Victor Baum proposed a new type of trust fund to the Detroit, Michigan, Bar Association for the regulation of judicial campaign financing. Called the "Fair Plan," this proposal contained 16 provisions designed to eliminate the impropriety of attorney contributions to judicial candidates. The core of the plan was the creation of a blind trust fund administered by the bar. Lawyers could make a general contribution to the fund, which would be dispensed equally among all judicial candidates, or lawyers could earmark their contributions for specific candidates. Earmarked funds would then be passed along anonymously to the intended recipient. In this fashion, lawyers could support their favorite candidates, yet the recipients and opponents would never learn the identities of the contributors. Thus, the potential for corruption, bias or retribution theoretically would be eliminated. In order to be eligible for funds from the blind trust, candidates would have to sign a pledge that they would not solicit contributions from lawyers. Candidates would be free, however, to solicit additional contributions from non-lawyers. The bar could deduct up to 5% of each contribution to pay for the trust fund's administrative costs. Although participation was to be voluntary, the plan provided for a $500 liquidated damages clause for violations of the candidate's pledge and for a breach of a contributor's anonymity.

The Detroit Bar Association tentatively approved the "Fair Plan," but it was never implemented. In 1976, the I.R.S. failed to respond to two questions about the

74. The Cleveland Bar Association's system of rating judicial candidates has come under criticism from some judges and challengers. The annual poll asks 4,633 bar association members in Cuyahoga County to rate area judges according to integrity, temperament, industry and professional competence. However, the lawyers who receive the ballots are first informed of the recommendations on the candidates made by a selection committee of the bar. The selection committee conducts interviews with all the candidates and then issues its recommendations. Voter responses from the poll tend to agree with the committee's recommendations. Critics of the system claim that the personalities and prejudices of selection committee members is the final determinant of who is endorsed and who is not. In one example, for instance, J. Ross Haffey, who was endorsed by the association for state supreme court in 1990, got into an argument with committee members during his 1993 interview. The selection committee then rated Haffey "Not Qualified" for a municipal judgeship and the subsequent bar polling followed in lockstep, with 67% of lawyers voting against Haffey. Roy Gutterman, *Sore Losers Criticize Bar Association's Poll*, Plain Dealer Reporter, October 14, 1993.

plan: whether the bar association could keep its tax exempt status if it administered the trust fund, and whether contributors would be entitled to a tax deduction. After two unsuccessful attempts to exempt judicial blind trusts from the state's campaign finance disclosure laws, the bar association abandoned its efforts to reform judicial campaigns.[75]

Several years later, a bill (S.B. 785) was introduced into the Michigan State Legislature to establish judicial blind trusts county-by-county administered by independent agencies rather than bar associations. The plan was virtually identical to the "Fair Plan" with the exceptions of its administration and that it would apply to all counties in the state. To participate, attorneys would have to agree to make contributions only through the trust fund and not disclose the identity of the intended recipient or the amount of the contribution. The plan also required participating judicial candidates to agree to accept no other contributions from attorneys.[76] The bill was never approved by the legislature, but it represented the first time that a judicial blind trust program was being considered by governmental authorities rather than local bar associations.

Blind trust proposals would help reduce the potential for corruption that accompanies contributions made by attorneys and law firms without restricting the individual's freedom to contribute to judicial campaigns. However, such proposals have faced major obstacles. They can be effective only if sufficient numbers of attorneys chose to participate and if participants respect the rule of anonymity. Experience suggests that both conditions are difficult to meet. These trust funds have worked well to reduce the influence of money in non-contested elections on behalf of incumbents. But no blind trust fund has yet collected enough funds to provide an effective alternative to private fundraising and expenditures in competitive elections—the very situation in which campaign finance regulations are most important. A state-mandated judicial trust fund would probably enjoy somewhat greater participation by lawyers and judicial candidates but, much like the state-controlled public financing programs discussed earlier, a state judicial trust fund would in all likelihood also be unable to accumulate and disburse sufficient funds to regulate campaign financing in the entire trial court system. Another obstacle to judicial blind trusts is that state campaign finance laws would have to be modified to: (i) exempt blind trust funds from contribution limits; and (ii) exempt the program from public disclosure laws.

C. Conclusion: Principal Reform Goals Should be Enhancing Voter Information While Reducing the Importance of Campaign Contributions

Most experimental solutions to judicial campaign financing problems have encountered only limited success and, in many cases, have failed altogether. The problems to be overcome are many. If it is to be assumed that Los Angeles County and its cities will continue to select trial court judges by elections, the only practicable regulatory program should seek to provide voters with the means to make intelligent electoral choices without subjecting the judiciary to the potentially corrupting influences of special-interest dollars.

Many of the plans in other states and localities to reform the financing of judicial campaigns have not succeeded in achieving both objectives of enhancing voter information and reducing the need for private campaign contributions.

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75. Sara Mathias *supra* note 7 at 50.

76. Memorandum from Kathryn Donovan to the California Fair Political Practices Commission 7 (May 28, 1985).

Straightforward limits on contributions and fund transfers have sometimes helped minimize the corrupting influence of attorney contributions, but these plans have neglected to provide judicial candidates with other means to reach voters. Programs to increase voter information through public forums or judicial trust funds have been too poorly funded to be effective. Such judicial reform programs may never be able to regulate the problems of judicial elections in an entire trial court system.

Drawing from the practical problems encountered by each of these programs, the Commission believes that the experiences of other states and jurisdictions offer some lessons for a new reform program. This plan is offered in the following Chapter 5, "A Proposal to Reform the Financing of Los Angeles County's Judicial Elections."

CHAPTER 5

The Commission's Recommendations: A Proposal to Reform the Financing of Judicial Elections

"Who are those guys?"

— Butch Cassidy to the Sundance Kid[1]

California's current system of judicial elections—a dual system of selecting judges for trial courts through competitive elections and for appellate courts through appointment followed by retention elections—is based largely on the concept that the judiciary should be at least partially accountable to the public. If the public is to vote to select or retain judges, then fairness requires elections that are not excessively dependent on money or individual wealth, and that voters be provided with sufficient information to make reasoned choices. Neither condition exists in Los Angeles County's judicial elections today.

After intensive internal discussions, buttressed by interviews with judges, campaign consultants and other experts, as well as detailed research into campaign contribution and expenditure practices, the Commission recommends that Los Angeles County and other jurisdictions with similar problems adopt a program which will help ensure the integrity of judicial elections, promote criteria of merit and qualification rather than the ability to raise money, reduce the likelihood that judges will feel obligated to the interests of particular lawyers or other major sources of financial contributions and assist voters in making intelligent electoral decisions.

1. *Quoted in* Charles Lindner, *Your Least Informed Vote Could End Up Killing You*, Los Angeles Times, June 5, 1994.

A. Package of Reforms Can Help Redress the Pressing Problems of Judicial Campaign Financing

The Los Angeles County Superior Court and the Los Angeles City Municipal Court systems both contain *more* courts, *more* judges and *more* competitive judicial races than any other jurisdiction in the nation. Los Angeles City and County also encompass the largest electoral districts in the state. Although the state attempts to divide caseloads equitably among judges throughout California, it has not created electoral districts of equal size or population. Thus, while superior court candidates in the small county of Alpine compete for the attention of 700 registered voters, superior court candidates in Los Angeles must attempt to reach 3.7 million registered voters. Similarly, in Los Angeles municipal court races, it is far easier and less expensive to reach the 55,000 registered voters in Santa Monica than the 1.3 million voters in Los Angeles City.

These differences between Los Angeles and other jurisdictions may warrant different solutions to campaign financing problems. Small jurisdictions, for example, may find that voters are familiar with the candidates without their having to wage expensive campaigns. In most cases, however, and especially in larger judicial districts, candidates must raise and spend significant sums of money to reach voters.

1. ***Statement of the Problems.*** Judicial campaign financing problems in Los Angeles County fall into three general categories: the potentially corrupting influence of large campaign contributions, inadequate resources for judicial candidates to educate the voters, and the inability of voters to obtain sufficient information from all media sources on judicial candidates. In terms of campaign contributions (documented in Chapter 3, "Campaign Financing Patterns"), judicial candidates must often reach deep into their own pockets for the bulk of their funds and, secondarily, must seek money from those with a vested interest in the outcome of judicial decisions—the *attorneys* and *litigants* who regularly appear before the bench. A system of judicial selection which requires candidates to fund their own campaigns tends to favor wealthier candidates and discourage from seeking office those poorer candidates who may be equally or better qualified. Moreover, a system in which contributions are received, often in sizable amounts, from a relatively small pool of contributors increases the importance of these campaign contributions, heightens the influence of contributors, strengthens incumbency advantage and undermines the apparent integrity of independent judicial decisions.

The absence of a broad-based contributor base frequently leaves judicial candidates with insufficient financial means to communicate to the voters. Challengers, lacking the somewhat "captive" contributor base of litigants and lawyers who regularly appear before incumbent judges, are even more constrained in their ability to raise and spend campaign dollars. (For a discussion of the incumbency advantage, *see* Chapter 2, Section B, "Strong Incumbent Advantages." Consequently, not only are judicial candidates generally unable to pay for campaigns that will adequately inform voters, but challengers to incumbent judges suffer an especial disability in raising funds, regardless of their qualifications.

Voters also express great dissatisfaction with the *quantity* and *quality* of election information available to help select judges. Many simply do not vote. Voter drop-off is exceedingly high in judicial elections as opposed to most non-judicial candidate elections. (For a discussion of low voter information and participation in judicial elections, *see* Chapter 2, Section B, "Strong Incumbent Advantages," and Chapter 4, Section A, "High-Profile Judicial Campaigns.") Most of those who cast

ballots do so with little or no information about the candidates' qualifications to be judge.

2. Outline of the Commission's Proposed Reforms. The Commission recommends the following set of basic reforms:[2]

(1) Limit all contributions to judicial candidates to $500 per election.

(2) Give all judicial candidates in contested elections a conditional right to print a free campaign statement in the ballot pamphlet.

(3) Create incentives for candidates to avoid slate mailers;

(4) Improve disclosure of which entities or candidates are financing slate mailers;

(5) Ease restrictions on speech by judicial candidates in both the voter's pamphlet and the overall campaign, and provide new information about candidates in the voter's pamphlet—such as financial statements, bar association ratings, self-declared party affiliations and endorsements.

(6) Redesign and improve the voter's pamphlet.

(7) Allow candidates to challenge false and misleading statements by opposing candidates in the voter's pamphlet through an expedited review process, and allow candidates to print a free rebuttal statement in the pamphlet.

(8) Limit loans from the candidate and candidate's family to an aggregate of $25,000 at any one time.

(9) Limit judicial fundraising periods so that no judge or judicial campaign committee may solicit or accept contributions after the election or during non-election years.

(10) Encourage development of an electronic voter's pamphlet through cable television and on-line computer systems.

B. Adoption of the Commission's Proposed Recommendations Would Increase Voter Information and Decrease the Impact of Private Contributions Simultaneously

The Commission's proposed reforms attempt to achieve dual purposes: to enhance the information available to the public *without* aggravating the negative role of money in judicial elections. The goal of these reforms is to make information about judicial candidates more easily available to voters, but to do so without requiring substantially greater campaign expenditures or increasing the influence of private campaign contributors.

1. Limit Contributions to Judicial Candidates to $500 per Election

Currently, there is no limit on the amount of money a contributor may give an incumbent judge or candidate for judicial office in Los Angeles County. The Commission recommends that a limit be placed on the size of all contributions to judicial candidates from any individual, corporation, PAC or other single entity per election, and that this limit be set at $500.

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2. Since superior, municipal and justice court systems are classified as agencies of the state, rather than the county or locality, many of these reforms would most likely require authorization by the state legislature. The addition of a flexible provision in state statutes allowing counties, or specifically counties of a specific class, to adopt a limited range of campaign financing restrictions would suffice.

The primary objective of contribution limits in judicial elections is to eliminate the possibility that large contributors may, in appearance or reality, exercise undue influence over judicial decisions, or subject judges to conflicts of interest. The $500 limit is large enough to encompass most contributions to judicial campaigns—and therefore will not substantially reduce the amount of monies available for judicial candidates to reach voters. At the same time a $500 contribution limit is small enough in the Commission's judgment to prevent any single contributor from appearing to exert inappropriate influence. The ability of campaign money to affect judicial temperament from time to time has been amply demonstrated (*see* discussion in Chapter 4, Section A, "High Profile Judicial Campaigns.")

Contribution limits to judicial campaigns directly address the problem of large contributors exerting undue influence over judicial decisions. Contribution limits restrain lawyers and litigants, especially those who expect to appear before a particular judge, from giving campaign money to those judges in such large amounts that it might appear to observers or other litigants that the judge's discretion has been compromised. The same applies to candidates for judicial office before whom, if elected, the contributors may well appear in court. There are several benefits for judicial elections achieved by such limits. First, by ensuring that no single contributor provides a disproportionate share of a judge's campaign warchest, it will limit the ability of any contributing lawyer or litigant to exercise, knowingly or unknowingly, undue influence over judicial decisionmaking. Second, it will ease the tensions between judges, colleagues and lawyers that inevitably arise from the process of candidates soliciting large contributions. Third, it should operate to avoid a public perception that certain contributors are attempting to "buy" a judge or judicial candidate, thereby bolstering the public's confidence in the judiciary. And fourth, contribution limits are easily enforceable and constitutional.[3]

Opponents of capping contributions to judicial candidates may argue that limits will worsen the already limited financial resources available to judicial candidates and compound the problems of limited voter information. This argument did not persuade the Commission. Judicial campaigns at the local level are plagued both by inadequate voter information *and* the perception of possible judicial bias caused by excessive candidate dependence on a small pool of large contributors. Both factors must be addressed.

The Commission's recommendations seek to curtail the importance of large private contributions and at the same time enhance voter information by allowing, for example, judicial candidates to print free statements in the voter's pamphlet. (*See* discussion below.) The proposed contribution limit of $500 is deliberately set at a level that would historically allow most contributions to judicial campaigns. In Los Angeles County, only about 5% of contributions have been in excess of this limit. Thus, while a $500 contribution limit will divert some money from judicial campaigns, the loss is negligible and more than offset by the benefits from reducing the appearance of corruption and providing alternative means of voter information.

Other potential objections to contribution limits are that they enhance the advantage of incumbents, who are more easily able to create a large pool of small contributors, or that they favor wealthy candidates who are not affected by the limits because they can spend unlimited amounts of their own money on their campaigns. The Commission wants to reiterate, however, that a $500 contribution ceiling is broad enough to encompass the great bulk of contributions to judicial campaigns and thus is not likely to favor incumbents significantly. More importantly, other Commission recommendations, such as providing candidates with free access to the

3. *See* Buckley v. Valeo, 424 U.S. 1 (1976).

voter's pamphlet, give challengers a greater opportunity to convey their message to voters, thereby equalizing them in their campaigns against incumbents or wealthy candidates. The recommended disincentive to use expensive and deceptive slate mail advertising, used mostly by incumbents, may also help challengers.

2. Provide Conditional Free Access to the Voter's Pamphlet

The Commission recommends that all judicial candidates who meet the filing requirements for judicial office, including timely payment of the filing fee or submission of signatures, be allowed conditional free inclusion of their campaign statements in the local voter's pamphlet. Free inclusion in the pamphlet would be conditioned upon a candidate's agreement not to seek or pay for endorsement in any slate mailer.

As discussed in chapters 2 and 3, voters often view the voter's pamphlet as their single most important source of information about judicial candidates. Four states (Alaska, California, Oregon and Washington) publish and mail voter's pamphlets with information on judicial candidates to registered voters prior to every election. In these states, voter's pamphlets have become valuable sources of election information, especially for lesser-publicized judicial offices.[4] California, however, deflates much of the value of its voter's pamphlet in two ways: first, by limiting judicial candidate statements to narrow recitals of their own qualifications and prohibiting any references to opponents; and second, by charging judicial candidates a large fee for access to the voter's pamphlet. Indeed, California is the only state that charges judicial candidates the full cost of preparing the pamphlet's statements.

California state law requires counties to publish and distribute a voter's pamphlet addressing local election issues and candidates, including judicial candidates, prior to every election. State law, however, gives counties the option to charge candidates for the complete cost of printing and mailing candidate statements in the pamphlet.[5] While this may pose no great burden on candidates in small counties, the cost can be enormous in large counties. Los Angeles County, for example, charges superior and municipal court candidates the full cost of producing candidate statements in the voter's pamphlet, not including the cost of mailing. Given the size of Los Angeles County's judicial districts, the cost can be quite burdensome on candidates, often comprising their single largest expenditure. Although the cost of publishing a candidate statement in the Los Angeles County voter's pamphlet has been dropping significantly, it still cost $18,340 (or $36,680 for both an English and Spanish language statement) for superior court candidates to purchase access to the pamphlet in the 1994 general election (*see* Chapter 2, Section C, "California Voters Have Limited Information" and Chapter 3, Section B, "High Spending Is Linked to Electoral Success").[6] About 82% of countywide superior court candidates are unable to publish a statement in the voter's pamphlet because of its exorbitant cost, leaving voters with little or no information about their candidacies.

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4. California Commission on Campaign Financing, Democracy by Initiative: Shaping California's Fourth Branch of Government 244-248 (1992).

5. Cal. Elec. Code §10012 (West Supp. 1992).

6. The Los Angeles County Clerk charges judicial candidates an estimated cost of purchasing a statement in the voter's pamphlet and, after the pamphlet is officially printed and distributed, makes the adjustment between estimated cost and actual cost either by refunding any surplus to candidates or billing the candidates for any shortfall. The price for inclusion in the voter's pamphlet has declined considerably between 1992 and 1994. In the 1992 primary election, for example, the actual cost was $37,760 for an English-only statement ($75,520 for both English and Spanish); the estimated cost was $64,000 and $128,150, respectively. Candidates must pay the estimated cost for inclusion in the pamphlet and then wait for adjustments in the billing after the actual cost is known.

Giving judicial candidates free access to the voter's pamphlet would provide voters with valuable and balanced election information from which to make a decision. Currently, the county neglects to provide voters with even minimal information on the candidates unless the candidate pays for it. Worse yet, the lack of *balanced* information leaves many voters confused and unaware about election choices. The electoral process is skewed if voters are presented with a pamphlet in which only one candidate (usually the incumbent) has purchased a statement in the official voter's guide. Voters may conclude that the listed candidate has been "endorsed" by local government, or that the candidate has no opponents.

Supporters of the current system may point to two reasons why the government should not provide balanced coverage of judicial election information in the voter's pamphlet. First, publication of statements in the voter's pamphlet is costly. If candidates do not pay, the taxpayers will. In difficult economic times, this may not be a good use of taxpayer dollars. Second, if voter's pamphlet statements are free, more judges would be challenged, thus over-politicizing the judiciary. Judicial elections should only allow voters to fill open seats and in extraordinary circumstances to exercise the public's right to remove an incompetent sitting judge—not to create a highly competitive electoral environment.

Despite these arguments, the Commission has concluded that providing voters with the opportunity to make informed electoral choices will not transform judges into professional politicians. Judicial elections generally are not tainted with the kinds of political issues that are so pervasive in political candidate elections. Voters view judicial candidates in a different light than political office-seekers and are inclined to evaluate judicial candidates on their experience, qualifications and judicial temperament rather than their positions on specific substantive issues.[7] Furthermore, as the very low rate of challengers seeking to unseat incumbent judges testifies among attorneys who are the only candidates qualified to run for judicial office, there is a widespread *disinclination* to challenge colleagues already sitting on the bench. It is therefore extremely doubtful that free access to the voter's pamphlet would result in anything like a free-for-all challenge to incumbency. Providing voters with the means to make an informed decision between competing candidates is essential if the electoral process is to be regarded as a reasonable method of judicial selection. It makes very little sense to elect judges at all if at the same time voters are deprived of useful information on which to base their decisions.

3. *Prohibit Use of Slate Mailers for Candidates Accepting Free Voter's Pamphlet Statements*

As a condition for free inclusion of candidate statements in a redesigned local voter's pamphlet, the Commission strongly recommends that candidates must agree not to solicit, or to pay for, the inclusion of their names in any slate mailers. Slate mailer organizations have a constitutional right to endorse anyone they please. However, most slate mailers are purely business operations, engaged in the activity for a profit; they charge candidates for inclusion (*see* discussion in Chapter 2, Section C, "Voters Have Limited Information"). Without this profit motive, slate mailers endorsing judicial candidates would tend to be limited to ideological or party organizations interested in promoting a cause rather than making money from candidates.

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7. There are exceptions to this tendency of voters to view judicial candidates in a different light than political candidates. In 1986, for example, the voters chose not to retain three California Supreme Court justices in an election that focused significantly on the issue of the death penalty.

The potential for misinformation and voter confusion caused by slate mailers is so worrisome that the Commission initially considered recommending a non-conditional outright prohibition on judicial candidates seeking or paying for endorsement in any slate mailer. It is possible, however, that the courts would rule that such a prohibition would violate First Amendment (free speech) and Fourteenth Amendment (equal protection) rights. The courts have repeatedly protected slate mailers as a legitimate form of political speech, arguing that individuals, firms and businesses retain the right to endorse any candidate they please, with or without the consent of the campaign, and to publicize that endorsement through mailers.[8]

In the same vein, laws designed to curtail political party endorsements in special circumstances—such as primary and nonpartisan elections—have also repeatedly been struck down by the courts. In *Eu v. San Francisco County Democratic Central Committee*, the U.S. Supreme Court voided on First Amendment grounds a California statute that prohibited party committees from "endors[ing], support[ing], or oppos[ing]" any candidate in primary elections for partisan offices. The court concluded in *Eu* that this "ban directly affect[ed] speech which 'is at the core of our electoral process and First Amendment freedoms.'"[9] The ban also infringed on a party's protected freedom of association to identify the people who embody the ideology and perspectives of the group.

Supporters of slate mailers argue that mailers offer the most cost effective means to reach the voters. Endorsements of a judge by a "party" slate mailer also provide voters with valuable informational cues, such as the candidate's party identification that otherwise would not be available in the voter's pamphlet.

The deficiency in this argument is that very few mailers are actually "party" mailers. Many slate mailers are profit-making ventures with surprisingly little regard for the actual party affiliations of the candidates, let alone party endorsements of the candidates. The worst slate mailers therefore both deceive the voters and overly-politicize judicial contests.

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8. *See*, e.g., California Republican Party v. Mercier, 652 F. Supp. 928 (C.D. Cal, 1986) (1986).

9. Eu vs. San Francisco County Democratic Central Committee, 109 S.Ct. 1013, 1019-1020 (1989). The state's claim that the ban was necessary to protect primary voters from confusion and undue influence was viewed with skepticism, since the ban restricted the flow of useful voter information without fulfilling any compelling governmental interest. Not only did the court declare that party endorsements are useful voter information, the court also rejected the notion that party endorsements could cause voter confusion. The vast array of other groups that offer endorsements, especially for-profit political organizations that use the labels "Democratic" or "Republican," might mislead voters if official party organizations were silenced. *Id.* at 1023.

   A federal district court applied the same reasoning to strike down a California ban on party endorsements in nonpartisan elections. Although the district court's ruling was overturned by the U.S. Supreme Court on the basis that the case was not justifiable, there was no indication that such a ban could indeed be constitutionally valid.

   The case originated when the California Supreme Court decided that even though the Elections Code mandated that judicial, school and local elections be nonpartisan, there was nothing in the code that expressly prohibited party endorsements. Unger v. Superior Court, 37 Cal. 3d 612 (1984). A ban on party endorsements in nonpartisan elections was subsequently approved by the voters in a 1986 ballot measure, amending article II, section 6 of the state constitution to read in part: "No political party or party central committee may endorse, support, or oppose a candidate for nonpartisan office." This provision was used by San Francisco's registrar's office to delete any mention of party support from the local voter's pamphlet. While federal appellate courts ruled that this ban violated both the First and Fourteenth Amendments, the U.S. Supreme Court could not find a live controversy ripe for resolution, since a separate California statute, rather than the state constitution, dictated the structure and composition of the voter's pamphlet. Renne v. Geary, 111 S.Ct. 2331 (1991).

   The ban remains on the books to date. However, it is not actively enforced by the state. Parties sometimes make endorsements of candidates in nonpartisan races and advertise their endorsements through slate mailers and other means. Apparently, it is assumed that if the ban were tested in court, it would be found in violation of the freedom of speech and association clauses of the U.S. Constitution.

Consequently, the Commission makes two recommendations: first, that candidates who voluntarily agree not to seek or pay for inclusion in a slate mailer will be allowed to print a free statement in the county's voter's pamphlet; and second, that disclosures in slate mailers be improved to reduce deceptive voter information. (*See* Recommendation 4 below.) Judicial candidates who decline the contractual arrangement will not have their voter's pamphlet statements subsidized by the county.

4. Improve Disclosures on Slate Mailings

The Commission believes that disclosures on slate mailers must be significantly improved to identify more clearly the nature of the mailing, its sponsor and whether the candidates and ballot measure committees it lists actually paid for, *or authorized,* the endorsement. Today, as this study reveals, slate mailers are so often characterized by concealment of critical facts that voters are badly confused.[10]

Currently, political literature, including slate mailers, must disclose the name of the group sending the literature, contain a notice where relevant that the group does not represent an official party organization and indicate whether each endorsed campaign paid for and consented to the endorsement.[11] These disclosures, however, tend to be well hidden in footnotes and made all the more obscure by deceptive titles to the direct mail literature, such as "YOUR DEMOCRATIC BALLOT GUIDE," displayed prominently in large type on the cover of the mailer. In addition, slate mailer organizations must file campaign disclosure statements indicating which candidates paid to be included on the slate.

In curtailing such deceptive labeling, one must be careful not to tread on First Amendment rights. Nevertheless, slate mailer disclosure requirements could be appreciably enhanced. Instead of allowing a for-profit campaign management firm, for example, simply to call itself by the misleading name of "Californians for Democratic Representation" on a mailer, the true name of the sponsoring firm should be clearly labeled. The disclaimer that a mailer is not sponsored by an official party organization should be displayed near the title or cover of each piece of literature included in the mailer.

Similarly, notice of whether the candidate or committee paid for or authorized the endorsement must be given greater emphasis than the current hard-to-find footnote. In the case of judicial candidates endorsed by the mailer, notice of whether the candidate paid for inclusion in the mailer or authorized the endorsement should appear in clearly legible print *side-by-side with each endorsement.* [12]

5. Ease Restrictions on Speech in the Voter's Pamphlet and in the Campaign

Judicial candidates, in accordance with professional codes of conduct, must currently refrain from discussing controversial issues "that may give rise to suspicions of political bias" or discuss any other matters that may at some time end up as a case before the bench.[13] In the voter's pamphlet, judicial candidates, under state law, must discuss only their own qualifications and must avoid any reference

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10. The deceptive influence of slate mailers was also discussed in a previous study by the Commission, entitled Democracy by Initiative: California's Fourth Branch of Government (1992).

11. Cal. Gov't. Code 84305.5 (1994).

12. In Democracy by Initiative: Shaping California's Fourth Branch of Government (1992), the Commission also recommended that in the case of ballot measures endorsed by the mailer, a notice should be printed side-by-side stating whether the ballot measure committee paid for inclusion in the mailer and, if so, listing the two top contributors to the committee according to "true sponsorship." For example, a "Vote 'No' on Prop. O" (1988 anti-oil drilling measure) endorsement on a hypothetical slate mailer paid for by the opposition campaign committee should be accompanied by a notice identifying the major industry or company that paid for it.

13. Deering's California Codes Annotated, California Rules of Court, Title Five, Division II, Canon 5 (1993).

to their opponents.[14] Theoretically, professional standards suggest that this limitation also apply to other campaign speech by judicial candidates, although it is not rigidly followed in practice.

Candidates for judicial office are expected to campaign in accordance to standards of professionalism, and most candidates stay within the standard of not over-politicizing the office. "I do think judges view the process of being elected differently than other officials," said superior court executive officer Charles Ramey. "The idea of an independent judiciary, not beholden to any group or special interest, does not always mesh easily with election campaigns," he added.[15] It is a classic paradox: how can judicial candidates court contributions and votes without appearing to compromise their freedom from political bias? Usually, judicial races remain quiet and noncontroversial, like the 1994 Contra Costa County Superior Court contest between Judge Ignazio Ruvolo and challenger Brian Thiessen, described by the local press as the race between "two nice guys." Brian Thiessen decided to challenge the incumbent after Thiessen concluded that getting an appointment to the bench was too political a process. Thiessen said that he had applied for an appointment but was never even interviewed. "I wanted to see what would happen if nobody made phone calls to pressure [the governor] on my behalf, and nothing happened. I was under the naive belief that anybody who was qualified would be given an equal chance."[16] The campaign itself remained amicable, with Ruvolo emerging the victor.

Sometimes judicial races can become heated, even when the candidates try to focus on their own qualifications. In a 1992 run-off election for Orange County Harbor Municipal Court, allegations of ethical violations were thrown between municipal judge Margaret Anderson and challenger Debra Allen. Allen had been accused of misleading advertisements and lying about her qualifications; Anderson was accused of misrepresenting endorsements. Nevertheless, both candidates denied mudslinging. "I am strictly running on my qualifications," reiterated Anderson.[17] Undoubtedly, the line of demarcation between professionalism and unprofessionalism is difficult to draw.

In order to enhance useful voter information in judicial contests, the current restriction against free speech by judicial candidates should be eased somewhat. Judicial candidates should be allowed to compare their qualifications with those of their opponents' and express opinions on political issues, so long as such statements do not appear to commit them on the outcomes of any cases likely to appear before the court. Voters find such comparisons useful in appraising judicial candidates and the current restrictions against such comparisons are too prohibitive for meaningful discussion between competing candidates (*see* discussion on ABA codes of ethical conduct in Chapter 4, Section B, "Those Reforms Which Have Been Tried Have Generally Met with Little Success ").

Although the Commission believes that judicial elections in California should remain nonpartisan and that political parties should not be permitted to issue endorsements in nonpartisan contests, judicial candidates should be able to indicate their *self-declared* party affiliations in the voter's pamphlet. Party identification is a valuable informational cue that helps voters perceive the general philosophical perspectives of the candidates. Self-declared affiliations, much like endorsements, provide voters with information upon which to compare candidates without

14. Cal. Elec. Code §10012.1 (West 1993).

15. Will Tizard, *Solano Judges Run Unique Election Race*, Vacaville Reporter, May 18, 1992.

16. Donna Wasiczko, *Two 'Nice Guys' Vie for Superior Court Seat*, Contra Costa Times, May 15, 1994.

17. William Vogeler, *Judicial Candidates Hold One Another in Contempt*, Los Angeles Daily Journal, Sept. 29, 1992.

requiring the candidates to attack each other. Even the otherwise restrictive American Bar Association guidelines for judicial conduct state that candidates should be permitted to "identify himself or herself as a member of a political party."[18] Providing judicial candidates with greater entree to the voters, by offering them free access to the voter's pamphlet, would be of diminished value if those candidates are prohibited from giving voters useful and desired election information.

Some argue that allowing judicial candidates to disclose their political party affiliations will change the substantive focus of elections in undesirable ways. Voters may use the informational cues to select judges for their implied substantive positions (e.g., on drugs, tort reform or the death penalty), not for their objectivity, fairness, intelligence and judicial temperament. Instead, every effort should be made to preserve the judiciary as a decisionmaking body which examines the individual merits of each case and applies the law impartially, without partisan labels. Allowing the disclosure of political party affiliations, these critics argue, might eventually undermine the public's perception of the judiciary as fair and impartial and create the dangerous impression that justice is either "Democratic" or "Republican."

The Commission understands such fears but believes that countervailing values are paramount. Elections are meaningless if the voters are not provided with enough information about the candidates to make reasonably intelligent choices. For most voters, a candidate's party affiliation remains the single most important piece of information suggesting shared values and norms between the candidate and the voter.[19] Moreover, judicial candidates and the media often report candidates' party affiliations through other informational avenues, such as slate mailers and endorsements, even in nonpartisan elections (*see* discussion in Chapter 2, Section C, "California Voters Have Limited Information"). But when slate mailers, rather than the voter's pamphlet, are the primary sources of information on a judicial candidate's party identification, the information may or may not be reliable. Finally, First Amendment considerations make any government-imposed restriction on speech constitutionally suspect. More information, not less, has always been the preferred safeguard in this country to the perceived dangers of reckless speech.

6. Improve the Structure and Design of the Voter's Pamphlet

The Commission recommends that local voter's pamphlets be restructured to enhance the quality and quantity of voter information about judicial candidates and that candidates be given the right to challenge misleading or deceptive accusations. Several of the improvements recently instituted in the statewide ballot pamphlet design (previously recommended by the Commission[20]) should be replicated in local voter's pamphlets in order to increase their readability. Local voter's pamphlets in California, especially those portions concerning judicial elections, provide very little information about candidates—and even that is provided in a bland format. (Appendix D compares selected voter's pamphlets from other states providing information on judicial elections.)

In addition to its recommendation that judicial candidates be given conditional free access to the voter's pamphlet, and that candidates should have greater freedom in discussing pertinent issues, the Commission believes several other appropriate reforms should be made to the structure and content of the local voter's pamphlet.

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18. American Bar Association, Model Code of Judicial Conduct, Canon 5 (c) (1990).

19. William Flanigan, Political Behavior of the American Electorate 29 (1972).

20. California Commission on Campaign Financing, Democracy by Initiative: Shaping California's Fourth Branch of Government 251-260 (1992).

A number of design changes to the voter's pamphlet would greatly enhance the booklet's readability. An analysis by Robert Herstek, the Commission's design consultant, proposes several simple printing features that would help make the pamphlet easier to read and comprehend.[21] These recommendations include the following:

- *Using different type sizes for emphasis.* Judicial candidates should be allowed to use different type sizes or even italics and boldface to emphasize important points in their statements and rebuttals.
- *Enlarging the size of the pamphlet.* Los Angeles City and County, in particular, distribute an five inch by eight inch voter's pamphlet which is difficult to read. Santa Monica and Long Beach, by contrast, distribute a full size eight inch by eleven inch pamphlet which contains more information and is easier to study.
- *Using two colors of print.* Multiple colors greatly enhance the attractiveness of a document and make it easier to read. Santa Monica, for example, often uses two colors in its city voter's pamphlet.
- *Relaxing the informal rules against charts and graphs in the pamphlet.* Charts and graphs can be useful in clarifying a point. The use of charts, graphs and other graphic designs should be encouraged.

7. *Enhance Information Made Available in the Voter's Pamphlet*

In order to encourage meaningful dialogue and comparisons between judicial candidates, the Commission recommends that the Los Angeles County and other local voter's pamphlets adopt the statement-and-rebuttal format which is currently used for discussions of ballot measures in the statewide pamphlet. Judicial candidates should be given roughly two-thirds of a page to state why they should be elected judge and to list their endorsements and any other relevant information. The bottom one-third of the page would be reserved for candidate rebuttals to the statements of other candidates or for reaffirmation of the candidate's qualifications. As with ballot measures, the Commission additionally recommends that candidates be given an opportunity to challenge inaccurate or misleading voter's pamphlet statements before a judge from another county. The reviewing judge would be empowered to change the challenged argument if such action were deemed appropriate.[22]

This will necessarily involve greater preparatory work by local officials in drafting the voter's pamphlet. Candidates must be allowed to review the statements of other candidates and be given time to draft rebuttals. The time lag will also provide a window for mediation of challenged statements. Review of challenged statements is an important safeguard in a restructured pamphlet that encourages dialogue between the candidates. In order to make challenges timely, an expedited review process should be established.

8. *Limit Candidate Loans*

According to U.S. Supreme Court rulings, judicial candidates, like all other candidates, are allowed to spend unlimited amounts of their own money for their campaigns. The Commission recommends, however, that judicial candidates and their families should not be allowed to make unlimited *loans, subject to future repayment,* to their own campaigns. The Commission recommends that loans from

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21. Robert Herstek, "Graphic Design Analysis and Recommendations for Initiative Statute," (Mar. 1990) (unpublished report commissioned by the California Commission on Campaign Financing, on file with Commission).

22. This system has been used successfully to allow proponents and opponents of ballot measures to challenge alleged misleading ballot pamphlet statements in expedited superior court proceedings. *Id.* at 231-235.

candidates and their families be limited to an aggregate total of $25,000 at any one time for any superior court or municipal court race.

Candidate loans to their own campaigns account for a large share of total campaign dollars and sometimes the single largest share (*see* Chapter 3, "The Influence of Money"). Loans are usually made in expectation of repayment. It is this expectation that casts a shadow over the practice. Because of the great pressure to raise campaign dollars from a limited pool of available contributors, judicial candidates will often run up serious debts to themselves and their families, expecting to repay these personal loans with additional fundraising sometime after the campaign. This candidate indebtedness promotes a longer fundraising period as candidates seek to recoup personal expenses. It often mandates fundraising well after the election—sometimes for months and years. When judicial candidates solicit post-election campaign funds to pay off personal loans rather than to finance future campaign activities, a troubling financial connection is created between the contributor and the judicial candidate. Contributions go straight into the candidate's own pocket, thus increasing the likelihood that the candidate will feel a strong personal obligation to the contributor. Limiting the size of loans from the candidate and candidate's family reduces the likelihood of this obligation.

As discussed in Chapter 3, many superior and municipal court candidates finish their campaigns in substantial debt to themselves. Some simply choose to "forgive" the debt and take the loss. But the existence of an excessive debt—greater than $25,000—is usually far too high simply to forgive. Successful candidates thus continue raising contributions from the most convenient available contributors—the attorneys and litigants who appear in the judge's chambers. The image of sitting judges soliciting money from those who appear before them to repay personal debts is at best unsettling and at worse harmful to the public's confidence in a fair and impartial judiciary.

Limits on candidate loans may also be a constitutionally valid means of curtailing money in judicial elections. Although the U.S. Supreme Court has struck down restrictions on the amounts of money candidates can give to their own campaigns, the regulation of candidate loans has thus far not been challenged in the courts. Limiting loans to campaigns is nevertheless common practice. Several states restrict the use of debt to finance non-judicial campaigns by limiting loans to a proportion of funds raised or to the same amounts chosen as contribution limits, by prohibiting loans without collateral or by specifying other conditions for personal loans.[23] None of these restrictions has ever been challenged in the courts.

9. Restrict Non-Election Period Fundraising

The Commission recommends that local jurisdictions, either through local ordinances or professional association ethical codes, restrict fundraising periods so that no judicial candidate, judge or judicial campaign committee may solicit or accept campaign contributions beyond a period shortly after the election or during non-election years. The legitimate fundraising period should be limited to five months preceding the primary election and should be extended, if necessary, through the general election. In order to provide candidates a reasonable time period to raise funds for retiring campaign debts, the fundraising period for the primary election would thus end June 30 if there is no run-off contest, and for the November general election end December 31.

In about half the states with judicial elections, state bar association codes limit fundraising to periods ranging from 90 to 180 days before a primary election and/or

23. Council of State Governments, Book of the States 285 (1992-1993).

limit post-election fundraising from zero to 120 days following the election. The bar association in California and 20 other states impose no time restrictions on judicial campaign fundraising.

Judicial elections can become high pressure affairs, inducing candidates to raise large sums of money. The Commission's recommendations would reduce two serious problems associated with judicial fundraising. First, the restriction on post-election fundraising would eliminate the appearance or impropriety caused by elected judges raising money to pay off personal debts acquired during the election. An example from Texas illustrates this danger. In 1986, Texas Supreme Court Justice Oscar Mauzy incurred a $225,000 reelection campaign debt, which he had to repay with continuous fundraising while in office at a rate of $50,000 per year plus interest. Shortly after finally repaying his debt, Justice Mauzy entered another reelection campaign, which forced him to borrow more money. What resulted was a process of non-stop fundraising, in which lawyers and colleagues became the principal source of funds to keep the judge floating above bankruptcy even in non-election years.

Similar problems, although less extreme, are common in Los Angeles. Many judicial candidates end their campaigns in substantial debt and must continue to raise contributions—as incumbent judges—to retire their debts. In 1980, for example, Los Angeles County Superior Court candidate John Stanton became indebted to his campaign for more than $56,000, and then sought contributions well after the election from lawyers and colleagues with whom he worked.[24] The prospect of incumbent judges soliciting contributions from those who appear before the bench—not to fund future campaigns but to raise money that goes directly into the judge's pocket—creates queasy giver-recipient relationships which smack of impropriety.

Second, a restriction on post-election fundraising would stop preemptive fundraising. Incumbents have the significant advantage of being able to use their office to conduct continuous fundraising efforts, thereby raising campaign warchests to discourage potential competition—a practice that appears inconsistent with fair and open elections. A reasonable restriction on fundraising to election year periods would place both incumbents and challengers on a relatively equal footing. At the same time, an election year fundraising period is sufficiently long to avoid making it unduly difficult for judicial candidates to raise money.

10. Develop an "Electronic Voter's Pamphlet" for Cable Television and Other New Media

The Commission recommends that an intergovernmental task force be established, consisting of Los Angeles County and all municipalities within the county with cable television franchises, for the purpose of collecting, organizing and airing two-to-three minute "talking head statements" by each judicial candidate in contested races. Judicial candidates in contested races would have the option of producing these statements at their own expense and making them available to the task force. The video presentations would include no imagery other than the candidates themselves making brief statements on why they should be elected. Video presentations would be prepared only for candidates in contested races and aired on those cable television systems that substantially include the election district. The task force would submit these statements to all the county and municipal governmental or public access channels in the area for airing at least three times a week during the three weeks prior to the election. The texts of the statements should also be made available on the Internet. When the Internet has developed the

24. California Commission on Campaign Financing, Judicial Data Analysis Project.

capabilities of disseminating video presentations efficiently, the video statements themselves should be made available by computer modem.

This nation is rapidly emerging into a new era of digital electronic information. Electoral information has lagged behind commercial uses of the new media because of the lack of initiative by governmental agencies. As cable television continues to grow in popularity, public and governmental access channels should be used by local and state governments to disseminate election information. Cable television's "narrow-casting" is particularly appropriate for judicial contests, which tend to be events of local concern.

Once a cable television delivery system is established, the costs of producing and distributing an "electronic voter's pamphlet" for cable television and the "electronic superhighway" are minimal. The Center for Governmental Studies, the Commission's parent organization, has already developed a prototype of this system of electronic voter information called the "Democracy Network," which when installed, will provide voters with easy access to a wealth of election information. Candidate statements, commercials, endorsements, campaign financing information, news stories and editorials, will be accessible at the touch of a remote control for home television through interactive media. Distribution of the candidates' messages over public or governmental access channels would be primarily the responsibility of local governments or the intergovernmental task force.

It might be argued that extending the voter's pamphlet into the electronic media will further politicize the judiciary. Greater access to the media, may also encourage more challenges to sitting judges.

This fear seems greatly exaggerated. If it remains the public policy of this state to select judges through elections, then it is imperative for the integrity of the electoral process that useful information be made easily available to the voters. Utilizing the increasingly-popular electronic medium is one reasonable step in that direction.

C. Some Reforms are Worthy of Further Study

Three reforms—subdividing superior court districts into smaller election districts, imposing mandatory limits on independent expenditures in judicial campaigns and eliminating judicial elections completely—merit further study, although the Commission is not in a position to recommend them at this time. The first two proposals involve questions of constitutionality; nevertheless, recent U.S. Supreme Court decisions discussed below suggest that the court might be willing to permit them. It is inevitable that strenuous litigation over the constitutionality of these reforms will occur in successive trial and appellate courts, and the proposals may require further careful scrutiny by experts in constitutional law. The Commission believes, however, that additional public discussion on these issues would be valuable. The Commission also believes that a third potential reform—the elimination of judicial elections altogether—deserves considerable additional study. The Commission hopes to address this issue thoroughly in the near future.

1. Subdivision of Superior Court Districts into Smaller Election Districts

In an attempt to reduce fundraising pressures on candidates and eliminate concerns of racial discrimination under the federal Voting Rights Act, it has been proposed that the Los Angeles County Superior Court District be subdivided into smaller districts equal to the county's five supervisorial districts for election purposes. Los Angeles now has five supervisorial districts which contain roughly equal populations. These districts hold elections at the same time superior court

judges are selected. These supervisorial districts have already been drawn in compliance with the federal Voting Rights Act and, in the aggregate, they include the entire county under the jurisdiction of the superior courts.

The benefits of subdividing superior court offices into five smaller election districts are two-fold. First and foremost, superior court candidates would be able to communicate with a greater proportion of voters in their districts and at a significantly lower cost. Currently, Los Angeles County Superior Court candidates running in at-large elections must reach a constituency base *larger than that served by most members of the U.S. Senate*. Reaching such a large constituency effectively requires a massive campaign budget. Of course, most superior court judicial candidates (with some notable exceptions) fall far short of raising the funds necessary to reach these voters; nor would it be desirable if the contrary were true. By subdividing superior court districts into a reasonable number of smaller election districts, judicial candidates would have constituencies approximately one-fifth their current size. Instead of campaigning for the votes of 3.7 million registered voters in Los Angeles County, superior court candidates would campaign for the votes of 360,000 to 830,000 registered voters in each designated district.[25]

A second benefit of creating smaller election districts would be the greater likelihood of ethnic and demographic diversity among superior court judges in compliance with the federal Voting Rights Act of 1965. In 1991, the U.S. Supreme Court extended election-procedure civil rights standards in legislative elections to judicial elections as well.[26] The court found that election districts must not be drawn in such a way as to dilute unnecessarily the voting strength of significant minority populations. It ruled that the 1965 Voting Rights Act and subsequent amendments in 1982 applied to the conduct of state judicial elections as well as elections for representative bodies. The court reasoned that had Congress intended to exclude judicial elections, "it would have made its intent explicit in the statute or identified or mentioned it in the [1982] amendment's unusually extensive legislative history."[27] Thus, the court concluded: "We hold that the coverage provided by the 1982 amendment is coextensive with the coverage provided by the [Voting Rights] Act prior to 1982 and that judicial elections are embraced within that coverage."[28]

Monterey has become the first county in California targeted for enforcement of the Voting Rights Act in judicial elections. Monterey County, with a single municipal court district, had conducted at-large elections to fill 10 municipal judgeships. Although Hispanics comprise 34% of the county's total population as of 1994, all 10 municipal court judges were Caucasian and nine were male.

Joaquin Avila, in association with Professor Barbara Phillips of the University of Mississippi, filed suit against the County of Monterey in 1991. The suit claimed that through a series of illegal actions, the county converted from election of municipal judges by individual districts to at-large elections. The suit alleged that the actions not only infringed on the voting rights of minorities in the county, but that they were also illegally taken without approval by the U.S. Attorney General. Monterey is one of four California counties in addition to Kings, Merced and Yuba counties subject to the triggering formula of the Voting Rights Act (based on literacy tests) that requires prior administrative approval from the federal government for

25. Although the five Los Angeles County supervisorial districts are roughly equal in population, the levels of voter registration vary significantly between them.

26. Chisom v. Roemer, 111 S.Ct. 2354 (1991). This decision applied both to cases from Louisiana and Texas.

27. *Id.* at 2355.

28. *Id.* at 2358. These standards do not apply to appointed judges, including those judges appointed to fill vacancies in elective offices.

any changes in election procedures. Approval is to be granted only if the jurisdiction can demonstrate that the changes do not deny or abridge the right to vote on account of race, color or membership in a language minority group.[29]

Monterey County agreed to a settlement with Avila and Phillips in October 1993. The county agreed to carve out seven "election areas" within the municipal court district to improve the election chances of minority candidates. Two of the election areas known as East Salinas and East County both contain at least 75% Latino populations.

California's attorney general, however, challenged the proposed settlement before a three-judge federal appeals panel. Deputy Attorney General Manuel Medeiros argued that the state constitution mandates that superior court judges be elected countywide and municipal court judges be elected districtwide. Article VI, section 16 (b) of the California Constitution states: "Judges of other courts [below the appellate level] shall be elected in their counties or districts at general elections." The state attorney general's office argued that it is unconstitutional to subdivide for election purposes any judicial office which has jurisdiction beyond that subdivided election district. Avila and Phillips requested that the federal court set aside the state constitutional provision as violating the federal Voting Rights Act. The case had been tied up in the federal courts, delaying the planned 1994 elections. Finally, in December of 1994, a U.S. District Court sided with the voting rights challenge and ordered municipal court judicial elections to take place in June 1995 under the proposed sub-districting plan. The court also ordered the county to draft a permanent redistricting plan for future municipal court elections that satisfies both state and federal laws.[30]

A number of other judicial opinions seem to suggest that at-large elections may inherently violate the 1965 Voting Rights Act. Although court challenges have previously been limited to legislative bodies, lawsuits are currently pending or have been recently resolved in at least 10 states challenging at-large election of judicial officers.[31] The results of these lawsuits thus far have been mixed, with lower state and federal appellate courts sometimes upholding the challenges and sometimes rejecting them. While courts have ordered changes in judicial selection procedures in Arkansas, Louisiana, Mississippi and North Carolina, the U.S. Court of Appeals for the Fifth Circuit Court, which initially refused to apply the Voting Rights Act to judicial elections in Texas, also blocked a proposed settlement to reorganize election districts endorsed by the governor, attorney general and Democratic legislators of Texas.[32] In addition, a lower court in Georgia has rejected a Voting Rights Act challenge to judicial elections as politically motivated.[33]

Whatever the eventual outcome of this litigation, problems with redrawing judicial election districts abound. Incumbent judges would be relocated, sometimes in politically-hostile districts. (Arkansas negotiated a political settlement in which incumbent judges could choose to continue as "special judges" for four years without

29. County Counsel Douglas Holland responded that Monterey County has administered three different municipal court consolidations—in 1977, 1979 and 1983—and that the county did request approval for the 1983 consolidation. Although the U.S. attorney general's office failed to reply, Holland asserts that the request for approval sufficiently complies with the Voting Rights Act. *Political Pulse* (May 1, 1992).

30. Jennefer Pittman, *Court Orders Judicial Elections*, San Francisco Daily Journal, Dec. 21, 1994.

31. Shawn Fremstad, *State Judicial Elections and the Voting Rights Act: Defining the Proper Remedial Scheme*, 76 Minnesota Law Review 101 at 102 (1991).

32. Clay Robinson, *Court Rejects Bid to Change Judicial Voting*, Houston Chronicle, August 25, 1993.

33. Mark Curriden, *Around the South, Blacks Take County to Court for Chance to Serve on the Bench*, Atlanta Journal and Constitution, November 16, 1993.

facing election.) It is uncertain who should have the authority to redraw the districts. The Voting Rights Act provides no clear formula for determining the "correct" racial composition of election districts. Aligning Los Angeles County Superior Court districts with supervisorial districts may also overly-politicize the judiciary, granting county supervisors inordinate influence over the selection of judges. While the courts have determined that the appointment of judges is not subject to the Voting Rights Act, they have not determined whether retention elections are covered. It is also unclear whether the judiciary's administrative duties should be subdivided along district lines as well. These and other issues will require much more study before a reasonable plan could be proposed.

2. *Restrict Independent Expenditures in Judicial Campaigns*

Efforts to regulate campaign spending in legislative and judicial races must take into account the Supreme Court's 1976 *Buckley* decision.[34] Under this ruling, mandatory limits on candidates' campaign spending violate the candidates' freedom of speech. Campaign spending can only be capped voluntarily by the candidates—usually in exchange for partial public matching funds. But even public financing schemes cannot be used to curtail independent expenditures, which the U.S. Supreme Court has to date indicated are protected as free speech. As such, independent expenditures have allowed wealthy individuals, corporations, labor unions and other organizations to sidestep contribution and expenditure ceilings and make their own independent expenditures in judicial campaigns for or against candidates without obtaining the consent of the candidates.

Several instances in California and Texas have been documented earlier in this report in which individuals, groups and businesses have launched large independent expenditure campaigns for or against judicial candidates, often with highly effective results in swaying the elections. Other instances include the targeting of Florida's Supreme Court Chief Justice Leander Shaw by anti-abortion groups,[35] a similar attack in Florida two years later by the same groups against new Chief Justice Rosemary Barkett[36] and attacks on Wyoming Supreme Court Justice Walter Urbigkit by tough-on-crime lobby organizations, to name a few.[37] Independent expenditures in judicial elections, more than any other form of campaign spending, allow special interest groups to flex their muscles over the judiciary. Given this danger to the independence of the judicial system from special interest politics, the courts might be persuaded to view judicial candidates as requiring greater immunization from politically-motivated independent spending than legislative candidates. A proposal to cap independent expenditures in judicial campaigns could serve as a successful vehicle to permit the courts to modify their past rulings immunizing all independent spending against regulation. The prospects and desirability of restraining unlimited independent spending in judicial elections should be further explored.

3. *Elimination of Judicial Elections Altogether*

One proposal to correct the problems associated with financing judicial elections is eliminating judicial elections and substituting an appointive system of judicial selection. An appointive system would render the issues of campaign contributions, campaign expenditures and voter information irrelevant. Judges would not have to worry about raising sufficient funds to win an election; they would

34. Buckley v. Valeo, 424 U.S. 1 (1976).

35. Associated Press, *Florida's First Black Chief Justice Targeted*, AP Press Release, July 3, 1990.

36. Terry Carter, *The 'Rose Bird' of Florida Faces Retention Battle*, Los Angeles Daily Journal, November 3, 1992.

37. State Pages, *Wyoming*, USA Today, October 23, 1992.

not be pressured to solicit contributions from lawyers and litigants; large contributors who could otherwise wield disproportionate influence over judicial decisionmaking would not be able to exercise their financial power; and voters would not be called upon to make judicial selections with inadequate information. On the other hand, the appointment process may also have deficiencies. Judicial appointments can be highly politicized decisions in themselves, not infrequently awarded to financial contributors, party activists and supporters of the governor; appointed judges may not feel accountable to community norms and values; and removing appointed judges from office for malfeasance or incompetence may become a problematic process.

For purposes of this study, the Commission has only addressed the objective of reforming the *financing* of judicial elections. The Commission will address the more fundamental issue of judicial elections in a forthcoming Commission publication.

D. Some Potential Reforms Are Impractical or of Questionable Value

Several potential reforms of the judicial elections process that might be considered for *political candidate* elections are not recommended by the Commission for judicial elections. Partial public financing of judicial elections, for example, or the recusal of judges from cases involving large campaign contributors, appear to be impractical for the judiciary. Reforms such as mandatory appearances by judicial candidates in public forums also appear to be of questionable value. These and other reforms are not recommended by the Commission for the reasons discussed below.

1. Public Financing and Expenditure Ceilings for Local Judicial Candidates

In past reports, the Commission has recommended a combination of contribution limits, expenditure ceilings and limited public matching funds for candidates in state legislative elections[38] and many local elections.[39] The Commission has emphasized the critical importance of expenditure ceilings to slow rapid increases in campaign spending. Excessive campaign spending forces candidates to spend too much time on fundraising, squeezes out challengers less able to raise huge campaign warchests and creates incentives for candidates to exchange votes for badly needed contributions in competitive races. Expenditure ceilings help ease the money chase burden on candidates and reduce the problems associated with frenetic fundraising. The Commission has also recommended limited public matching funds, in part to meet the legal conditions of the *Buckley* decision,[40] which requires governments to create incentives (such as matching funds) for candidates to limit their spending voluntarily, and in part to create new sources of funding which are not linked to a contributor's particular legislative agenda.

Partial public financing and expenditure ceilings are generally tied together as a single reform package. In such programs, the voluntary acceptance of expenditure ceilings is encouraged by providing limited public funds to match private contributions for those candidates agreeing to curtail spending; and the distribution of such limited public matching funds to campaigns is only effective in

38. *See*, California Commission on Campaign Financing, The New Gold Rush: Financing California's Legislative Campaigns (1985).

39. *See*, California Commission on Campaign Financing, Money and Politics in the Golden State: Financing California's Local Elections (1989).

40. Buckley v. Valeo, 424 U.S. 1 (1976).

reducing the influence of private contributions when there are reasonable limits on overall campaign expenditures.

Although partial public financing and expenditure ceilings clearly provide the most effective means to regulate campaign money in politics, they offer an problematic solution in local judicial elections. Partial public financing has not been accepted in judicial elections held in other states, because the community does not appear willing to shoulder the costs. While some states are willing to finance partial public financing programs in legislative elections, they have not given judicial elections the same priority. Even in Wisconsin, which sought to provide public financing for supreme court races, the taxpayers were not willing to pay for it (*see* discussion in Chapter 4, Section B, "Those Reforms Which Have Been Tried Have Generally Met with Little Success"). Particularly in jurisdictions with large court districts, such as Los Angeles, a public funding program adequate to reform judicial campaigns at *all* trial court levels (and perhaps also at appellate and supreme court levels as well) might be too costly to be politically acceptable.

Even though voters are distressed by the lack of information disseminated in judicial campaigns, it does not appear that the public sees partial public financing to be as necessary for judicial campaigns as for legislative races. Voters have repeatedly expressed concerns that politicians are "bought off" by special interest dollars and campaign contributions, and that politicians are "unconcerned" about the well-being of the general public.[41] By a margin of two-to-one, Californians believe that "most state legislators are for sale to their largest campaign contributors."[42] By even a larger margin, Californians agree with the statement that the legislature and governor are run for a few special interest groups rather than "for the benefit of all the people."[43] But no public opinion poll has found comparably negative impressions among the public of members of the judiciary.

To be sure, public confidence in the court system has fallen. A 1992 survey by the California Judicial Council found 52% of Californians had a "poor" or "only fair" opinion of the judicial system. Nevertheless, the same survey also found that Californians view the court system significantly more favorably than the governor's office, the legislature and the news media.[44] As a result, while the public does see a problem with the integrity of judges, the problem has not been perceived as sufficiently great to make practicable the same public financing programs as have been recommended by the Commission for the state legislature.

The new campaign finance reforms for judicial elections in Texas offer an interesting alternative to public financing. Known as "variable contribution limits," the scheme involves raising (or, in Texas, eliminating) the contribution limits for candidates who accept expenditure ceilings—thus providing an incentive for candidates to curb campaign spending voluntarily.

Nevertheless, campaign spending in local judicial elections in California usually is not exorbitant. In fact, the greater problem is providing voters with sufficient information about judicial candidates. Spending ceilings may be appropriate for high level judicial races but not for judicial contests in Los Angeles County.

41. *See*, for example, Center for a New Democracy Poll, December 1992; Los Angeles Times Poll, May 1992; Common Cause Poll, December 1992.

42. Los Angeles Times, poll, January 1990.

43. *Id.*

44. Philip Hager, *Confidence in Court System Dips*, Los Angeles Times, December 11, 1992.

2. *Mandatory Recusal and Disclosure for Major Contributors*

Some opponents of contribution limits and partial public financing argue that a less drastic alternative to capping contributions is simply requiring judges to recuse themselves from cases involving large contributors. Under this proposal a contributor could give, and a judicial candidate could receive, a contribution of any size. However, if the contribution exceeded $500, for example, the judge would be required to be recused if the contributor appeared in the judge's court as an attorney or litigant.

This proposal has immediate appeal, but it is difficult to implement. Judges would have to maintain and update complete lists of contributors and keep them constantly on hand in the courtroom. The judge, lawyers and litigants would have to monitor and compare that list to every docketed case. Cases would likely be bounced from one courtroom to the next. Such a system of "musical courts" could not work in small rural counties with few judges, and it might be exceedingly disruptive in large counties with numerous contributors.

The dangers of large contributions, moreover, arguably do not stop with individual major contributors. Contributions from representatives of law firms might also have to be included—thereby disqualifying a lawyer belonging to a law firm whenever the judge received a contribution from that firm or from another attorney in that lawyer's firm. Additional problems would arise involving contributions from spouses of attorneys or litigants or from corporations (where the litigant was an employee of that corporation) or PACs.

Disqualification and recusal of judges could be implemented, of course, but it is far more sensible to impose a reasonable across-the-board contribution limit. Contribution limits are easier to monitor and enforce and, if set at $500 as the Commission recommends, would accomplish much the same objective as mandated recusal. Limiting contributions to the $500 level would have some impact on the ability of judicial candidates to raise funds with which to campaign, but the Commission believes its recommendation offering judicial candidates free access to the voter's pamphlet will more than compensate (*see* this chapter, Section B, "Limit Contributions to Judicial Candidates").

3. *Bar Association Trust Funds for Judicial Candidates*

Several local bar associations in California and other states have also attempted to break the connection between direct lawyer contributions and judicial candidates by establishing a judicial trust fund (*see* Chapter 4, Section B, "Those Reforms Which Have Been Tried Have Generally Met with Little Success"). Lawyers contribute to the fund and pledge not to contribute to any judicial candidate directly. The monies are then distributed "anonymously" from the fund to judicial candidates. Trust funds can function much as public funds and be given to candidates on the condition that they voluntarily limit their spending.

Bar association trust funds have encountered both constitutional and administrative problems. Throughout the country, judicial trust funds have been deemed by the courts to be single entities which are subject to state and local contribution limits. They have thus been prohibited from providing judicial candidates with more than a moderately small amount of funds (e.g., $500). Such legal interpretations, however, could be overturned by statutorily exempting trust funds from contribution limits and by modifying IRS regulations.

The greatest problem with judicial trust funds is that they have not been able to raise sufficient monies to accomplish their objectives. Lawyers are apparently less willing to contribute to judicial candidates if their contributions are made anonymously through a trust fund. Trust funds are further limited in their ability to

regulate the financing of judicial elections because they have no authority to restrict campaign contributions from nonlawyers and other potential litigants, leaving a large loophole in restrictions on contributions and expenditures. For all of these reasons, the Commission doubts the wisdom of this reform measure.

4. Mandatory Participation in Limited Public Forums

Another proposal to enhance voter information that is not recommended by the Commission is the requirement that judicial candidates participate in public forums as an additional condition for free inclusion of a statement in the voter's pamphlet. Such a forum might consist of candidate presentations followed by a public question and answer period. Forums might be held at different public locations within the judicial district. To maximize exposure, the press could be invited to attend and to participate in the question and answer period. The county or city could require in their cable television franchises that the proceedings be aired on local cable television, and that the forums be taped and made available for radio broadcast.

Although this idea of limited public forums for judicial candidates has some appeal, there is no evidence that such forums would be well received by the community or that the press would be at all interested in covering them. Because judicial candidates are restrained from discussing certain topics or commenting on their opponents, these forums may not stimulate much interest or publicity.

On the other hand, if candidates were allowed to use these public presentations to criticize their opponents and express their views on controversial political issues, public forums might unnecessarily trivialize the issues and politicize the judicial selection process. Heated face-to-face confrontations between judicial candidates in public debates and on television—as opposed to moderated comparisons of judicial qualifications through the voter's pamphlet—could be used by less scrupulous candidates to tarnish an incumbent's record or unfairly criticize an opponent's personal lifestyle or political views. This is not an uncommon abuse, even in the limited public forums sponsored today. In one public forum for Solano County Superior Court, challenger Harry Kinnicutt did exactly that against his opponent, Judge Dennis Bunting. Kinnicutt attacked Bunting's handling of a three-year old juvenile criminal case—a case Bunting could not legally discuss. A local reporter blasted Kinnicutt for abusing the forum: "Kinnicutt's ill-advised attack all but excluded himself from serious consideration for the job he so rabidly seeks by proving at the start that he lacks impartiality. It's a good pointer for all you kids out there who want to be on the ballot someday: Don't campaign like this."[45] Despite the reporter's admonishment, Kinnicutt won the election with 27,239 votes to Bunting's 20,837 votes.

Since it is unlikely that public forums will be effective in educating large numbers of voters, and because these forums could be used to politicize judicial selection unnecessarily, the Commission does not recommend requiring judicial candidates to participate in such public debates as a condition for free access to the voter's pamphlet.

E. Implementation of the Commission's Recommendations May Require Cooperation Between the State Legislature and the Board of Supervisors

The Commission's comprehensive set of proposed reforms for the financing and conduct of judicial elections focuses on *local* trial court elections, particularly

45. Dan Reichl, *Where's the Campaign?* Vacaville Reporter, May 15, 1994.

within Los Angeles County. The structure of the trial court system in California—as well as that of the appellate courts—is primarily the responsibility of the state legislature.

Article VI section 1, of the California Constitution vests the judicial power of the state with a supreme court, district courts of appeal, superior courts, and municipal courts. Although the judiciary constitutes a separate and distinct department of the government solely vested with judicial power, it is the responsibility of the state legislature to establish a court system consistent with the constitutional mandate. The legislature determines the number of judges for all courts except the supreme court, provides for judicial officers and employees, draws judicial districts, sets judicial salaries and allocates a budget for the court system.

The legislature is responsible for determining all aspects of the court system not specifically described in the state constitution, including the structure of superior and municipal courts. The constitution, for example, specifies that a superior court of one or more judges is to be established within the boundaries of each county in the state.[46] But all other details about superior court organization and structure are to be decided by the legislature. The same is true for municipal courts.[47] The constitution specifies that the legislature shall prescribe the number, jurisdiction, qualifications and compensation for municipal courts.[48]

Judicial precedent has historically recognized superior and municipal courts and judges as agents of the state, not of the counties or municipalities. In *Nicholl v. Koster*, the court confirmed prior rulings when it said: "The superior court is one of the courts of the state and the judge of that court may perhaps be classed as a person charged with the exercise of powers belonging to the judicial department of the state."[49] The same claim was reiterated in *Sacramento and San Joaquin Drainage District v. Superior Court*: "[T]he superior courts of the state of California, while located and functioning in the several counties of the state, are not local or county courts, but constitute a system of state courts, being vested with and exercising the judicial power of the state under the express terms of section 1, article VI of the state constitution."[50] In yet another ruling, the court said: "Superior courts are a part of the judicial system of the state. Their process operates beyond the confines of the particular county in which the judges may have been elected, and the judges are

46. Cal. Const., art. VI, §4. "In each county there is a superior court of one or more judges. The Legislature shall prescribe the number of judges and provide for the officers and employees of each superior court. If the governing body of each affected county concurs, the Legislature may provide that one or more judges serve more than one superior court."

47. Cal. Const., art. VI, §5.

48. *Id.* Prior to the 1966 amendments, the constitution was more specific on the legislature's paramount role in determining judicial selection procedures, within the constraints of constitutionally-mandated judicial elections. For example, prior to 1966, article VI, section 11 of the California Constitution unequivocally stated: "The Legislature shall provide by general law for the regulation, government, procedure and jurisdiction of municipal courts and of justice courts, and shall fix by law the powers, duties and responsibilities of such courts and of the judges thereof." By implication, similar legislative authority could have been assumed over the constitution and regulation of superior court systems.

    In 1966, a revision of the constitution streamlined the language of these provisions, omitting specific references to the legislature's authority to determine the regulation and government of the trial court systems. However, there is no indication whatsoever that the revision commission or the voters intended to change these responsibilities. No discussion of such an intent can be found in the revision commission minutes or the ballot pamphlet statements, and the constitution says nothing about relegating these powers to any other governmental body.

49. Nicholl v. Koster, 157 Cal. 416, at 423 (1910).

50. Sacramento and San Joaquin Drainage District v. Superior Court, 196 Cal. 414, at 432 (1925).

authorized in particular contingencies to sit in any county of the state, interchangeably."[51]

Similarly, judicial precedence establishes municipal courts as state rather than local affairs. In *People v. Barnhart,* the court ruled: "While the duties of a city prosecutor, in so far as violations of his city charter and ordinances are concerned, may be said to be a municipal affair, the procedure in, and jurisdiction of the municipal courts are by express constitutional provision, as we have noted above, matters of state rather than municipal concern."[52] This perspective was repeated in *Chambers v. Terry*: "It is still our view that the Constitution of municipal courts from every viewpoint, except only that of the bare question whether they shall exist at all or not in given localities, is a state, rather than municipal affair."[53]

The legislature has been willing to divest some of its authority for regulating the court system to the counties. State law, for example, grants the board of supervisors of counties with populations in excess of 4 million residents authority to divide the county into not more than 12 superior court districts without legislative approval.[54] Similarly, boards of supervisors are charged with drawing municipal court districts for the purpose of electing judges efficiently and in a manner consistent with constitutional mandates.[55] County boards of supervisors are also granted an advisory capacity to the state legislature when deciding the number of judges in the trial court system.

While the state legislature is charged with establishing the state's judiciary, the legislature has vested the courts themselves with authority over internal administration of the court system. Most decisions regarding the internal administration of the courts, such as selecting an executive officer or establishing rules of procedure, are made by the judges themselves or by the Judicial Council.[56] Similarly, the California Judges Association and the California Bar Association have been established to promulgate rules of ethics and proper campaign conduct within the constraints of state law. Excessive state legislative interference in the internal operations of the court system would violate the separation of powers doctrine.[57]

Given the precedence of state authority over the trial courts in Los Angeles County, the Commission proposes two alternative approaches to implementing its reform package. One approach, the statutory language of which is offered in Appendix B, is a straightforward set of statutory mandates by the state legislature dictating the reform program for Los Angeles County and state professional associations. This state-mandate approach enjoys the benefits of simplicity in drafting and implementation, laying all responsibility upon one source—the state legislature. An alternative approach, the statutory language and model ordinance of which is offered in Appendix C, calls for legislative authorization for the board of supervisors to draft and implement the reform program within reasonable constraints. Although this latter approach requires considerable cooperation between state and local agencies, its chief benefit is the preservation of some local autonomy in the handling and conduct of trial court elections.

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51. Noel v. Lewis, 35 Cal.App. 658, at 662 (1917).
52. People v. Barnhart, 37 Cal.App. 2d Supp. 748, at 752 (1944).
53. Chambers v. Terry, 40 Cal.App. 2d 153, at 158 (1940).
54. Cal. Gov't. Code §69641 (West Supp. 1994).
55. Cal. Gov't. Code §71040 (West 1976).
56. Cal. Gov't. Code §68070 (West Supp. 1994).
57. *See*, for example, discussion in Johnson v. Superior Court, 50 Cal. 2d 693 (1958).

1. Version A: State Mandates

None of the recommendations offered by the Commission require changes in the state constitution. However, statutes will have to be modified either to impose a regulatory framework on counties or to authorize counties to adopt such a framework. In this first approach to implementing the reforms, the Commission recommends specific statutory changes to place limits on campaign contributions and loans, to restrict the fundraising period for candidates, and to increase the flow of communication between candidates and voters.

a. Regulation of Money in Judicial Elections

The state legislature retains final authority to set limits on campaign contributions and loans and to restrict the fundraising period in judicial elections. It is certainly within the realm of the state bar association and the California Judges Association to regulate campaign money to judicial candidates and sitting judges, respectively, long as such regulations do not contradict state law. Neither professional association, however, has shown any inclination to place financial limits on the campaigns of their own members by including them in an ethical code. The California State Bar Association rejected the idea of restricting campaign finances, while the California Judges Association has never considered such limits.[58] It is apparent that legislative action will be required to impose ceilings on campaign contributions and campaign loans and to restrict fundraising periods.

Specifically, the legislature should amend state statutes to impose a $500 contribution limit on trial court judicial candidates and a $25,000 limit on loans from candidates and the candidates' families at any one time. It would be appropriate at this time for the legislature to set such limits on trial court elections only in counties with a population in excess of 4 million. This would effectively limit the campaign finance regulatory program to Los Angeles County.

In addition, the legislature should statutorily define a legitimate fundraising timetable for judicial candidates. The state legislature has the power to regulate fundraising activities for judicial candidates, while the professional associations are free to choose such restrictions within the confines of state law. The professional associations may not be as reluctant to restrict the fundraising period for judicial candidates as they are to limit contributions and loans. Neither the California State Bar Association nor the California Judges Association has gone on record for or against such a restriction. The fact that their ethical codes of conduct have neglected to address the issue, however, suggests a hesitancy by these organizations to curtail money in judicial elections. The legitimate period should be limited to five months preceding the primary election and be extended, if necessary, to end December 31 after the general election.

b. Liberalization of Dialogue Between Candidates and Voters

According to state law, the statements of judicial candidates in the local voter's pamphlet must discuss only the qualifications of the submitting candidate and cannot cite party affiliations[59] or make any references to the candidate's opponents.[60] The Commission has concluded that the information about judicial candidates contained in today's voter's pamphlets is generally void of substantive content and contributes little to the public dialogue over the merits of the candidates. The law should be amended to allow candidates somewhat greater freedom to discuss meaningful issues (as long as such discussion does not appear to commit the

58. Paul Feldman, *Proposed Lid on Judicial Campaign Gifts Attacked,* Los Angeles Times, June 6, 1985.

59. Cal. Elec. Code §10012 (West Supp. 1994)

60. Cal. Elec. Code §10012.1 (West Supp. 1994).

candidates on cases that are likely to come before the court), to compare one's own credentials with those of other candidates, and to indicate their self-declared party affiliations. All candidates should also be given a timely opportunity to challenge misleading or inaccurate statements made by other candidates through an expedited review process. These statutory changes would provide voters with the kind of useful information they require in making an intelligent electoral decision.

Similarly, the ethical codes of conduct of the California Bar Association and the California Judges Association tend to discourage dialogue between candidates that many voters may find useful. Ethical codes promulgated by California's professional legal associations discourage judicial candidates from discussing controversial political issues that may indicate bias and limit public discussions to one's own professional qualifications.

The Commission believes a moderate change in California's ethical codes would facilitate voter information in judicial elections. Since these ethical codes must conform to state law, such changes liberalizing the dialogue between candidates may be achieved statutorily by inserting a limited restriction on speech in the Elections Code as follows: "Judicial candidates shall refrain from making any comments that would commit, or appear to commit, the candidate on cases likely to appear before the court. A judicial candidate may with propriety compare his or her qualifications with an opponent or opponents for judicial office, but any comparisons must be made in accordance with preserving the integrity of the judiciary and remain within the boundaries of truth. Judges and judicial candidates should emphasize in any public statement their duty to uphold the law regardless of his or her personal views."

c. Conditional Free Access to the Voter's Pamphlet

State law permits counties to decide whether to charge candidates for inclusion of statements in the voter's pamphlet, and local agencies are relatively free in choosing the design and appearance of the pamphlet. Without any further statutory authority, local governments may offer candidates free access to the voter's pamphlet. Most counties such as Los Angeles, however, decline to do so. In fact, Los Angeles County charges judicial candidates the full cost of producing and printing candidate statements in the local voter's pamphlet—a cost that can be enormous and out of reach for many candidates.

The Commission recommends that the state legislature require counties with populations in excess of 4 million to provide all qualified candidates for trial court judgeships with free access to the pamphlet. This access should be conditioned upon the candidate's agreement not to pay for or seek endorsement in a slate mailer.

Neither state nor local governments can prohibit slate mailers from endorsing candidates. However, governments possess the constitutional authority to negotiate contractual agreements in which candidates are offered some form of government assistance—such as partial public funds or free access to the voter's pamphlet—in exchange for a voluntary pledge by the candidate to conform to specified campaign behavior. In this instance, candidates must pledge not to seek or pay for endorsement in a slate mailer in order to receive free access to the ballot pamphlet. Candidates who refuse the contractual agreement may purchase a statement in the voter's pamphlet at full cost.

d. Redesign of the Voter's Pamphlet

State law merely requires that candidate statements in the local voter's pamphlet "shall be printed in type of uniform size and darkness, and with uniform

spacing."[61] There is no provision for a statement/rebuttal type of format. Los Angeles County's voter's pamphlet presents election information about judicial candidates in a very bland format, if at all. The Commission recommends that the state require the county's voter pamphlet to bolster itself with additional election information through a format more open to dialogue between candidates, such as the statement/rebuttal format, and for the county clerk's office to improve the design and readability of the pamphlet.

2. *Version B: State/Local Cooperation*

An alternative to a state-mandated approach of implementing the Commission's reform package would be for the state to authorize, but not necessarily require, local legislative action. Such an approach would grant local officials a certain amount of autonomy in regulating judicial campaign financing and offer the professional associations some flexibility in adjusting ethical standards. However, this alternative will also add some complexity and confusion in attempting to implement the reform program and so may not necessarily offer the most desirable approach.

Some of the reforms proposed by the Commission could be enacted unilaterally by the Los Angeles County Board of Supervisors. Counties, for example, could opt to provide free access to the voter's pamphlet for all judicial candidates. According to existing state law, counties decide whether to charge a fee or provide free access to the voter's pamphlet for judicial candidates. However, in order to achieve the dual objectives of enhancing election information available to the public *without* aggravating the negative role of money in judicial elections—both of which must be met for any productive reform of judicial elections—the Commission strongly recommends that its reform proposals not be pursued on a piecemeal basis. The Commission's reform proposals should be considered a comprehensive package. Under the state/local cooperative approach, a joint and carefully coordinated effort of the state legislature, state professional associations and the county board of supervisors would be necessary to address the problems of financing judicial elections in Los Angeles County. The Commission is doubtful whether this coordination can be accomplished.

The state legislature could grant the boards of supervisors of counties with populations in excess of 4 million the authority to regulate the financing practices of campaigns for judgeships of superior and municipal courts. While the legislature could impose liberalized standards of campaign conduct on the state professional associations, the associations themselves appear to be easing their restrictions on campaign speech and might be willing to continue doing so. The California State Bar Association has one of the least restrictive codes of campaign conduct, and the most recent American Bar Association model code has recommended greater flexibility in campaign regulations. The board of supervisors would then be responsible for limiting campaign contributions and loans, providing free access to the voter's pamphlet, redesigning the pamphlet and sponsoring alternative means of disseminating election information—all necessary components of the Commission's reform package.

a. Statutory Authorization and Amendments

Most of the Commission's proposals do not contradict existing state laws. In order to implement the comprehensive reform package, however, Los Angeles County would have to be vested by the state legislature with the authority to impose limits on campaign contributions and loans in judicial elections, to restrict the

61. Cal. Elec. Code §10012 (West Supp 1994).

fundraising period for judicial candidates, and to liberalize dialogue between judicial candidates in the official voter's pamphlet.

The state legislature currently retains final authority to set limits on campaign contributions and campaign loans to judicial candidates of superior and municipal courts. It would be necessary for the state legislature to endow the boards of supervisors of large counties, Los Angeles County in particular, with the statutory authority to set limits on contributions and loans to judicial campaigns. It would then be the responsibility of the board to enact a $500 contribution limit for trial court judicial candidates and a $25,000 limit on loans from candidates and the candidates' families. In order to maintain its oversight function of the court system, the legislature could choose to add the caveat that any campaign finance restrictions adopted by the board of supervisors are subject to the consent of the legislature.

Similarly, Los Angeles County currently has no constitutional or statutory authority to restrict the fundraising period for judicial candidates. The state legislature would have to empower the county board of supervisors with the responsibility to set reasonable restrictions on the time schedule for raising campaign funds.

The Commission recommends that boards of supervisors in counties with a population in excess of 4 million (only Los Angeles County) be vested statutory authority to set a timetable for legitimate campaign fundraising in trial court judicial elections. The legitimate fundraising period should be limited to five months preceding the primary election and be extended, if necessary, to end December 31 after the general election. Restrictions on the fundraising period properly goes hand-in-hand with a campaign finance ordinance limiting the size of contributions and loans.

Finally, state law would have to be amended to allow judicial candidates a greater degree of freedom of speech in the voter's pamphlet. Currently, candidates are prohibited from comparing their own qualifications and stands on issues with their opponents. Judicial candidates are also prohibited from discussing party affiliation. The state legislature should modify these laws to allow candidate comparisons, statement/rebuttal sections, and more election information to reach voters.

b. Changes in Professional Ethical Codes

One proposal by the Commission could best be enacted through non-legislative means. The California State Bar Association and the California Judges Association enforce codes of ethical conduct, which include appropriate behavior in the course of campaigning for judicial office. Moderate changes in these codes by the professional associations themselves would be conducive to improving voter information.

Although the California Bar Association has dropped the ABA's stringent "model" formula of prohibiting most political discussions altogether, judicial candidates are still presumably restrained from drawing comparisons with other candidates. In the "real" world of campaigns, however, more and more judicial candidates are realizing that such restraints on free speech are impractical. In what has been called the "new style" of judicial campaigns, candidates are more readily expressing their views on controversial political issues and comparing their own records against others. At a public forum of four candidates for Santa Cruz superior court, for example, the candidates unanimously spoke out against the "Three Strikes and Your Out" bill and several of the candidates offered themselves as "alternatives to Governor Pete Wilson appointees."[62] Even the American Bar

62. Jindati Doelter, *Judicial Candidates Don't Like Three-Strikes*, Felton Valley Press, May 18, 1994.

Association is considering revising its model code to delete the prohibition on discussing "disputed legal and political issues" and replacing it with a more limited prohibition on discussing pending cases.[63] The Commission encourages comparable changes in California.

c. Changes in County Ordinances

If the state legislature should decide to vest the county board of supervisors with authority to regulate the campaign financing of local judicial elections, the board could—as discussed above—institute limits on contributions and loans, establish a timetable for legitimate fundraising and exercise greater flexibility in the content of the local voter's pamphlet. State law permits counties to decide whether to charge for inclusion in the pamphlet and local agencies are relatively free in choosing the design and appearance of the voter's pamphlet. Without any further statutory authority, local governments could offer free access to the voter's pamphlet and make it conditional upon some community benefit, such as contractual agreement with the candidates not to seek or pay for endorsement by a slate mailer. The Commission further recommends that the board of supervisors change the voter's pamphlet to enhance the presentation of election information. This should include both restructuring the pamphlet to offer voters more information, such as provided by a statement/rebuttal section, and improving the design and readability of the pamphlet.

F. Conclusion: The Integrity of the Electoral Process Should Be Improved by Restricting Campaign Contributions and by Providing Voters with More Information at No Cost to Candidates

Judicial elections in Los Angeles County are plagued by over-reliance on contributions from attorneys and litigants and by inadequate voter information. In seeking to address these problems, reform programs must be carefully crafted. The Commission believes its proposed reform package treads carefully between the often conflicting goals of enhancing the viability of judicial elections without subjecting them or judicial decisions to the pressures of political money.

Assuming that California will continue to elect its trial court judges, a reform program of moderate restrictions on the flow of campaign dollars and the provision of more election information to voters are both essential for preserving the integrity of judicial elections. These objectives can be reached through mechanisms that enhance the dissemination of fair and impartial election information while simultaneously reducing the reliance of judicial candidates on large contributions and heavy indebtedness. Critical elements of this reform program include limiting contributions from individuals and corporations to $500; restricting levels of candidate indebtedness and off-year fundraising; providing free access by candidates to a redesigned voter's pamphlet; and discouraging candidates from participating in slate mailers.

63. Patrick McFadden, Electing Justice: The Law and Ethics of Judicial Election Campaigns 88 (1990).

APPENDIX A

Summary Checklist: Commission Recommendations to Reform the Financing of Judicial Campaigns in the Los Angeles Area

The following is a Summary Checklist of the Commission's recommendations to reform the financing of judicial campaigns for superior and municipal court judgeships in the county and cities of Los Angeles. A complete understanding of the recommendations requires a careful reading of the chapter of this report in which they appear. Statutory language to implement these recommendations appears in Appendices B and C.

1. **Limit Contributions to $500**

   - Limit contributions to a judicial candidate from any person, including corporations, labor unions and PACs, to $500 per election.

2. **Provide Conditional Free Access to the Voter's Pamphlet**

   - Give all qualified judicial candidates the option to print a free campaign statement in the local voter's pamphlet, under the specific condition described in Recommendation 3 below.

3. **Ban Participation in Slate Mailers for Candidates Printing Free Ballot Pamphlet Statements**

   - In return for a free statement in the voter's pamphlet, candidates agree not to solicit, or pay for, the inclusion of their names in any slate mailer.
   - Allow candidates who decline this condition to purchase a comparable campaign statement in the voter's pamphlet at the cost of printing, handling and mailing the statement.

4. **Improve Financial Disclosures on Slater Mailers**

   - Require slate mailers to disclose more accurately the identities of the entity or candidates financing the mailer.

5. **Ease Restrictions Against Speech by Judicial Candidates**

   - Allow judicial candidates to compare their qualifications in

both the voter's pamphlet and in public discussions in a manner that is consistent with the integrity of the judicial system.

6. Redesign the Voter's Pamphlet

- Enhance the information about judicial candidates in the voter's pamphlet by providing candidates with the opportunity to file statements and rebuttals.
- Improve the readability and design of the voter's pamphlet.

7. Enhance Information Made Available in the Voter's Pamphlet

- Allow candidates to place more information in the voter's pamphlet. and in the section on candidate statements, and include candidate rebuttals and dialogue.

8. Limit Candidate Loans to an Aggregate of $25,000

- Prevent candidate and his or her family from lending the campaign more than an aggregate of $25,000 at any given time.

9. Limit the Fundraising Period

- Limit fundraising by judicial candidates to a period of five months preceding the primary election, and extend it, if necessary, through the general election.
- Require the fundraising period to end June 30 in the event there is no runoff election, and to end December 31 for the general election.

10. Develop an "Electronic Voter's Pamphlet"

- Disseminate judicial and other election information more widely through cable television, world wide web sites and other new media on the emerging "information super highway."

APPENDIX B

Text of Proposed Statutory Language and Model Law for Los Angeles County: State Mandates

In this report, the Commission has proposed a number of recommendations to improve the financing of judicial elections at the trial court level in Los Angeles County. Since the superior and municipal justice courts in California are classified as agents of the state, many of the reform proposals will require state legislative action. Two different versions of a model law are offered. The version offered here provides a simplified course of legislative action in which the state statutorily adopts the reforms and mandates their compliance by Los Angeles County. A second version attempts to preserve greater local autonomy by having the state authorize counties to adopt limited reform proposals if so desired. The latter version requires far more cooperation between state and local agencies as well as the California Judges Association and the California State Bar. Under both models, no constitutional changes are required.

Statutory Amendments

1. Establish Special Regulatory Framework for Trial Court Judicial Elections in Los Angeles County

Section 85400 shall be added to the Government Code:

(a) A county which has a population of not less than 4,000,000, as determined on the basis of the last preceding census taken under authority of the Congress of the Legislature, shall conduct its elections for judgeships of superior and municipal in the manner specified in this Section.

(b) No person shall make to any candidate and the controlled committee of such candidate for judgeship of superior or municipal court, and no candidate or candidate's controlled committee shall solicit or accept from any such person, contribution or contributions totaling more than $500 per election.

(c) No candidate and the controlled committee of such candidate for judgeship of superior or municipal court shall lend his or her campaign more than $25,000 at any one time.

(d) No candidate and the controlled committee of such candidate campaigning for judgeship of superior or municipal court shall solicit or accept a contribution earlier than five months preceding the primary election for the office being sought or later than December 31 immediately following the general election.

(e) In the event there is no run-off election following the primary, no candidate and the controlled committee of such candidate campaigning for judgeship of superior or municipal court shall solicit or accept a contribution later than June 30 immediately following the primary election.

(f) No candidate and controlled committee of such candidate campaigning in a special election for judgeship of superior or municipal shall solicit or accept a campaign contribution earlier than the date of vacancy of office being sought or later than 60 days immediately following the special election.

2. Ease Restrictions on Speech in the Voter's Pamphlet and Redesign the Voter's Pamphlet

Section 10012 of the Elections Code shall be amended to read:

(a) Each candidate for nonpartisan elective office in any local agency, including any city, county, city and county or district, other than a candidate for judicial office in a county which has a population of not less than 4,000,000, may prepare a candidate's statement on an appropriate form provided by the clerk. The statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words, of the candidate's education and qualifications expressed by the candidate himself or herself. However, the governing body of the local agency may authorize an increase in the limitation on words from 200 to 400 words. The statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations. *[The last four sentences of subsection (a) and all of subsections (b)(d)(e)(f)—but not subsection (c)—are retained but omitted here for space.]*

Section 10012.1 of the Elections Code shall be amended to read:

~~In addition to the restrictions set forth in Section 10012, any candidate's statement submitted pursuant to Section 10012 by a candidate for judicial office shall be limited to a recitation of the candidate's own personal background and qualifications and shall not in any way make reference to other candidates for judicial office or to another candidate's qualifications, character, or activities.~~ (a) Each candidate for nonpartisan judicial office in a county which has a population of not less than 4,000,000 may prepare a candidate's statement on an appropriate form provided by the clerk to be included in the voter's pamphlet. The statement may include the name, age and occupation of the candidate and a brief description, of no more than 200 words, of the candidate's qualifications, philosophy and, if so desired, self-declared party affiliation expressed by the candidate himself or herself. However, the governing body of the local agency may authorize an increase in the limitation on words from 200 to 400 words.

(b) The office of the registrar-county clerk provided for in this Section shall, in the course of preparation of the sample ballot and voter's pamphlet, within five days of receipt of judicial candidate statements, send copies of the statements to all qualified candidates for the same office.

Candidates may prepare and submit rebuttal arguments not exceeding 100 words in a timely manner as determined by the clerk.

(c) Pursuant to Canon 5(B) of the California Code of Judicial Conduct, rebuttal arguments must not address cases likely to appear before the court and must remain within the boundaries of the truth. Judicial candidates shall refrain from making any comments in the statement or rebuttal that would commit, or appear to commit, the candidate on cases likely to appear before the court. A judicial candidate may with propriety compare his or her qualifications with an opponent or opponents for judicial office, but any comparisons must be made in accordance to preserving the integrity of the judiciary and remain within the boundaries of truth. Judges and judicial candidates should emphasize in any public statement their duty to uphold the law regardless of personal views. Rebuttal arguments shall be printed in the same manner as the candidate statements. Each rebuttal argument shall immediately follow the candidate's own statement of candidacy.

(d) The clerk shall not cause to be printed or circulated any statement or rebuttal which the clerk determines is not so limited or which includes any inappropriate references.

(e) The office of registrar-county clerk shall make every reasonable effort to design the voter's pamphlet in an easily readable and informative fashion.

3. Provide Conditional Free Access to the Voter's Pamphlet

Section 10012 (c) of the Elections Code shall be amended to read:

(c) The local agency may estimate the total cost of printing, handling, translating, and mailing the candidate's statements filed pursuant to this section, including costs incurred as a result of complying with the Voting Rights Act of 1965, as amended, and may require each candidate filing a statement, with certain exemptions specified below, to pay in advance to the local agency his or her estimated pro rata share as a condition of having his or her statement included in the voter's pamphlet.

(i) Qualified candidates for judgeship of superior court or municipal court shall be provided, at no charge to the candidate, with an opportunity to place an official statement by that candidate and a rebuttal or rebuttals to opposing candidates' statements in the voter's pamphlet on the condition that the candidate pledges neither to seek, nor pay for, endorsement or inclusion in any slate mailer. Candidates for such judicial offices who decline the pledge neither to seek, nor pay for, endorsement or inclusion in any slate mailer may purchase the official statement of candidacy and rebuttal in the voter's pamphlet at the full cost of printing, handling, translating and mailing the statement and rebuttal.

(ii) Violation of such pledge neither to seek, nor pay for, endorsement or inclusion in any slate mailer by the candidate or the candidate's controlled committee shall terminate the contractual arrangement between the county and the candidate, and the candidate shall be held liable for the full cost of printing, handling, translating and mailing the statement and rebuttal pursuant to this section.

(iii) In the event the estimated payment is required, the receipt for the payment shall include a written notice that the estimate is just an approximating of the actual cost that varies from one election to another and may be significantly more or less than the estimate, depending on the actual number of candidates filing statements. Accordingly, the clerk is not bound by the estimate and may, on a pro rata basis, bill the candidate for additional actual expense or refund any excess paid depending on the final actual cost. In the event of underpayment, the clerk may require the candidate to pay the balance of the cost incurred. In the event of overpayment, the clerk shall prorate the excess amount among the candidates and refund the excess amount paid within 30 days of the election.

APPENDIX C

Text of Proposed Statutory Language and Model Ordinance for Los Angeles County

In this report, the Commission has proposed a number of recommendations which it believes should be made to improve the financing of judicial elections at the trial court level in Los Angeles County. In contrast to Appendix B, which offers a state-mandated approach to these reforms, the approach offered in Appendix C provides for state authorization for local government action. Once the statutory framework for reform is provided, then the county board of supervisors can implement the program in cooperation with the California Judges Association and the California State Bar.

Statutory Amendments

1. Statutory Authorization for Judicial Campaign Finance Regulations

Section 69650 shall be added to the Government Code:

(a) The board of supervisors of any county which has a population of not less than 4,000,000, as determined upon the basis of the last preceding census taken under authority of the Congress or the Legislature, by ordinance may impose reasonable regulations in accordance with provisions of this article on the financing of campaigns for candidates of superior court and municipal court within the county.

(b) Such regulations shall be restricted to limitations on campaign contributions, campaign loans and the time period for raising campaign funds.

2. Ease Restrictions on Speech in the Voter's Pamphlet

Section 10012 of the Elections Code shall be amended to read:

(a) Each candidate for nonpartisan elective office other than judicial office in any local agency, including any city, county, city and county or district, may prepare a candidate's statement on an appropriate form provided by the clerk. The statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words, of the candidate's education and qualifications expressed by the candidate himself or herself. However, the governing body of the local agency may authorize an increase in the limitation on words from 200 to 400 words. The statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations. *[The last four sentences of subsection (a) and all of subsections (b)(c)(d)(e)(f) retained but omitted here for reasons of space.]*

Section 10012.1 of the Elections Code shall be amended to read:

~~In addition to the restrictions set forth in Section 10012, any candidate's statement submitted pursuant to Section 10012 by a candidate for judicial office shall be limited to a recitation of the candidate's own personal background and~~

~~qualifications and shall not in any way make reference to other candidates for judicial office or to another candidate's qualifications, character, or activities.~~ Each candidate for nonpartisan judicial office may prepare a candidate's statement on an appropriate form provided by the clerk in any local agency. The statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words, of the candidate's qualifications, philosophy and, if so desired, self-declared party affiliation expressed by the candidate himself or herself. However, the governing body of the local agency may authorize an increase in the limitation on words from 200 to 400 words. The governing body of the local agency may also prescribe procedures and a format for such judicial candidates to prepare and submit rebuttal arguments to the statement of an opponent or opponents. Judicial candidates shall refrain from making any comments in the statement or rebuttal that would commit, or appear to commit, the candidate on cases likely to appear before the court. The clerk shall not cause to be printed or circulated any statement or rebuttal which the clerk determines is not so limited or which includes any such references.

Professional Ethics Code

3. Ease Restrictions on Campaign Speech

Canon 5 of the California Rules of Court, Division II, Code of Judicial Conduct, shall be amended as follows:

Judges are entitled to entertain their personal views on political questions. They are not required to surrender their rights or opinions as citizens. They should avoid political activity which may give rise to a suspicion of ~~political~~ bias or impropriety. Judges and judicial candidates should emphasize in any public statement their duty to uphold the law regardless of their personal views.

Canon 5(B) of the California Rules of Court, Division II, Code of Judicial Conduct, shall be amended as follows:

Judicial independence, ~~and~~ impartiality and integrity should dictate the conduct of judicial candidates. A candidate for election or appointment to judicial office should not make statements to the electorate or appointing authority that commit or appear to commit the candidates with respect to cases, controversies or issues likely to come before the courts. This provision does not apply to statements made in the course of judicial proceedings. Furthermore, a judicial candidate may with propriety compare his or her qualifications with an opponent or opponents for judicial office, but any comparisons must be made in a manner which preserves the integrity of the judiciary and remains within the boundaries of truth.

County Ordinances

Renumber Chapter 1.24, "General Penalty," of Title 1 of the Los Angeles County Code to be Chapter 1.28 and add new chapter heading as follows: Chapter 1.24 Judicial Election Regulations.

4. Impose a $500 Contribution Ceiling to Judicial Candidates from Any Single Source per Election

Chapter 1.24.010 shall be added to Title I of the Los Angeles County Code as follows:

1.24.010. No person, corporation, labor union, political action committee or any other single entity shall make to any candidate and the controlled committee of such candidate campaigning for judgeship of superior court or municipal court, and no such candidate or candidate's controlled committee shall solicit or accept from any such person or entity, a contribution or contributions totaling more than $500 in any given election.

5. Prohibit Judicial Candidates from Accepting More than $25,000 in Outstanding Loans at any One Time

Chapter 1.24.020 shall be added to Title I of the Los Angeles County Code as follows:

1.24.020. No candidate and the controlled committee of such candidate campaigning for judgeship of superior court or municipal court shall lend to his or her own campaign more than $25,000 at any one time.

6. Restrict the Fundraising Period for Judicial Candidates

Chapter 1.24.030 shall be added to Title I of the Los Angeles County Code as follows:

1.24.030. No candidate and the controlled committee of such candidate campaigning for judgeship of superior court or municipal court shall solicit or accept a contribution earlier than five months preceding the primary election for the office being sought or later than June 30 immediately following the primary if there is no run-off election, or later than December 31 immediately following the general election if there is a run-off election.

Chapter 1.24.040 shall be added to Title I of the Los Angeles County Code as follows:

1.24.040. No candidate and controlled committee of such candidate campaigning in a special election for judgeship of superior court or municipal court shall solicit or accept a campaign contribution earlier than the date of vacancy of office being sought or later than 60 days immediately following the special election.

7. Provide Conditional Free Access to the Voter's Pamphlet

Chapter 1.24.050 shall be added to Title I of the Los Angeles County Code as follows:

1.24.050. (a) Qualified candidates campaigning for judgeship of superior court or municipal court shall be provided, at no charge to the candidate, inclusion of the official statement of candidacy and rebuttal in the voter's pamphlet on the condition that the candidate pledges neither to seek, nor pay for, endorsement by any slate mailer organization. The length and format of such statement of candidacy and rebuttal shall conform to standards established for all other candidates for the same

office. Candidates for such judicial offices who decline the pledge neither to seek, nor pay for, endorsement by any slate mailer organization may purchase inclusion of the official statement of candidacy and rebuttal in the voter's pamphlet at the full cost of printing, handling, translating and mailing the statement and rebuttal pursuant to section 10012(c) of the state Elections Code.

(b) Violation of such pledge neither to seek, nor pay for, endorsement by any slate mailer organization by the candidate or the candidate's controlled committee shall terminate the contractual arrangement between the county and the candidate and the candidate shall be held liable for the full cost of printing, handling, translating and mailing the statement and rebuttal pursuant to section 10012(c) of the state Elections Code.

8. Redesign the Voter's Pamphlet

Chapter 1.24.060 shall be added to Title I of the Los Angeles County Code as follows:

1.24.060. (a) The office of the registrar-county clerk, in the course of preparation of the sample ballot and voter's pamphlet, shall, within five days of receipt, send copies of the judicial candidate statements to all qualified candidates for the same office. Candidates may prepare and submit rebuttal arguments not exceeding 100 words in a timely manner determined by the clerk. Pursuant to Canon 5(B) of the Code of Judicial Conduct, rebuttal arguments must be made in accordance to preserving the integrity of the judiciary and remain within the boundaries of the truth. Judicial candidates shall refrain from making any comments in the statement or rebuttal that would commit, or appear to commit, the candidate on cases likely to appear before the court. The clerk shall not cause to be printed or circulated any statement or rebuttal which the clerk determines is not so limited or which includes any such references.

Rebuttal arguments shall be printed in the same manner as the candidate statements. Each rebuttal argument shall immediately follow the candidate's own statement of candidacy.

(b) Within the constraints of sections 10012 and 10012.1 of the state Elections Code, the office of registrar-county clerk shall make every reasonable effort to design the voter's pamphlet in an easily readable and informative fashion.

APPENDIX D

Examples of Voter's Pamphlets From Los Angeles County

In the four states which provide registered voters with voter's pamphlets that include judicial candidates in each election (Alaska, California, Oregon and Washington), statements from judicial candidates are optional.

In Alaska, judicial candidates who submit statements are required to provide biographical information in the statement; there are no other restrictions on content.

In California, which provides voter's pamphlets on a county-by-county basis, candidates are limited to discussing their own biographical information and qualifications; candidate statements may make no reference to opponents.

In Oregon, the content of candidate statements must include biographical information and prior governmental experience but may not include anything that is obscene, profane, libelous or defamatory.

In Washington, candidates may submit any statement they wish so long as it contains no obscene, defamatory or libelous references.

Following are four examples of judicial candidate statements published in the voter's pamphlets of different communities within the County of Los Angeles. The statements of four candidates are shown. Leon Kaplan and Alban Isaac Niles published side-by-side statements in their 1986 contest for the same seat of superior court. Terry Smerling and Malcolm Mackey had their statements published side-by-side in their 1988 contest for superior court, but the candidates were running for different seats. Their opponents could not afford or otherwise neglected to purchase statements in the voter's pamphlet.

STATEMENT OF: LEON S. KAPLAN

CANDIDATE FOR JUDGE OF THE SUPERIOR COURT, OFFICE NO. 1

Law enforcement officials know that JUDGE KAPLAN has and will continue to help in the fight against crime. Chief James Bale, President of the LOS ANGELES COUNTY POLICE CHIEFS ASSOCIATION, representing 47 cities, wrote: "Because of your track record of over 15 years of increasingly responsible public service in fighting crime and delinquency, the Chiefs voted unanimously to support your continuing interest in being elevated to Superior Court."

A UCLA graduate, JUDGE KAPLAN is an excellent judge--none of his verdicts have been overturned.

JUDGE KAPLAN BELIEVES:

"Innocent citizens should not have to make their homes fortresses while vicious criminals roam the streets."

"The epidemic of violent crime, delinquency, and drug dealing can be stopped by sending hardcore career criminals to state prison for long sentences when they are convicted."

"The worst criminals prey on vulnerable victims--children, women, and senior citizens. Vicious criminals must be punished, and vulnerable children protected from criminal careers through community education and involvement."

While serving on the California Youth Authority Board, JUDGE KAPLAN was instrumental in substantially increasing terms of confinement for homicide, robbery, and other violent offenses involving weapons and drugs.

SUPPORT JUDGE KAPLAN. HE'S TOUGH ON CRIME AND POLICE CHIEFS SUPPORT HIM!

STATEMENT OF: ALBAN ISAAC NILES

CANDIDATE FOR JUDGE OF THE SUPERIOR COURT, OFFICE NO. 1

With over 24 years of legal experience, JUDGE ALBAN ISAAC NILES has what it takes to be an effective Superior Court Judge-- a tough but fair attitude, high standards of personal integrity and a thorough knowledge of the law he is sworn to uphold.

Having presided over more than 2500 criminal court matters, JUDGE NILES has earned the respect and endorsement of law enforcement officers and organizations such as THE CALIFORNIA ORGANIZATION OF POLICE AND SHERIFFS and the PROFESSIONAL PEACE OFFICERS' ASSOCIATION.

In endorsing JUDGE NILES, the SOUTHERN CALIFORNIA ALLIANCE OF LAW ENFORCEMENT, representing over 16,000 law enforcement officers in Southern California, said JUDGE NILES has "clearly demonstrated a sincere commitment to protect and strengthen the California Criminal Justice System... He deserves the support of the entire community."

JUDGE NILES has served the community as Chair of the Southern California Business Development Center and has given generously of his time to a number of causes. JUDGE NILES is a Korean War Veteran and American Legionnaire.

The prestigious Los Angeles Legal Newspaper METROPOLITAN NEWS said about JUDGE NILES, "We believe that by virtue of his legal knowledge, his demeanor and his conscientiousness, NILES would be an outstanding addition to the Superior Court."

STATEMENT OF: TERRY SMERLING

CANDIDATE FOR JUDGE OF THE SUPERIOR COURT, ,

OFFICE NO. 4

JUDGE TERRY SMERLING has the integrity, experience and dedication we need on the Superior Court.

JUDGE SMERLING, a Los Angeles Municipal Court Judge since 1982, with over 20 years of legal experience and training, has dedicated his life to advancing justice and upholding the law.

JUDGE SMERLING is a strong, innovative judge, working hard to speedily and justly resolve criminal cases and develop new methods to ensure that criminals are sentenced appropriately for their crimes.

JUDGE SMERLING, a Columbia Law School graduate, has published articles in the Los Angeles Times on criminal justice. He heads court committees on bail and jail overcrowding and has served as a Justice Pro-Tempore on the California Court of Appeal.

JUDGE SMERLING has worked to expand court hours to nights and weekends to better serve the public.

JUDGE SMERLING IS ENDORSED BY: Congressmen Howard Berman and Mel Levine; State Senator Herschel Rosenthal; State Assemblymen Tom Bane and Charles Calderon; Los Angeles Police Commissioners Robert Talcott and Barbara Schlei; Burbank Councilwoman Mary Lou Howard; Santa Monica Mayor James Conn; Los Angeles Trial Lawyers Association; numerous judges, prosecutors and defense attorneys; and several past presidents of the California and Los Angeles County Bar Associations.

STATEMENT OF: MALCOLM H. MACKEY

CANDIDATE FOR JUDGE OF THE SUPERIOR COURT,

OFFICE NO. 10

OCCUPATION: Judge of the Los Angeles Municipal Court

EXCEPTIONALLY WELL QUALIFIED

Former Presiding Judge, Los Angeles Municipal Court
Vice-Chair, Los Angeles County Judges Association
Elected judge nine years
Twenty year veteran trial attorney
Served as Appellate Justice Pro Tem
Appeared before United States & California Supreme Courts

JUDGE MACKEY

Has demonstrated the temperament and professional ability necessary to perform the duties of a Superior Court Judge. He will initiate swift court action against criminals, drug dealers, gang violence to protect all people

EDUCATION: New York University; Southwestern Law School (LLB.JD)

AFFILIATIONS: Sons of Italy, Marine Corps Veteran

ENDORSEMENTS:

Supervisors Antonovich, Dana, Hahn
State Senators Davis, Rosenthal, Watson
Sheriff Block
Los Angeles County Marshals Association
Association of Los Angeles Deputy Sheriffs
Los Angeles Police Protective League
Los Angeles County Police Chiefs Association representing 48 cities, including Los Angeles
Southern California Alliance of Law Enforcement
Professional Peace Officers Association

LOS ANGELES BOARD OF SUPERVISORS STATED:

Judge Mackey reduced need for additional courthouse construction by enlarging Los Angeles Municipal Court jurisdiction. Earned respect of his peers for his knowledge, fairness and dignity on the bench

JUDGE MACKEY SAVED TAXPAYERS MILLIONS OF DOLLARS by instituting guidelines for court appointed attorneys and expert witnesses

Put 30 years of legal experience to work for the people

APPENDIX E

The Commission's Judicial Data Analysis Project: The Impact of Money on L.A. County's Superior and Municipal Court Elections

To understand the growing importance of campaign contributions in judicial elections, the Commission conducted an extensive computerized analysis of contribution and spending information in contested Los Angeles County superior and municipal court elections. The Commission analyzed campaign finance data for Los Angeles County candidates in contested superior court contests from 1976 to 1994 and in contested municipal court races from 1988 to 1994. In total, the Commission compiled approximately 25,000 separate campaign contribution and spending records amounting to nearly $16 million from 212 candidates. Overall, 136 individual superior court candidates (32 incumbents, 42 challengers and 62 open seat candidates) and 76 individual municipal court candidates (14 incumbents, 16 challengers and 46 open seat candidates) were studied.

The Commission utilized Microsoft's Excel 4.0 for both data base development and statistical analysis. It specified contribution records for each judicial candidate by general contribution source (attorneys, law enforcement, medical community, insurance industry, non-legal businesses, non-legal individuals, labor groups, political parties, broadbased organizations, other judges, non-judicial officeholders and the candidates themselves). The Commission entered the names of each superior and municipal court campaign contributor to determine the identities of each judicial candidate's main funding source.

The Commission classified expenditures into 11 specific categories subsumed under two larger categories: *spending on voter contacts*—broadcast, campaign literature, newspaper advertising, slate mailers, outdoor billboard advertising, the candidate's personal ballot pamphlet statement and surveys; and *spending on overhead*—professional consultants, general organizational expenditures, fundraising and travel.

In constructing its Data Analysis Project, the Commission obtained thousands of pages of campaign statements from the California Secretary of State and the Los Angeles County Registrar of Voters. In most instances, judicial candidates had correctly prepared their campaign statements. In some cases, however, judicial candidates had failed to: (1) file disclosure forms at all; or (2) fill out their forms properly. Whenever possible, Commission researchers attempted to rectify errors of addition, subtraction or deletion.

The following tables represent a sampling of the Commission's voluminous data project. Summaries of each contest in the Commission's data base are available upon request.

List of Appendix Tables

Aggregate Data Summary Tables

- L.A. County Superior Court: Overall Contribution and Expenditure Patterns (1976 to 1994)
- L.A. County Municipal Court: Overall Contribution and Expenditure Patterns (1988 to 1994)

Selected Data Tables from Specific Judicial Contests

Los Angeles County Superior Court Districts:

- 1978 Superior Court Office #3
- 1982 Superior Court Office #2
- 1982 Superior Court Office #49
- 1984 Superior Court Office #30
- 1984 Superior Court Office #38
- 1986 Superior Court Office #1
- 1986 Superior Court Office #2
- 1988 Superior Court Office #3
- 1988 Superior Court Office #4
- 1988 Superior Court Office #96
- 1992 Superior Court Office #17
- 1994 Superior Court Office #2

Los Angeles County Municipal Court Districts:

- 1988 Beverly Hills Judicial District #1
- 1988 Los Angeles Judicial District #8
- 1988 Los Angeles Judicial District #22
- 1990 Downey Judicial District
- 1990 Santa Monica Judicial District #3
- 1992 Los Angeles Judicial District #3
- 1994 Downey Judicial District #3
- 1994 Long Beach Judicial District
- 1994 Southeast Judicial District #3

Los Angeles County Superior Court Summary Data

ALL SUPERIOR COURT CANDIDATES STUDIED, 1976 to 1994

Contribution Data

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	Total Number: 136		*Total Number: 32*		*Total Number: 42*		*Total Number: 62*	
	ALL CANDIDATES		INCUMBENTS		CHALLENGERS		OPEN SEATS	
Attorneys	$1,107,860	24.4%	$317,894	32.5%	$185,692	24.5%	$604,274	21.6%
Law Enforcement	$9,875	0.2%	$1,450	0.1%	$4,425	0.6%	$4,000	0.1%
Med. Industry	$96,378	2.1%	$16,375	1.7%	$13,780	1.8%	$66,223	2.4%
Insur. Industry	$27,836	0.6%	$2,850	0.3%	$3,200	0.4%	$21,786	0.8%
Business	$182,706	4.0%	$48,037	4.9%	$23,255	3.1%	$111,414	4.0%
Individual	$669,900	14.8%	$177,344	18.1%	$85,294	11.2%	$407,262	14.5%
Labor Org's	$47,311	1.0%	$14,050	1.4%	$24,761	3.3%	$8,500	0.3%
Pol. Parties	$5,653	0.1%	$100	0.0%	$1,200	0.2%	$4,353	0.2%
Broadbased Org's	$101,420	2.2%	$21,051	2.2%	$5,991	0.8%	$74,379	2.7%
Other Judges	$115,463	2.5%	$59,465	6.1%	$3,050	0.4%	$52,948	1.9%
Other Officeholders	$65,620	1.4%	$8,200	0.8%	$9,800	1.3%	$47,620	1.7%
Candidate/Family	$2,108,689	46.5%	$311,259	31.8%	$398,667	52.5%	$1,398,762	49.9%
Total	**$4,538,711**	**100%**	**$978,075**	**100%**	**$759,115**	**100%**	**$2,801,521**	**100%**

CONTRIBUTION SIZE

	ALL CANDIDATES		INCUMBENTS		CHALLENGERS		OPEN SEATS	
Under $100	$559,619	11.0%	$150,804	13.4%	$97,067	11.3%	$311,748	10.0%
$100 to $249	$896,006	17.6%	$283,979	25.2%	$140,833	16.4%	$471,194	15.1%
$250 to $499	$426,961	8.4%	$137,648	12.2%	$74,601	8.7%	$214,712	6.9%
$500 to $999	$382,970	7.5%	$108,908	9.6%	$56,646	6.6%	$217,416	7.0%
$1,000 to $4,999	$553,971	10.9%	$143,273	12.7%	$127,145	14.9%	$283,552	9.1%
$5,000 to $9,999	$193,840	3.8%	$27,950	2.5%	$45,632	5.3%	$120,258	3.9%
$10,000 to $19,999	$322,116	6.3%	$47,689	4.2%	$54,199	6.3%	$220,229	7.1%
$20,000 & Over	$1,762,847	34.6%	$228,628	20.3%	$260,059	30.4%	$1,274,160	40.9%
Total	**$5,098,330**	**100%**	**$1,128,879**	**100%**	**$856,182**	**100%**	**$3,113,269**	**100%**

Expenditure Data

EXPENDITURE PATTERNS (Amounts $100 or More)

	ALL CANDIDATES		INCUMBENTS		CHALLENGERS		OPEN SEATS	
Broadcast Ads	$343,161	6.8%	$17,156	1.7%	$167,888	20.5%	$158,117	4.9%
Prof. Consultants	$749,604	14.8%	$181,156	17.6%	$75,013	9.2%	$493,434	15.3%
Fundraising	$182,395	3.6%	$46,537	4.5%	$33,675	4.1%	$102,184	3.2%
General	$413,511	8.1%	$87,268	8.5%	$55,343	6.8%	$270,900	8.4%
Literature	$520,361	10.2%	$63,900	6.2%	$86,034	10.5%	$370,427	11.5%
Slate Mailers	$1,626,153	32.0%	$255,279	24.8%	$255,996	31.3%	$1,114,878	34.5%
Newspaper Ads	$352,273	6.9%	$103,864	10.1%	$59,218	7.2%	$189,191	5.9%
Outdoor Ads	$55,974	1.1%	$16,487	1.6%	$23,854	2.9%	$15,634	0.5%
Ballot Pamph. Stmt	$826,416	16.3%	$248,302	24.1%	$60,955	7.4%	$517,159	16.0%
Surveys/Polling	$7,330	0.1%	$6,104	0.6%	$0	0.0%	$1,226	0.0%
Travel/Accom.	$3,107	0.1%	$2,364	0.2%	$235	0.0%	$507	0.0%
Total	**$5,080,285**	**100%**	**$1,028,415**	**100%**	**$818,212**	**100%**	**$3,233,657**	**100%**

Los Angeles County Municipal Court Summary Data

ALL MUNICIPAL COURT CANDIDATES STUDIED, 1988 to 1994

Contribution Data

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	Total Number: 76		*Total Number: 14*		*Total Number: 16*		*Total Number: 46*	
	ALL CANDIDATES		INCUMBENTS		CHALLENGERS		OPEN SEATS	
Attorneys	$522,290	20.7%	$137,400	25.5%	$71,543	15.4%	$313,347	20.6%
Law Enforcement	$8,557	0.3%	$2,225	0.4%	$1,200	0.3%	$5,132	0.3%
Med. Industry	$68,154	2.7%	$9,510	1.8%	$8,760	1.9%	$49,884	3.3%
Insur. Industry	$6,894	0.3%	$1,570	0.3%	$2,700	0.6%	$2,624	0.2%
Business	$103,055	4.1%	$36,021	6.7%	$12,150	2.6%	$54,884	3.6%
Individual	$406,825	16.1%	$92,264	17.1%	$96,844	20.8%	$217,717	14.3%
Labor Org's	$10,000	0.4%	$100	0.0%	$1,750	0.4%	$8,150	0.5%
Pol. Parties	$2,475	0.1%	$275	0.1%	$0	0.0%	$2,200	0.1%
Broadbased Org's	$13,777	0.5%	$3,500	0.6%	$1,177	0.3%	$9,100	0.6%
Other Judges	$51,100	2.0%	$32,000	5.9%	$925	0.2%	$18,175	1.2%
Other Officeholders	$11,650	0.5%	$900	0.2%	$1,400	0.3%	$9,350	0.6%
Candidate/Family	$1,319,700	52.3%	$223,847	41.5%	$267,206	57.4%	$828,647	54.5%
Total	**$2,524,477**	**100%**	**$539,612**	**100%**	**$465,655**	**100%**	**$1,519,210**	**100%**

CONTRIBUTION SIZE

	ALL CANDIDATES		INCUMBENTS		CHALLENGERS		OPEN SEATS	
Under $100	$359,905	12.5%	$73,515	12.0%	$57,403	11.0%	$228,987	13.1%
$100 to $249	$477,644	16.6%	$132,293	21.6%	$79,104	15.1%	$266,247	15.2%
$250 to $499	$218,768	7.6%	$55,239	9.0%	$35,356	6.8%	$128,173	7.3%
$500 to $999	$238,192	8.3%	$65,128	10.6%	$47,945	9.2%	$125,119	7.2%
$1,000 to $4,999	$267,442	9.3%	$54,762	8.9%	$49,846	9.5%	$162,834	9.3%
$5,000 to $9,999	$123,065	4.3%	$5,100	0.8%	$35,347	6.8%	$82,618	4.7%
$10,000 to $19,999	$258,995	9.0%	$56,612	9.2%	$66,265	12.7%	$136,118	7.8%
$20,000 & Over	$940,371	32.6%	$170,478	27.8%	$151,792	29.0%	$618,101	35.4%
Total	**$2,884,382**	**100%**	**$613,127**	**100%**	**$523,058**	**100%**	**$1,748,197**	**100%**

Expenditure Data

EXPENDITURE PATTERNS (Amounts $100 or More)

	ALL CANDIDATES		INCUMBENTS		CHALLENGERS		OPEN SEATS	
Broadcast Ads	$21,937	0.8%	$2,380	0.4%	$5,794	1.1%	$13,763	0.9%
Prof. Consultants	$545,462	19.0%	$178,712	27.8%	$73,109	14.4%	$293,642	18.6%
Fundraising	$142,939	5.0%	$38,168	5.9%	$16,653	3.3%	$88,118	5.6%
General	$306,640	10.7%	$48,229	7.5%	$115,470	22.7%	$142,940	9.1%
Literature	$996,425	34.7%	$142,399	22.1%	$149,188	29.3%	$704,838	44.7%
Slate Mailers	$354,836	12.3%	$73,665	11.4%	$57,179	11.2%	$223,992	14.2%
Newspaper Ads	$118,068	4.1%	$15,465	2.4%	$34,171	6.7%	$68,432	4.3%
Outdoor Ads	$124,816	4.3%	$18,358	2.9%	$18,840	3.7%	$87,618	5.6%
Ballot Pamph. Stmt	$249,584	8.7%	$124,932	19.4%	$34,700	6.8%	$89,952	5.7%
Surveys/Polling	$12,478	0.4%	$600	0.1%	$4,103	0.8%	$7,775	0.5%
Travel/Accom.	$1,867	0.1%	$560	0.1%	$0	0.0%	$1,307	0.1%
Total	**$2,875,052**	**100%**	**$643,467**	**100%**	**$509,208**	**100%**	**$1,575,857**	**100%**

Los Angeles County Superior Court Elections:

1976 to 1994

Selected Data Tables For Individual Contests Studied

1978
L.A. COUNTY SUPERIOR COURT OFFICE #3

Mike Gonzales (Inc.), Irwin Nebron, Ricardo Torres, Velma Williams, Bernard Lauer

Total Primary Vote (Total Votes Cast-1.4 million): Gonzales-17%/Nebron-33%/Torres-20%/Williams-17%/Lauer-12%
Total Runoff Vote (Tot. Votes-1.4 mil.): Nebron-50.25%/Ricks-49.75%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	GONZALEZ		NEBRON		TORRES		WILLIAMS		LAUER	
Attorneys	$7,800	25.5%	$32,168	53.4%	$27,424	63.2%	$0	0.0%	$100	5.8%
Law Enforce.	$0	0.0%	$200	0.3%	$1,025	2.4%	$0	0.0%	$0	0.0%
Med. Indust.	$600	2.0%	$975	1.6%	$2,700	6.2%	$0	0.0%	$100	5.8%
Insur. Indust.	$100	0.3%	$1,600	2.7%	$0	0.0%	$0	0.0%	$100	5.8%
Business	$200	0.7%	$2,100	3.5%	$0	0.0%	$0	0.0%	$100	5.8%
Individual	$20,650	67.5%	$12,000	19.9%	$6,050	13.9%	$0	0.0%	$825	47.8%
Labor Org's	$1,250	4.1%	$1,050	1.7%	$400	0.9%	$0	0.0%	$0	0.0%
Pol. Parties	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Brdbased Org's	$0	0.0%	$100	0.2%	$0	0.0%	$0	0.0%	$0	0.0%
Other Judges	$0	0.0%	$100	0.2%	$0	0.0%	$0	0.0%	$0	0.0%
Other Officehldrs	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Cand./Family	$0	0.0%	$10,000	16.6%	$5,773	13.3%	$1,261	100%	$500	29.0%
Total	**$30,600**	**100%**	**$60,293**	**100%**	**$43,372**	**100%**	**$1,261**	**100%**	**$1,725**	**100%**

CONTRIBUTION SIZE

	GONZALEZ		NEBRON		TORRES		WILLIAMS		LAUER	
Under $100	$2,356	7.1%	$16,136	21.1%	$8,158	15.8%	$50	3.8%	$505	22.6%
$100 to $249	$16,200	49.2%	$23,818	31.2%	$17,729	34.4%	$0	0.0%	$950	42.6%
$250 to $499	$5,650	17.1%	$11,075	14.5%	$14,325	27.8%	$0	0.0%	$275	12.3%
$500 to $999	$5,250	15.9%	$7,850	10.3%	$4,170	8.1%	$0	0.0%	$500	22.4%
$1,000 to $4,999	$3,500	10.6%	$7,550	9.9%	$7,148	13.9%	$1,261	96.2%	$0	0.0%
$5,000 to $9,999	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
$10,000-$19,999	$0	0.0%	$10,000	13.1%	$0	0.0%	$0	0.0%	$0	0.0%
$20,000 & Over	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$32,956**	**100%**	**$76,429**	**100%**	**$51,530**	**100%**	**$1,311**	**100%**	**$2,230**	**100%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

GONZALEZ		NEBRON		TORRES		WILLIAMS		LAUER	
Larry Brotman	$2,000	Ruth Nebron•	$10,000	J.M. Torres•	$3,206	Velma Williams•	$1,261	Bernard Lauer	$500
Mike Havabedian	$1,500	Sheldon W. Anderson••	$3,550	Ricardo A. Torres•	$2,442			Robert Oberhand	$275
Hsgh Pepaan	$700	Jack Combiti••	$1,000	Dernier, Perova, Langer••	$1,500			Loretta and Eric Van Dam	$200
John & Carl Koston	$550	John J. Quinn••	$1,000	Patrick F. Larkin••	$980			Burt Besner	$150
Frank Morales••	$500	S. Dell Scott••	$1,000	Law&Order Camp. Comm.	$900			Tom Turner	$100

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	GONZALES		NEBRON		TORRES		WILLIAMS		LAUER	
Broadcast Ads	$400	1.4%	$32,085	33.6%	$20,524	41.1%	$0	0.0%	$0	0.0%
Prof. Consultants	$1,325	4.8%	$18,021	18.8%	$6,291	12.6%	$0	0.0%	$0	0.0%
Fundraising	$3,150	11.3%	$350	0.4%	$7,609	15.2%	$0	0.0%	$116	4.6%
General	$610	2%	$8,168	8.5%	$2,267	4.5%	$500	56.8%	$638	25.3%
Literature	$807	2.9%	$7,072	7.4%	$1,472	2.9%	$0	0.0%	$1,013	40.2%
Slate Mailers	$0	0.0%	$7,750	8.1%	$100	0.2%	$0	0.0%	$0	0.0%
Newspaper Ads	$14,750	53.1%	$327	0.3%	$7,921	15.8%	$0	0.0%	$546	21.7%
Outdoor Ads	$6,717	24.2%	$0	0.0%	$3,793	7.6%	$381	43.2%	$207	8.2%
Ballot Pamphlet	$0	0.0%	$21,595	22.6%	$0	0.0%	$0	0.0%	$0	0.0%
Surveys/Polling	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Travel/Accom.	$0	0.0%	$235	0.2%	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$27,758**	**100%**	**$95,603**	**100%**	**$49,977**	**100%**	**$881**	**100%**	**$2,520**	**100%**
Cost Per Vote	**$0.12**		**$0.08**		**$0.05**		**$0.00**		**$0.02**	

1982
L.A. COUNTY SUPERIOR COURT OFFICE #2

OPEN SEAT

Coleman Swart, David Ziskrout, John Gunn, W.R. Pardee, A. Telleria, B. Rotos*

Primary Election Result (Total Votes Cast-1.1 million): Ziskrout-32%/Swart-23%/Gunn-16%/Pardee-12%/Rotos-6%
Runoff Election Result (Tot. Votes-1.3 mil.): Swart-51%/Ziskrout-49%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	SWART		ZISKROUT		GUNN		PARDEE		TELLERIA	
Attorneys	$4,500	34.3%	$5,750	12.9%	$4,225	32.2%	$0	0.0%	$400	2.3%
Law Enforce.	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Med. Indust.	$200	1.5%	$0	0.0%	$350	2.7%	$0	0.0%	$400	2.3%
Insur. Indust.	$400	3.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Business	$300	2.3%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Individual	$3,365	25.6%	$4,425	9.9%	$300	2.3%	$200	3.1%	$350	2.0%
Labor Org's	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Pol. Parties	$1,100	8.4%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Brdbased Org's	$700	5.3%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Other Judges	$0	0.0%	$300	0.7%	$0	0.0%	$0	0.0%	$0	0.0%
Other Officehldrs	$200	1.5%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Cand./Family	$2,367	18.0%	$34,183	76.5%	$8,257	62.9%	$6,338	96.9%	$16,560	93.5%
Total	**$13,132**	**100%**	**$44,658**	**100%**	**$13,132**	**100%**	**$6,538**	**100%**	**$17,710**	**100%**

CONTRIBUTION SIZE

	SWART		ZISKROUT		GUNN		PARDEE		TELLERIA	
Under $100	$7,157	35.3%	$5,010	10.1%	$4,480	25%	$50	0.8%	$1,085	5.8%
$100 to $249	$5,265	26.0%	$4,625	9.3%	$4,575	26.0%	$200	3.0%	$750	4.0%
$250 to $499	$2,000	9.9%	$1,350	2.7%	$300	1.7%	$0	0.0%	$400	2.1%
$500 to $999	$1,500	7.4%	$1,500	3.0%	$0	0.0%	$0	0.0%	$0	0.0%
$1,000 to $4,999	$4,367	21.5%	$3,000	6.0%	$0	0.0%	$0	0.0%	$0	0.0%
$5,000 to $9,999	$0	0.0%	$0	0.0%	$8,257	46.9%	$6,338	96.2%	$0	0.0%
$10,000-$19,999	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$16,560	88.1%
$20,000 & Over	$0	0.0%	$34,183	68.8%	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$20,289**	**100%**	**$49,668**	**100%**	**$17,612**	**100%**	**$6,588**	**100%**	**$18,795**	**100%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

SWART		ZISKROUT		GUNN		PARDEE		TELLERIA	
Coleman Swart•	$2,367	David Ziskrout•	$34,183	John C. Gunn•	$8,257	William R. Pardee•	$6,338	Anthony F. Telleria•	$16,560
Michael Montgomery••	$1,000	Jack Levine	$2,000	Joseph Ash••	$300	August R. Gerecke	$200	Louis Lumsky	$400
L.A. County Repub. Assem.	$1,000	Richard Dickman	$1,000	Harrly Weis••	$225			Walter Macordilo	$150
Rayford Fountain••	$500	Henry Salcido••	$500	Brown/Baron/Madden••	$200			Berg, Mich., Mastroni&Huntoo	$100
California Lincoln Club	$500	Joseph Ash••	$500	Curt V. Leftwich••	$200			Pomerantz & Chavez••	$100

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	SWART		ZISKROUT		GUNN		PARDEE		TELLERIA	
Broadcast Ads	$1,631	8.5%	$0	0.0%	$0	0.0%	$0	0.0%	$9,152	48.7%
Prof. Consultants	$9,887	51.8%	$7,850	15.4%	$14,275	81.7%	$1,133	17.5%	$2,100	11.2%
Fundraising	$523	2.7%	$0	0.0%	$1,010	5.8%	$0	0.0%	$0	0.0%
General	$992	5%	$0	0.0%	$1,265	7%	$695	10.7%	$1,397	7.4%
Literature	$1,156	6.1%	$10,703	21.0%	$413	2.4%	$2,607	40.2%	$3,731	19.9%
Slate Mailers	$4,800	25.1%	$28,000	54.9%	$500	2.9%	$0	0.0%	$0	0.0%
Newspaper Ads	$0	0.0%	$1,872	3.7%	$0	0.0%	$2,054	31.7%	$2,415	12.8%
Outdoor Ads	$100	0.5%	$2,575	5.0%	$0	0.0%	$0	0.0%	$0	0.0%
Ballot Pamphlet	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Surveys/Polling	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Travel/Accom.	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$19,089**	**100%**	**$51,000**	**100%**	**$17,463**	**100%**	**$6,489**	**100%**	**$18,795**	**100%**
Cost Per Vote	**$0.02**		**$0.05**		**$0.10**		**$0.05**		**$0.16**	

**Disclosure statements for this candidate may not be available for several reasons: the candidate may not have raised or spent amounts triggering the reporting requirements ($500), may not have filed despite exceeding these amounts (a violation), or the secretary of state's office may have misplaced the candidate's statements.*

1982
L.A. COUNTY SUPERIOR COURT OFFICE #49

W.J. McVittie (Inc.), Eugene Osko

Primary Election Result (Total Votes Cast-1.1 million): McVittie-66%/Osko-34%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	McVITTIE		OSKO	
Attorneys	$33,167	74.3%	$2,273	8.6%
Law Enforcement	$0	0.0%	$0	0.0%
Med. Industry	$1,800	4.0%	$1,000	3.8%
Insur. Industry	$500	1.1%	$900	3.4%
Business	$2,325	5.2%	$1,335	5.1%
Individual	$4,775	10.7%	$4,300	16.3%
Labor Org's	$250	0.6%	$0	0.0%
Pol. Parties	$0	0.0%	$0	0.0%
Broadbased Org's	$0	0.0%	$0	0.0%
Other Judges	$1,725	3.9%	$0	0.0%
Other Officeholders	$125	0.3%	$0	0.0%
Candidate/Family	$0	0.0%	$16,621	62.9%
Total	**$44,667**	**100.0%**	**$26,429**	**100.0%**

CONTRIBUTION SIZE

	McVITTIE		OSKO	
Under $100	$1,574	3.4%	$2,290	8.0%
$100 to $249	$11,467	24.8%	$6,185	21.5%
$250 to $499	$22,200	48.0%	$700	2.4%
$500 to $999	$7,500	16.2%	$2,923	10.2%
$1,000 to $4,999	$3,500	7.6%	$0	0.0%
$5,000 to $9,999	$0	0.0%	$0	0.0%
$10,000 to $19,999	$0	0.0%	$16,621	57.9%
$20,000 & Over	$0	0.0%	$0	0.0%
Total	**$46,241**	**100.0%**	**$28,719**	**100.0%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

McVITTIE		OSKO	
Tom Girardi••	$1,500	Eugene Osko, Sr.•	$16,621
Finley, Kumble, Wagner••	$1,000	Dan T. Oki••	$823
Richard Voorhies••	$1,000	Louis S. Lopez	$600
Fred Heene••	$800	Edward R. Vespa	$500
Sapetto & Siddall••	$750	Phyllis Manno	$500

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	McVITTIE		OSKO	
Broadcast Ads	$0	0.0%	$0	0.0%
Prof. Consultants	$0	0.0%	$0	0.0%
Fundraising	$8,322	15.9%	$1,850	8.1%
General	$3,919	7.5%	$633	2.8%
Literature	$759	1.5%	$729	3.2%
Slate Mailers	$25,000	47.9%	$0	0.0%
Newspaper Ads	$0	0.0%	$5,115	22.5%
Outdoor Ads	$0	0.0%	$785	3.4%
Ballot Pamph. Stmt	$13,650	26.1%	$13,650	60.0%
Surveys/Polling	$0	0.0%	$0	0.0%
Travel/Accom.	$564	1.1%	$0	0.0%
Total	**$52,214**	**100.0%**	**$22,762**	**100.0%**
Cost Per Vote	**$0.07**		**$0.06**	

1984
L.A. COUNTY SUPERIOR COURT OFFICE #30

OPEN SEAT

Richard Adler, Sherman Smith Jr., Robert Huskinson, Ronald Grey

Primary Election Result (Total Votes Cast-1.2 million): Adler-38%/Smith-36%/Grey-19%/Huskinson-8%
Runoff Election Result (Total Votes Cast-1.9 million): Adler-51%/Smith-49%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	ADLER		SMITH		GREY	HUSKINSON
Attorneys	$20,650	17.2%	$49,522	50.4%	The California Secretary of State's office could not locate any campaign disclosure records for this candidate.*	The California Secretary of State's office could not locate any campaign disclosure records for this candidate.*
Law Enforcement	$200	0.2%	$100	0.1%		
Med. Industry	$1,050	0.9%	$5,200	5.3%		
Insur. Industry	$1,950	1.6%	$100	0.1%		
Business	$13,218	11.0%	$8,430	8.6%		
Individual	$45,350	37.7%	$15,450	15.7%		
Labor Org's	$200	0.2%	$900	0.9%		
Pol. Parties	$0	0.0%	$653	0.7%		
Broadbased Org's	$200	0.2%	$1,300	1.3%		
Other Judges	$0	0.0%	$6,462	6.6%		
Other Officeholders	$500	0.4%	$10,150	10.3%		
Candidate/Family	$37,029	30.8%	$0	0.0%		
Total	**$120,347**	**100.0%**	**$98,267**	**100.0%**		

CONTRIBUTION SIZE

	ADLER		SMITH		GREY	HUSKINSON
Under $100	$4,824	3.9%	$33,047	25.2%		
$100 to $249	$27,300	21.8%	$42,680	32.5%		
$250 to $499	$8,200	6.6%	$22,476	17.1%		
$500 to $999	$8,071	6.4%	$14,361	10.9%		
$1,000 to $4,999	$11,450	9.1%	$18,750	14.3%		
$5,000 to $9,999	$9,168	7.3%	$0	0.0%		
$10,000 to $19,999	$0	0.0%	$0	0.0%		
$20,000 & Over	$56,158	44.9%	$0	0.0%		
Total	**$125,171**	**100.0%**	**$131,314**	**100.0%**		

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

ADLER		SMITH		GREY	HUSKINSON
Joseph Adler	$36,158	Julian C. Dixon	$3,000		
Barbara Chavez	$20,000	Friends of the Judges	$2,500		
S&R Metals	$9,168	Friends of Tynan & Sn	$2,350		
Edward Segal	$2,800	Homer Mason	$1,700		
Sam Miller	$2,000	100 Black Men Inc.	$1,200		

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	ADLER		SMITH		HUSKINSON	GREY
Broadcast Ads	$1,500	1.1%	$4,036	3.1%		
Prof. Consultants	$34,662	25.1%	$3,580	2.7%		
Fundraising	$2,596	1.9%	$7,371	5.6%		
General	$10,382	7.5%	$1,716	1.3%		
Literature	$15,738	11.4%	$11,945	9.1%		
Slate Mailers	$29,191	21.2%	$73,250	56.1%		
Newspaper Ads	$775	0.6%	$7,498	5.7%		
Outdoor Ads	$0	0.0%	$100	0.1%		
Ballot Pamph. Stmt	$43,000	31.2%	$21,000	16.1%		
Surveys/Polling	$0	0.0%	$0	0.0%		
Travel/Accom.	$0	0.0%	$100	0.1%		
Total	**$137,843**	**100.0%**	**$130,596**	**100.0%**		
Cost Per Vote	**$0.10**		**$0.10**			

**Disclosure statements may not be available for several reasons: the candidate may not have raised or spent amounts triggering the reporting requirements ($500), may not have filed despite exceeding these amounts (a violation), or the secretary of state's office may have misplaced the candidate's statements.*

1984
L.A. COUNTY SUPERIOR COURT OFFICE #38

OPEN SEAT

Michael Tynan, Rosemary Shumsky, Philip Griffin, Michael Luros, R. Pachtman

Primary Election Result (Total Votes Cast-1.1 million): Tynan-30%/Shumsky-26%/Griffin-22%/Luros-15%/Pachtman-7%
Runoff Election Result (Tot. Votes Cast-1.8 mil.): Tynan-58%/Shumsky-42%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	TYNAN		SHUMSKY		GRIFFIN		LUROS		PACHTMAN	
Attorneys	$86,423	77.1%	$24,304	63.3%	$850	0.0%	$9,619	0.0%	$850	0.0%
Law Enforce.	$500	0.4%	$0	0.0%	$0	0.0%	$750	0.0%	$0	0.0%
Med. Indust.	$600	0.5%	$700	1.8%	$0	0.0%	$1,450	0.0%	$0	0.0%
Insur. Indust.	$400	0.4%	$0	0.0%	$0	0.0%	$10,750	0.0%	$0	0.0%
Business	$5,700	5.1%	$200	0.5%	$0	0.0%	$9,070	0.0%	$200	0.0%
Individual	$4,400	3.9%	$5,750	15.0%	$0	0.0%	$29,723	0.0%	$0	0.0%
Labor Org's	$300	0.3%	$100	0.3%	$0	0.0%	$250	0.0%	$0	0.0%
Pol. Parties	$0	0.0%	$850	2.2%	$0	0.0%	$0	0.0%	$0	0.0%
Brdbased Org's	$2,350	2.1%	$4,342	11.3%	$0	0.0%	$0	0.0%	$0	0.0%
Other Judges	$1,802	1.6%	$550	1.4%	$0	0.0%	$200	0.0%	$0	0.0%
Other Officehldrs	$100	0.1%	$1,150	3.0%	$0	0.0%	$100	0.0%	$0	0.0%
Cand./Family	$9,500	8.5%	$475	1.2%	$0	0.0%	$37,896	0.0%	$0	0.0%
Total	$112,075	100%	$38,421	100%	$850	0%	$99,808	0%	$1,050	0%

CONTRIBUTION SIZE

	TYNAN		SHUMSKY		GRIFFIN		LUROS		PACHTMAN	
Under $100	$43,642	28.0%	$9,030	19.0%	$25	2%	$6,453	6%	$229	
$100 to $249	$34,845	22.4%	$19,779	41.7%	$0	0.0%	$5,991	5.6%	$1,050	
$250 to $499	$14,840	9.5%	$5,950	12.5%	$250	19.6%	$6,895	6.5%	$0	
$500 to $999	$17,038	10.9%	$7,850	16.5%	$0	0.0%	$7,776	7.3%	$0	
$1,000 to $4,999	$38,352	24.6%	$4,842	10.2%	$1,000	78.4%	$46,350	43.6%	$0	
$5,000 to $9,999	$7,000	4.5%	$0	0.0%	$0	0.0%	$0	0.0%	$0	
$10,000-$19,999	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	
$20,000 & Over	$0	0.0%	$0	0.0%	$0	0.0%	$32,796	30.9%	$0	
Total	$155,717	100%	$47,451	100%	$1,275	100%	$106,261	100%	$1,279	

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

Michael A. Tynan•	$7,000	Friends of the Judges	$2,842	Erwin Sobel••	$1,000	Michael S. Luros•	$32,796	David S. Koslow••	$200
White & Lasing••	$3,500	Richard Sherman••	$1,000	Mitchel Ezer••	$250	Richard Luros•	$2,600	Haskell H. Grodberg••	$200
Girard, Keese & Crane••	$2,500	Eddie Newman	$1,000			Bernice Bessin	$2,500	Good Gov't Fund 1st Interst. Ba	$200
David M. Harney••	$2,500	Pacific Palisades Demo. Club	$750			Elyn Luros•	$2,500	Max Solomon••	$150
Edward A. Rucker••	$2,500	Newton Kricun••	$600			George Bessin	$2,500	Bergman/Wechner, Inc.••	$100

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	TYNAN		SHUMSKY		GRIFFIN		LUROS		PACHTMAN	
Broadcast Ads	$0	0.0%	$5,860	12.9%	$0	0.0%	$18,831	16.5%	$0	0.0%
Prof. Consultants	$9,282	6.6%	$500	1.1%	$0	0.0%	$34,025	29.8%	$0	0.0%
Fundraising	$2,660	1.9%	$4,485	9.9%	$0	0.0%	$2,237	2.0%	$0	0.0%
General	$27,377	20%	$0	0.0%	$671	100%	$13,024	11%	$556	71%
Literature	$10,445	7.5%	$429	0.9%	$0	0.0%	$18,721	16.4%	$228	29.1%
Slate Mailers	$65,000	46.6%	$34,050	75.1%	$0	0.0%	$0	0.0%	$0	0.0%
Newspaper Ads	$3,849	2.8%	$0	0.0%	$0	0.0%	$4,959	4.3%	$0	0.0%
Outdoor Ads	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Ballot Pamphlet	$21,000	15.0%	$0	0.0%	$0	0.0%	$22,000	19.3%	$0	0.0%
Surveys/Polling	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Travel/Accom.	$0	0.0%	$0	0.0%	$0	0.0%	$226	0.2%	$0	0.0%
Total	$139,613	100%	$45,325	100%	$671	100%	$114,023	100%	$784	100%
Cost Per Vote	$0.10		$0.04		$0.00		$0.66		$0.02	

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1986
L.A. COUNTY SUPERIOR COURT OFFICE #1

OPEN SEAT

Leon Kaplan, Alban Niles, John Dickey, Stanley Feinstein, Ronald Grey

Primary Election Result (Total Votes Cast-1 million): Kaplan-32%/Niles-23%/Dickey-18%/Feinstein-14%/Grey-13%
Runoff Election Result (Tot. Votes Cast-1.5 mil.): Kaplan-68%/Niles-32%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	KAPLAN		NILES		DICKEY		FEINSTEIN		GREY	
Attorneys	$19,617	9.5%	$23,930	31.4%	$0	0.0%	$22,250	0.0%	$0	0.0%
Law Enforce.	$150	0.1%	$200	0.3%	$0	0.0%	$0	0.0%	$0	0.0%
Med. Indust.	$1,000	0.5%	$10,800	14.2%	$0	0.0%	$7,450	0.0%	$0	0.0%
Insur. Indust.	$0	0.0%	$1,200	1.6%	$0	0.0%	$500	0.0%	$0	0.0%
Business	$2,100	1.0%	$14,200	18.6%	$1,200	0.0%	$500	0.0%	$0	0.0%
Individual	$16,525	8.0%	$15,150	19.9%	$1,850	0.0%	$2,010	0.0%	$0	0.0%
Labor Org's	$200	0.1%	$2,300	3.0%	$100	0.0%	$200	0.0%	$0	0.0%
Pol. Parties	$0	0.0%	$300	0.4%	$0	0.0%	$0	0.0%	$0	0.0%
Brdbased Org's	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$19,696	0.0%
Other Judges	$300	0.1%	$3,300	4.3%	$400	0.0%	$1,120	0.0%	$0	0.0%
Other Officehldrs	$0	0.0%	$4,870	6.4%	$0	0.0%	$0	0.0%	$0	0.0%
Cand./Family	$167,435	80.8%	$0	0.0%	$8,271	0.0%	$966	0.0%	$0	0.0%
Total	$207,327	100%	$76,250	100%	$11,821	0%	$34,996	0%	$19,696	0%

CONTRIBUTION SIZE

	KAPLAN		NILES		DICKEY		FEINSTEIN		GREY	
Under $100	$6,865	3.2%	$19,687	20.5%	$5,124	10%	$5,944	15%	$0	
$100 to $249	$17,075	8.0%	$42,495	44.3%	$17,200	33.0%	$5,520	13.5%	$0	
$250 to $499	$9,767	4.6%	$10,455	10.9%	$10,550	20.3%	$5,360	13.1%	$0	
$500 to $999	$8,050	3.8%	$11,700	12.2%	$10,721	20.6%	$13,966	34.1%	$0	
$1,000 to $4,999	$5,000	2.3%	$11,600	12.1%	$1,000	1.9%	$10,150	24.8%	$0	
$5,000 to $9,999	$0	0.0%	$0	0.0%	$7,500	14.4%	$0	0.0%	$0	
$10,000-$19,999	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$19,696	
$20,000 & Over	$167,435	78.2%	$0	0.0%	$0	0.0%	$0	0.0%	$0	
Total	$214,192	100%	$95,937	100%	$52,095	100%	$40,940	100%	$19,696	

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

KAPLAN		NILES		DICKEY		FEINSTEIN		GREY	
Leon S. Kaplan	$167,435	Robert C. Farrell P.A.C.	$2,000	John W. Dickey	$7,500	Allen, Rhodes & Sobelsohn	$1,150	Calif. Lincoln Clubs	$19,696
Dennis E. Kinnaird	$1,500	LIN PAC: Lindsay Political Action	$1,500	Irene Tritschler	$1,000	Koszdin & Siegel	$1,000	0	$0
Richard Simon	$1,500	Westside Volvo	$1,100	John W. Dickey	$771	Kunetz & Glick	$1,000	0	$0
Grace C. Quinn	$1,000	Joseph Ash	$1,000	Richard N. Plantadosi	$750	Law Firm of Kenneth Rowan	$1,000	0	$0
J.L. Alperson	$1,000	C-PAC	$1,000	Family Law Study Group	$700	Lewis, Marenstein, et al	$1,000	0	$0

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	KAPLAN		NILES		DICKEY		FEINSTEIN		GREY	
Broadcast Ads	$14,795	7.0%	$0	0.0%	$25,210	49.6%	$4,198	10.3%	$0	0.0%
Prof. Consultants	$34,988	16.6%	$25,500	22.9%	$6,000	11.8%	$15,283	37.5%	$0	0.0%
Fundraising	$5,259	2.5%	$13,611	12.2%	$0	0.0%	$109	0.3%	$0	0.0%
General	$11,645	6%	$538	0.5%	$2,168	4%	$3,277	8%	$0	0%
Literature	$65,434	31.0%	$1,779	1.6%	$3,880	7.6%	$5,201	12.8%	$0	0.0%
Slate Mailers	$49,400	23.4%	$27,868	25.1%	$0	0.0%	$12,220	30.0%	$19,696	100%
Newspaper Ads	$2,317	1.1%	$41,846	37.7%	$11,973	23.6%	$421	1.0%	$0	0.0%
Outdoor Ads	$0	0.0%	$0	0.0%	$1,550	3.1%	$0	0.0%	$0	0.0%
Ballot Pamphlet	$27,500	13.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Surveys/Polling	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Travel/Accom.	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Total	$211,338	100%	$111,142	100%	$50,781	100%	$40,709	100%	$19,696	100%
Cost Per Vote	$0.16		$0.17		$0.29		$0.32		$0.15	

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1986
L.A. COUNTY SUPERIOR COURT OFFICE #2

OPEN SEAT

Judith Ashmann, William Pardee, Richard Brand

Primary Election Result (Total Votes Cast-885,532): Ashmann-59%/Pardee-23%/Brand-18%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	ASHMANN		PARDEE		BRAND	
Attorneys	$35,149	54.9%	$0	0.0%	$18,350	38.4%
Law Enforcement	$300	0.5%	$0	0.0%	$0	0.0%
Med. Industry	$5,700	8.9%	$0	0.0%	$100	0.2%
Insur. Industry	$263	0.4%	$0	0.0%	$0	0.0%
Business	$4,850	7.6%	$0	0.0%	$2,100	4.4%
Individual	$9,650	15.1%	$0	0.0%	$7,150	15.0%
Labor Org's	$0	0.0%	$0	0.0%	$0	0.0%
Pol. Parties	$0	0.0%	$0	0.0%	$0	0.0%
Broadbased Org's	$500	0.8%	$0	0.0%	$19,695	41.2%
Other Judges	$5,550	8.7%	$0	0.0%	$300	0.6%
Other Officeholders	$1,050	1.6%	$0	0.0%	$0	0.0%
Candidate/Family	$1,000	1.6%	$17,191	100.0%	$100	0.2%
Total	**$64,012**	**100.0%**	**$17,191**	**100.0%**	**$47,795**	**100.0%**

CONTRIBUTION SIZE

	ASHMANN		PARDEE		BRAND	
Under $100	$6,266	8.9%	$0	0.0%	$5,659	10.6%
$100 to $249	$25,850	36.8%	$0	0.0%	$14,150	26.5%
$250 to $499	$14,249	20.3%	$0	0.0%	$7,600	14.2%
$500 to $999	$11,642	16.6%	$0	0.0%	$2,750	5.1%
$1,000 to $4,999	$4,000	5.7%	$0	0.0%	$3,600	6.7%
$5,000 to $9,999	$8,271	11.8%	$0	0.0%	$0	0.0%
$10,000 to $19,999	$0	0.0%	$17,191	100.0%	$19,695	36.8%
$20,000 & Over	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$70,278**	**100.0%**	**$17,191**	**100.0%**	**$53,454**	**100.0%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

ASHMANN		PARDEE		BRAND	
Robert J. Gerst••	$8,271	William R. Pardee•	$17,191	California Lincoln Clubs	$19,695
Alan Epstein••	$1,000			Joseph Ash••	$1,600
Mark S. Windisch••	$1,000			Frances Micelli	$1,000
Warren H. Ashmann•	$1,000			Ronald G. Buday	$1,000
Gersten Companies	$1,000			Chalefff & English••	$750

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	ASHMANN		PARDEE		BRAND	
Broadcast Ads	$0	0.0%	$0	0.0%	$1,142	2.0%
Prof. Consultants	$15,004	17.9%	$0	0.0%	$22,500	40.3%
Fundraising	$7,188	8.6%	$0	0.0%	$3,966	7.1%
General	$3,969	4.7%	$771	4.6%	$0	0.0%
Literature	$7,714	9.2%	$1,582	9.4%	$6,291	11.3%
Slate Mailers	$50,100	59.7%	$6,000	35.7%	$19,695	35.3%
Newspaper Ads	$0	0.0%	$8,462	50.3%	$2,025	3.6%
Outdoor Ads	$0	0.0%	$0	0.0%	$0	0.0%
Ballot Pamph. Stmt	$0	0.0%	$0	0.0%	$0	0.0%
Surveys/Polling	$0	0.0%	$0	0.0%	$200	0.4%
Travel/Accom.	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$83,975**	**100.0%**	**$16,815**	**100.0%**	**$55,819**	**100.0%**
Cost Per Vote	**$0.16**		**$0.09**		**$0.36**	

1988
L.A. COUNTY SUPERIOR COURT OFFICE #3

OPEN SEAT

Sherrill Luke, Jewell Jones

Primary Election Result (Total Votes Cast-1.1 million): Luke-59%/Jones-41%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	LUKE		JONES	
Attorneys	$23,000	18.3%	$21,605	17.2%
Law Enforcement	$0	0.0%	$0	0.0%
Med. Industry	$1,700	1.4%	$3,200	2.5%
Insur. Industry	$600	0.5%	$0	0.0%
Business	$3,719	3.0%	$0	0.0%
Individual	$38,915	31.0%	$12,231	9.7%
Labor Org's	$300	0.2%	$0	0.0%
Pol. Parties	$0	0.0%	$0	0.0%
Broadbased Org's	$350	0.3%	$3,750	3.0%
Other Judges	$1,100	0.9%	$200	0.2%
Other Officeholders	$1,350	1.1%	$200	0.2%
Candidate/Family	$54,621	43.5%	$84,379	67.2%
Total	**$125,655**	**100.0%**	**$125,565**	**100.0%**

CONTRIBUTION SIZE

	LUKE		JONES	
Under $100	$11,613	8.5%	$7,665	5.8%
$100 to $249	$24,755	18.0%	$13,055	9.8%
$250 to $499	$11,860	8.6%	$7,050	5.3%
$500 to $999	$12,900	9.4%	$5,450	4.1%
$1,000 to $4,999	$11,519	8.4%	$9,156	6.9%
$5,000 to $9,999	$0	0.0%	$6,475	4.9%
$10,000 to $19,999	$10,000	7.3%	$0	0.0%
$20,000 & Over	$54,621	39.8%	$84,379	63.3%
Total	**$137,268**	**100.0%**	**$133,230**	**100.0%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

LUKE		JONES	
Sherrill D. Luke•	$54,621	Jewell Jones•	$84,379
A.J. Perenchio	$10,000	Frank A. Lipanovich	$6,475
Great Western Financial Corp.	$2,219	Southern California Caucus	$2,500
Monte E. Livingston••	$1,300	Patricia K. Pabst	$2,206
Crover R. Heyler••	$1,000	Marc & Sema Gamson	$2,000

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	LUKE		JONES	
Broadcast Ads	$0	0.0%	$0	0.0%
Prof. Consultants	$0	0.0%	$21,687	16.7%
Fundraising	$2,033	1.6%	$1,421	1.1%
General	$3,190	2.5%	$20,536	15.9%
Literature	$22,896	18.0%	$35,066	27.1%
Slate Mailers	$45,000	35.4%	$50,000	38.6%
Newspaper Ads	$0	0.0%	$100	0.1%
Outdoor Ads	$0	0.0%	$723	0.6%
Ballot Pamph. Stmt	$54,000	42.5%	$0	0.0%
Surveys/Polling	$0	0.0%	$0	0.0%
Travel/Accom.	$0	0.0%	$0	0.0%
Total	**$127,119**	**100.0%**	**$129,533**	**100.0%**
Cost Per Vote	**$0.20**		**$0.28**	

1988
L.A. COUNTY SUPERIOR COURT OFFICE #4

OPEN SEAT

Terry Smerling, Allan Nadir

Primary Election Result (Total Votes Cast-1 million): Smerling-70%/Nadir-30%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	SMERLING		NADIR	
Attorneys	$9,800	7.9%	$350	3.3%
Law Enforcement	$0	0.0%	$500	4.7%
Med. Industry	$0	0.0%	$500	4.7%
Insur. Industry	$0	0.0%	$0	0.0%
Business	$650	0.5%	$200	1.9%
Individual	$1,900	1.5%	$5,450	50.9%
Labor Org's	$0	0.0%	$0	0.0%
Pol. Parties	$0	0.0%	$0	0.0%
Broadbased Org's	$0	0.0%	$0	0.0%
Other Judges	$150	0.1%	$100	0.9%
Other Officeholders	$0	0.0%	$0	0.0%
Candidate/Family	$111,000	89.9%	$3,600	33.6%
Total	**$123,500**	**100.0%**	**$10,700**	**100.0%**

CONTRIBUTION SIZE

	SMERLING		NADIR	
Under $100	$1,383	1.1%	$2,694	20.1%
$100 to $249	$8,550	6.8%	$6,450	48.2%
$250 to $499	$3,150	2.5%	$250	1.9%
$500 to $999	$800	0.6%	$500	3.7%
$1,000 to $4,999	$2,000	1.6%	$3,500	26.1%
$5,000 to $9,999	$0	0.0%	$0	0.0%
$10,000 to $19,999	$10,000	8.0%	$0	0.0%
$20,000 & Over	$99,000	79.3%	$0	0.0%
Total	**$124,883**	**100.0%**	**$13,394**	**100.0%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

SMERLING		NADIR	
Terry Smerling•	$99,000	Allan A. Nadir•	$3,500
Florence Smerling•	$10,000	L.A. Dep. Sheriff's PAC	$500
R.J. Smerling•	$2,000	Sanford Deutsch	$250
Thomas H. Russell••	$800	Barry Greene••	$200
Ash, Vites & Adajian••	$300	Black & White Garage	$200

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	SMERLING		NADIR	
Broadcast Ads	$0	0.0%	$1,026	8.3%
Prof Consultants	$19,691	15.3%	$0	0.0%
Fundraising	$0	0.0%	$520	4.2%
General	$2,630	2.0%	$910	7.4%
Literature	$1,223	1.0%	$6,236	50.4%
Slate Mailers	$50,000	38.9%	$3,000	24.3%
Newspaper Ads	$0	0.0%	$671	5.4%
Outdoor Ads	$0	0.0%	$0	0.0%
Ballot Pamph. Stmt	$54,848	42.7%	$0	0.0%
Surveys/Polling	$0	0.0%	$0	0.0%
Travel/Accom.	$0	0.0%	$0	0.0%
Total	**$128,392**	**100.0%**	**$12,363**	**100.0%**
Cost Per Vote	**$0.18**		**$0.04**	

1988
L.A. COUNTY SUPERIOR COURT OFFICE #96

Roberta Ralph (Inc.), Harvey Schneider

Primary Election Result (Total Votes Cast-1 million): Schneider-54%/Ralph-44%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	RALPH		SCHNEIDER	
Attorneys	$3,560	30.2%	$27,657	55.4%
Law Enforcement	$0	0.0%	$0	0.0%
Med. Industry	$0	0.0%	$450	0.9%
Insur. Industry	$0	0.0%	$200	0.4%
Business	$0	0.0%	$3,050	6.1%
Individual	$1,400	11.9%	$6,250	12.5%
Labor Org's	$0	0.0%	$0	0.0%
Pol. Parties	$0	0.0%	$0	0.0%
Broadbased Org's	$1,600	13.6%	$2,500	5.0%
Other Judges	$1,800	15.3%	$0	0.0%
Other Officeholders	$0	0.0%	$0	0.0%
Candidate/Family	$3,418	29.0%	$9,800	19.6%
Total	$11,778	100.0%	$49,907	100.0%

CONTRIBUTION SIZE

	RALPH		SCHNEIDER	
Under $100	$4,118	25.9%	$4,472	8.2%
$100 to $249	$5,700	35.9%	$11,880	21.8%
$250 to $499	$1,060	6.7%	$9,810	18.0%
$500 to $999	$0	0.0%	$7,155	13.2%
$1,000 to $4,999	$5,018	31.6%	$11,562	21.3%
$5,000 to $9,999	$0	0.0%	$9,500	17.5%
$10,000 to $19,999	$0	0.0%	$0	0.0%
$20,000 & Over	$0	0.0%	$0	0.0%
Total	$15,896	100.0%	$54,379	100.0%

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

RALPH		SCHNEIDER	
Roberta Ralph•	$3,418	Harvey A. Schneider•	$9,500
National Women's Political Caucus	$1,600	Southern California Caucus	$2,500
Henry Salcido••	$410	Shea/Gould Comm. for Effect. Leaders••	$2,035
Daneil Nishiyama••	$400	Aaron Olshen	$2,000
Robert K. Johnson••	$250	Louis Alfonzo••	$1,027

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	RALPH		SCHNEIDER	
Broadcast Ads	$0	0.0%	$0	0.0%
Prof. Consultants	$0	0.0%	$4,829	10.8%
Fundraising	$0	0.0%	$5,636	12.6%
General	$8,556	77.3%	$316	0.7%
Literature	$416	3.8%	$1,058	2.4%
Slate Mailers	$2,000	18.1%	$33,000	73.5%
Newspaper Ads	$0	0.0%	$64	0.1%
Outdoor Ads	$100	0.9%	$0	0.0%
Ballot Pamph. Stmt	$0	0.0%	$0	0.0%
Surveys/Polling	$0	0.0%	$0	0.0%
Travel/Accom.	$0	0.0%	$0	0.0%
Total	$11,072	100.0%	$44,904	100.0%
Cost Per Vote	$0.03		$0.08	

1992
L.A. COUNTY SUPERIOR COURT OFFICE #17

Joyce Karlin (Inc.), Bob Henry, Thomasina Reed, Donald Barnett,

1992 Primary Election Result (Total Votes Cast-1.3 million): Karlin-51%/Henry-24%/Reed-15%/Barnett-10%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	KARLIN		HENRY		REED		BARNETT	
Attorneys	$26,666	27.7%	$950	10.0%	$3,200	19.0%	$100	0.1%
Law Enforcement	$850	0.9%	$0	0.0%	$0	0.0%	$0	0.0%
Med. Industry	$800	0.8%	$0	0.0%	$600	3.6%	$1,480	1.2%
Insur. Industry	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Business	$8,600	8.9%	$0	0.0%	$1,400	8.3%	$200	0.2%
Individual	$20,713	21.5%	$0	0.0%	$7,035	41.8%	$3,750	3.1%
Labor Org's	$350	0.4%	$2,500	26.4%	$2,000	11.9%	$0	0.0%
Pol. Parties	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Broadbased Org's	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Other Judges	$10,685	11.1%	$0	0.0%	$0	0.0%	$0	0.0%
Other Officeholders	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Candidate/Family	$27,500	28.6%	$6,020	63.6%	$2,600	15.4%	$115,800	95.4%
Total	**$96,164**	**100.0%**	**$9,470**	**100.0%**	**$16,835**	**100.0%**	**$121,330**	**100.0%**

CONTRIBUTION SIZE

	KARLIN		HENRY		REED		BARNETT	
Under $100	$35,020	26.7%	$550	5.5%	$2,602	13.4%	$1,638	1.3%
$100 to $249	$33,610	25.6%	$700	7.0%	$7,235	37.2%	$2,280	1.9%
$250 to $499	$13,408	10.2%	$250	2.5%	$1,800	9.3%	$1,550	1.3%
$500 to $999	$13,728	10.5%	$0	0.0%	$2,000	10.3%	$1,700	1.4%
$1,000 to $4,999	$10,418	7.9%	$3,500	34.9%	$5,800	29.8%	$0	0.0%
$5,000 to $9,999	$0	0.0%	$5,020	50.1%	$0	0.0%	$0	0.0%
$10,000 to $19,999	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
$20,000 & Over	$25,000	19.1%	$0	0.0%	$0	0.0%	$115,800	94.2%
Total	**$131,184**	**100.0%**	**$10,020**	**100.0%**	**$19,437**	**100.0%**	**$122,968**	**100.0%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

KARLIN		HENRY		REED		BARNETT	
Joyce Karlin•	$25,000	Robert S. Henry•	$5,020	Thomasina M. Reed•	$2,600	Donald Barnett•	$115,800
Robert Karlin•	$2,500	United Teachers LA	$2,500	B.J. Ukra Investments	$1,200	Edith Cohen	$700
Gerson S. Horn••	$1,668	Inola F. Henry•	$1,000	Local 660	$1,000	Alvin Reiter	$500
West Bay Imports	$1,250	Daniel Johnson, Jr.••	$250	L.A. City Emp. Union	$1,000	J. Maddahi M.D.	$500
Lee & Associates••	$1,000	William H. Davis, Jr.•	$200	Grant & Duncan••	$500	Parviz Berjis M.D.	$300

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	KARLIN		HENRY		REED		BARNETT	
Broadcast Ads	$0	0.0%	$0	0.0%	$4,211	24.1%	$72,512	59.8%
Prof. Consultants	$33,114	24.9%	$0	0.0%	$4,440	25.4%	$4,600	3.8%
Fundraising	$1,063	0.8%	$0	0.0%	$717	4.1%	$4,012	3.3%
General	$8,035	6.0%	$0	0.0%	$0	0.0%	$1,941	1.6%
Literature	$8,008	6.0%	$101	0.9%	$2,064	11.8%	$15,113	12.5%
Slate Mailers	$18,000	13.5%	$10,700	99.1%	$6,000	34.3%	$7,500	6.2%
Newspaper Ads	$0	0.0%	$0	0.0%	$48	0.3%	$9,909	8.2%
Outdoor Ads	$0	0.0%	$0	0.0%	$0	0.0%	$5,626	4.6%
Ballot Pamph. Stmt	$64,993	48.8%	$0	0.0%	$0	0.0%	$0	0.0%
Surveys/Polling	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Travel/Accom.	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$133,213**	**100.0%**	**$10,801**	**100.0%**	**$17,480**	**100.0%**	**$121,213**	**100.0%**
Cost Per Vote	**$0.20**		**$0.03**		**$0.09**		**$0.94**	

1994
L.A. COUNTY SUPERIOR COURT OFFICE #2

OPEN SEAT

Terry Friedman, John Moriarity, Robert Schirm

Primary Election Result (Total Votes Cast-1.3 million): Friedman-36%/Moriarity-35%/Schirn-29%
General Election Result (Total Votes Cast-1.4 million): Friedman-54%/Moriarity-46%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	FRIEDMAN		MORIARTY		SCHIRN	
Attorneys	$39,350	32.9%	$10,675	6.4%	$100	0.8%
Law Enforcement	$0	0.0%	$0	0.0%	$0	0.0%
Med. Industry	$2,550	2.1%	$2,850	1.7%	$0	0.0%
Insur. Industry	$0	0.0%	$300	0.2%	$0	0.0%
Business	$6,850	5.7%	$7,850	4.7%	$1,000	7.8%
Individual	$46,400	38.8%	$16,275	9.8%	$700	5.4%
Labor Org's	$1,500	1.3%	$0	0.0%	$0	0.0%
Pol. Parties	$0	0.0%	$0	0.0%	$0	0.0%
Broadbased Org's	$100	0.1%	$0	0.0%	$0	0.0%
Other Judges	$100	0.1%	$500	0.3%	$100	0.8%
Other Officeholders	$22,750	19.0%	$100	0.1%	$0	0.0%
Candidate/Family	$0	0.0%	$128,181	76.9%	$11,000	85.3%
Total	**$119,600**	**100.0%**	**$166,731**	**100.0%**	**$12,900**	**100.0%**

CONTRIBUTION SIZE

	FRIEDMAN		MORIARTY		SCHIRN	
Under $100	$700	0.6%	$1,373	0.8%	$449	1.7%
$100 to $249	$14,600	12.1%	$13,475	8.0%	$900	3.4%
$250 to $499	$11,450	9.5%	$7,475	4.4%	$0	0.0%
$500 to $999	$19,050	15.8%	$7,700	4.6%	$0	0.0%
$1,000 to $4,999	$17,000	14.1%	$4,900	2.9%	$1,000	3.8%
$5,000 to $9,999	$17,500	14.5%	$5,000	3.0%	$0	0.0%
$10,000 to $19,999	$15,000	12.5%	$0	0.0%	$23,900	91.1%
$20,000 & Over	$25,000	20.8%	$128,181	76.3%	$0	0.0%
Total	**$120,300**	**100.0%**	**$168,104**	**100.0%**	**$26,249**	**100.0%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

FRIEDMAN		MORIARTY		SCHIRN	
Yaroslavsky for Supervisor	$25,000	John L. Moriarty•	$128,181	Robert Schirn•	$11,000
Waxman Campaign Committee	$15,000	Galpin Ford	$5,000	Silver Fox Farm	$1,000
T. Friedman for Assembly	$7,500	Berglund & Johnson••	$1,700	Ben F. Breslauer	$200
Joseph W. Aidlin••	$5,000	Robert C. Cohenour	$1,200	Neal A. Pepper	$200
Zenith/Calfarm PAC	$5,000	Bernard R. Kaufman	$1,000	Robert L. Shapiro••	$100

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	CANDIDATE NAME		MORIARTY		SCHIRN	
Broadcast Ads	$0	0.0%	$0	0.0%	$0	0.0%
Prof Consultants	$2,800	2.7%	$14,607	15.0%	$663	5.7%
Fundraising	$0	0.0%	$3,261	3.4%	$0	0.0%
General	$993	1.0%	$51,877	53.4%	$0	0.0%
Literature	$145	0.1%	$7,379	7.6%	$946	8.1%
Slate Mailers	$96,625	94.2%	$19,625	20.2%	$10,000	86.1%
Newspaper Ads	$2,018	2.0%	$0	0.0%	$0	0.0%
Outdoor Ads	$0	0.0%	$450	0.5%	$0	0.0%
Ballot Pamph. Stmt	$0	0.0%	$0	0.0%	$0	0.0%
Surveys/Polling	$0	0.0%	$0	0.0%	$0	0.0%
Travel/Accom.	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$102,581**	**100.0%**	**$97,199**	**100.0%**	**$11,609**	**100.0%**
Cost Per Vote	**$0.36**		**$0.36**		**$0.05**	

DATA FOR 1994 PRIMARY ELECTION ONLY

Los Angeles County Municipal Court Elections:

1988 to 1994

Selected Data Tables For Individual Contests Studied

1988
L.A. COUNTY MUNICIPAL COURT:
BEVERLY HILLS JUDICIAL DISTRICT OFFICE #1

Judith Stein (Inc.), Brian Braff

Primary Election Result (Total Votes Cast-16,074): Stein-61%/Braff-39%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	STEIN		BRAFF	
Attorneys	$15,950	18.0%	$10,500	6.2%
Law Enforcement	$100	0.1%	$0	0.0%
Med. Industry	$350	0.4%	$1,435	0.8%
Insur. Industry	$0	0.0%	$500	0.3%
Business	$5,525	6.2%	$4,200	2.5%
Individual	$7,550	8.5%	$26,472	15.6%
Labor Org's	$0	0.0%	$0	0.0%
Pol. Parties	$175	0.2%	$0	0.0%
Broadbased Org's	$0	0.0%	$0	0.0%
Other Judges	$1,125	1.3%	$125	0.1%
Other Officeholders	$0	0.0%	$0	0.0%
Candidate/Family	$58,000	65.3%	$126,827	74.6%
Total	**$88,775**	**100.0%**	**$170,059**	**100.0%**

CONTRIBUTION SIZE

	STEIN		BRAFF	
Under $100	$2,904	3.2%	$610	0.4%
$100 to $249	$13,875	15.1%	$16,253	9.5%
$250 to $499	$5,275	5.8%	$9,532	5.6%
$500 to $999	$7,100	7.7%	$16,750	9.8%
$1,000 to $4,999	$4,525	4.9%	$2,500	1.5%
$5,000 to $9,999	$0	0.0%	$0	0.0%
$10,000 to $19,999	$0	0.0%	$0	0.0%
$20,000 & Over	$58,000	63.3%	$125,024	73.3%
Total	**$91,679**	**100.0%**	**$170,669**	**100.0%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

STEIN		BRAFF	
Judith O. Stein•	$58,000	Brian Braff•	$125,024
Johnson's Super Service	$1,500	Solon M. Braff•	$1,500
Ash, Vites & Adajian••	$1,025	Hank F. McCann	$1,000
Harry E. Weiss••	$1,000	Bloom & Dekom••	$750
MGM, Grand, Inc.	$1,000	Daniels, Baratta & Fine••	$500

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	STEIN		BRAFF	
Broadcast Ads	$0	0.0%	$0	0.0%
Prof. Consultants	$44,836	45.5%	$15,048	9.0%
Fundraising	$4,749	4.8%	$4,601	2.7%
General	$12,542	12.7%	$81,644	48.8%
Literature	$30,144	30.6%	$49,348	29.5%
Slate Mailers	$6,000	6.1%	$0	0.0%
Newspaper Ads	$0	0.0%	$13,796	8.2%
Outdoor Ads	$0	0.0%	$1,772	1.1%
Ballot Pamph. Stmt	$0	0.0%	$0	0.0%
Surveys/Polling	$0	0.0%	$1,210	0.7%
Travel/Accom.	$280	0.3%	$0	0.0%
Total	**$98,551**	**100.0%**	**$167,419**	**100.0%**
Cost Per Vote	**$10.05**		**$27.20**	

1988
L.A. COUNTY MUNICIPAL COURT:
LOS ANGELES JUDICIAL DISTRICT OFFICE #8

OPEN SEAT

Marion Johnson, Steven Leventhal, Merle Horwitz, Andrew Diamond

Primary Election Result (Total Votes Cast-415,700): Leventhal-40%/Johnson-36%/Horwitz-13%/Diamond-12%
Runoff Election Result (Total Votes Cast-700,666): Johnson-57%/Leventhal-43%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	JOHNSON		LEVENTHAL		HORWITZ		DIAMOND	
Attorneys	$8,960	17.3%	$41,219	45.1%	$522	5.7%	$6,550	51.0%
Law Enforcement	$350	0.7%	$800	0.9%	$0	0.0%	$0	0.0%
Med. Industry	$100	0.2%	$2,852	3.1%	$0	0.0%	$0	0.0%
Insur. Industry	$0	0.0%	$476	0.5%	$0	0.0%	$0	0.0%
Business	$0	0.0%	$3,226	3.5%	$500	5.5%	$0	0.0%
Individual	$2,525	4.9%	$23,179	25.4%	$100	1.1%	$5,925	46.2%
Labor Org's	$1,050	2.0%	$4,000	4.4%	$0	0.0%	$0	0.0%
Pol. Parties	$500	1.0%	$0	0.0%	$0	0.0%	$0	0.0%
Broadbased Org's	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Other Judges	$1,650	3.2%	$600	0.7%	$100	1.1%	$0	0.0%
Other Officeholders	$3,350	6.5%	$0	0.0%	$0	0.0%	$0	0.0%
Candidate/Family	$33,224	64.3%	$15,063	16.5%	$7,946	86.7%	$360	2.8%
Total	**$51,709**	**100.0%**	**$91,415**	**100.0%**	**$9,168**	**100.0%**	**$12,835**	**100.0%**

CONTRIBUTION SIZE

	JOHNSON		LEVENTHAL		HORWITZ		DIAMOND	
Under $100	$9,550	15.6%	$16,806	15.5%	$820	8.2%	$2,835	18.1%
$100 to $249	$9,935	16.2%	$33,264	30.7%	$400	4.0%	$7,885	50.3%
$250 to $499	$3,400	5.6%	$19,958	18.4%	$322	3.2%	$3,450	22.0%
$500 to $999	$2,800	4.6%	$11,030	10.2%	$500	5.0%	$500	3.2%
$1,000 to $4,999	$2,600	4.2%	$16,800	15.5%	$0	0.0%	$1,000	6.4%
$5,000 to $9,999	$0	0.0%	$0	0.0%	$7,946	79.6%	$0	0.0%
$10,000 to $19,999	$0	0.0%	$10,363	9.6%	$0	0.0%	$0	0.0%
$20,000 & Over	$32,974	53.8%	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$61,259**	**100.0%**	**$108,221**	**100.0%**	**$9,988**	**100.0%**	**$15,670**	**100.0%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

JOHNSON		LEVENTHAL		HORWITZ		DIAMOND	
Marion Johnson•	$32,974	Genevieve M. Leventhal•	$10,363	Merle H. Horwitz•	$7,946	Dennis E. Mulcahy••	$1,000
LIN PAC	$2,600	Stephen A. Leventhal•	$4,500	Intern'l Explosion, Inc.	$500	Cohen & Steinbrecher••	$500
L.A. City Empl. Union Loc. 347	$800	So. Calif. Caucus	$4,000	Bache, Weyman & Mulliner••	$322	Harold Brown	$400
McKinley, Peters & Granville••	$500	Stephen D. Goddard	$1,200	Tannenbaum & Schwartz••	$100	Howard Price••	$300
Michael Shapiro••	$500	Carl M. Buck, Jr.	$1,100	Melissa Grossan••	$100	Ash Vites & Adajian••	$250

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	JOHNSON		LEVENTHAL		HORWITZ		DIAMOND	
Broadcast Ads	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Prof. Consultants	$17,824	23.9%	$5,075	6.0%	$5,000	51.8%	$0	0.0%
Fundraising	$444	0.6%	$9,859	11.6%	$0	0.0%	$1,954	17.5%
General	$4,800	6.4%	$3,607	4.2%	$1,313	13.6%	$125	1.1%
Literature	$34,205	45.9%	$53,161	62.4%	$1,586	16.4%	$381	3.4%
Slate Mailers	$13,500	18.1%	$11,500	13.5%	$1,750	18.1%	$0	0.0%
Newspaper Ads	$0	0.0%	$0	0.0%	$0	0.0%	$8,283	74.2%
Outdoor Ads	$2,500	3.4%	$2,000	2.3%	$0	0.0%	$424	3.8%
Ballot Pamph. Stmt	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Surveys/Polling	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Travel/Accom.	$1,196	1.6%	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$74,469**	**100.0%**	**$85,202**	**100.0%**	**$9,649**	**100.0%**	**$11,167**	**100.0%**
Cost Per Vote	**$0.14**		**$0.18**		**$0.19**		**$0.23**	

1988
L.A. COUNTY MUNICIPAL COURT:
LOS ANGELES JUDICIAL DISTRICT #22

Barbara Meiers (Inc.), Tony Cogliandro

Primary Election Result (Total Votes Cast-408,572): Meiers-82%/Cogliandro-18%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	MEIERS		COGLIANDRO	
Attorneys	$8,175	14.6%	$3,200	15.7%
Law Enforcement	$0	0.0%	$0	0.0%
Med. Industry	$0	0.0%	$0	0.0%
Insur. Industry	$0	0.0%	$0	0.0%
Business	$100	0.2%	$0	0.0%
Individual	$600	1.1%	$300	1.5%
Labor Org's	$0	0.0%	$0	0.0%
Pol. Parties	$100	0.2%	$0	0.0%
Broadbased Org's	$500	0.9%	$0	0.0%
Other Judges	$300	0.5%	$0	0.0%
Other Officeholders	$0	0.0%	$0	0.0%
Candidate/Family	$46,398	82.6%	$16,892	82.8%
Total	**$56,173**	**100.0%**	**$20,392**	**100.0%**

CONTRIBUTION SIZE

	MEIERS		COGLIANDRO	
Under $100	$3,617	6.0%	$125	0.6%
$100 to $249	$7,250	12.1%	$700	3.4%
$250 to $499	$1,500	2.5%	$800	3.9%
$500 to $999	$1,025	1.7%	$1,000	4.9%
$1,000 to $4,999	$0	0.0%	$1,000	4.9%
$5,000 to $9,999	$0	0.0%	$0	0.0%
$10,000 to $19,999	$0	0.0%	$16,892	82.3%
$20,000 & Over	$46,398	77.6%	$0	0.0%
Total	**$59,790**	**100.0%**	**$20,517**	**100.0%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

MEIERS		COGLIANDRO	
Barbara Meiers•	$46,398	Tony Cogliandro•	$16,892
Ash, Vites & Adajian••	$525	David Nakahara••	$1,000
National Women's Political Caucus	$500	Bruce Brandlin••	$500
Sherwin C. Edelberg••	$400	Wayne Joyner••	$500
Moore, Sorensen & Horner••	$350	Phil Kelly••	$300

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	MEIERS		COGLIANDRO	
Broadcast Ads	$0	0.0%	$0	0.0%
Prof. Consultants	$22,868	34.5%	$0	0.0%
Fundraising	$100	0.2%	$0	0.0%
General	$3,578	5.4%	$1,268	6.2%
Literature	$1,253	1.9%	$6,246	30.8%
Slate Mailers	$17,500	26.4%	$0	0.0%
Newspaper Ads	$0	0.0%	$11,568	57.0%
Outdoor Ads	$0	0.0%	$1,218	6.0%
Ballot Pamph. Stmt	$21,000	31.7%	$0	0.0%
Surveys/Polling	$0	0.0%	$0	0.0%
Travel/Accom.	$0	0.0%	$0	0.0%
Total	**$66,299**	**100.0%**	**$20,300**	**100.0%**
Cost Per Vote	**$0.20**		**$0.27**	

1990
L.A. COUNTY MUNICIPAL COURT:
DOWNEY JUDICIAL DISTRICT

OPEN SEAT

David Perkins, Leo Villa, Marvin Licker, Daniel Bunnett

Primary Election Result (Total Votes Cast-29,231):Villa-28.3%/Perkins-27.7%/Bunnett-22.1%/Licker-21.8%
Runoff Election Result (Total Votes Cast-39,482): Perkins-55%/Villa-45%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	PERKINS		VILLA		BUNNETT		LICKER	
Attorneys	$5,800	5.6%	$6,450	22.5%	$6,900	39.4%	$1,600	6.9%
Law Enforcement	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Med. Industry	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Insur. Industry	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Business	$919	0.9%	$0	0.0%	$0	0.0%	$0	0.0%
Individual	$8,350	8.1%	$4,233	14.8%	$2,200	12.6%	$2,350	10.1%
Labor Org's	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Pol. Parties	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Broadbased Org's	$0	0.0%	$0	0.0%	$0	0.0%	$1,000	4.3%
Other Judges	$0	0.0%	$400	1.4%	$0	0.0%	$250	1.1%
Other Officeholders	$0	0.0%	$0	0.0%	$0	0.0%	$100	0.4%
Candidate/Family	$88,221	85.4%	$17,595	61.4%	$8,421	48.1%	$17,968	77.2%
Total	**$103,290**	**100.0%**	**$28,678**	**100.0%**	**$17,521**	**100.0%**	**$23,268**	**100.0%**

CONTRIBUTION SIZE

	PERKINS		VILLA		BUNNETT		LICKER	
Under $100	$2,770	2.6%	$2,780	8.8%	$867	4.7%	$2,511	9.7%
$100 to $249	$6,350	6.0%	$5,933	18.9%	$3,350	18.2%	$2,650	10.3%
$250 to $499	$4,750	4.5%	$2,550	8.1%	$2,300	12.5%	$750	2.9%
$500 to $999	$2,169	2.0%	$2,200	7.0%	$3,700	20.1%	$900	3.5%
$1,000 to $4,999	$2,000	1.9%	$1,000	3.2%	$2,500	13.6%	$1,000	3.9%
$5,000 to $9,999	$0	0.0%	$0	0.0%	$5,671	30.8%	$0	0.0%
$10,000 to $19,999	$0	0.0%	$16,995	54.0%	$0	0.0%	$17,968	69.7%
$20,000 & Over	$88,021	83.0%	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$106,060**	**100.0%**	**$31,458**	**100.0%**	**$18,388**	**100.0%**	**$25,779**	**100.0%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

PERKINS		VILLA		BUNNETT		LICKER	
David W. Perkins•	$88,021	Leo R. Villa•	$16,995	Daniel W. Bunnett•	$5,671	Marvin Licker•	$17,968
Jack Tarr	$1,000	Ruffo Espinoza••	$1,000	John W. Bunnett•	$1,500	Comm./Indep./Downe	$1,000
Robert and Molly John	$1,000	Richard A. Leonard••	$600	John A. Bunnett•	$1,000	D.H. Plotkin	$900
Five Brothers Inc.	$919	Robert A. Villa•	$600	David C. Zipperian	$700	Richard T. English••	$250
Edward Mills	$750	Richard A. LaPan••	$500	Al Schafer	$500	Ruffino Espinoza, Jr.••	$250

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	PERKINS		VILLA		BUNNETT		LICKER	
Broadcast Ads	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Prof. Consultants	$26,000	24.9%	$1,000	3.2%	$0	2.6%	$500	0.0%
Fundraising	$0	0.0%	$532	1.7%	$0	6.9%	$1,309	0.0%
General	$3,786	3.6%	$1,517	4.8%	$6,131	6.9%	$1,321	36.0%
Literature	$48,298	46.2%	$18,412	58.2%	$8,006	71.6%	$13,672	47.1%
Slate Mailers	$14,581	14.0%	$4,625	14.6%	$0	0.0%	$0	0.0%
Newspaper Ads	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Outdoor Ads	$9,441	9.0%	$3,724	11.8%	$0	2.3%	$443	0.0%
Ballot Pamph. Stmt	$2,346	2.2%	$1,850	5.8%	$1,850	9.7%	$1,850	10.9%
Surveys/Polling	$0	0.0%	$0	0.0%	$1,026	0.0%	$0	6.0%
Travel/Accom.	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$104,452**	**100.0%**	**$31,660**	**100.0%**	**$17,013**	**100.0%**	**$19,095**	**100.0%**
Cost Per Vote	**$3.53**		**$1.35**		**$2.69**		**$3.64**	

1990
L.A. COUNTY MUNICIPAL COURT:
SANTA MONICA JUDICIAL OFFICE #3

OPEN SEAT

David Finkel, James Bambrick, Norman Tarle, Sonya Molho

1992 Primary Election Result (Total Votes Cast-20,195): Bambrick-31%/Finkel-27%/Tarle-26%/Molho-16%
Runoff Election Result (Total Votes Cast-29,392): Finkel-53%/Bambrick-47%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	FINKEL		BAMBRICK		TARLE		MOLHO	
Attorneys	$9,600	15.8%	$8,400	12.6%	$20,750	72.1%	$4,550	7.6%
Law Enforcement	$200	0.3%	$0	0.0%	$800	2.8%	$0	0.0%
Med. Industry	$700	1.2%	$200	0.3%	$600	2.1%	$1,100	1.8%
Insur. Industry	$0	0.0%	$0	0.0%	$100	0.3%	$0	0.0%
Business	$8,296	13.7%	$3,700	5.5%	$600	2.1%	$0	0.0%
Individual	$33,254	54.8%	$12,950	19.4%	$2,950	10.3%	$2,150	3.6%
Labor Org's	$300	0.5%	$0	0.0%	$0	0.0%	$0	0.0%
Pol. Parties	$0	0.0%	$0	0.0%	$500	1.7%	$0	0.0%
Broadbased Org's	$2,100	3.5%	$0	0.0%	$0	0.0%	$0	0.0%
Other Judges	$250	0.4%	$400	0.6%	$1,325	4.6%	$0	0.0%
Other Officeholders	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Candidate/Family	$6,000	9.9%	$41,138	61.6%	$1,150	4.0%	$52,400	87.0%
Total	**$60,700**	**100.0%**	**$66,788**	**100.0%**	**$28,775**	**100.0%**	**$60,200**	**100.0%**

CONTRIBUTION SIZE

	FINKEL		BAMBRICK		TARLE		MOLHO	
Under $100	$25,429	29.5%	$6,228	8.5%	$6,340	18.1%	$2,237	3.6%
$100 to $249	$11,390	13.2%	$10,600	14.5%	$15,675	44.6%	$3,000	4.8%
$250 to $499	$11,275	13.1%	$4,800	6.6%	$7,300	20.8%	$2,050	3.3%
$500 to $999	$15,360	17.8%	$3,650	5.0%	$4,800	13.7%	$750	1.2%
$1,000 to $4,999	$16,675	19.4%	$8,060	11.0%	$1,000	2.8%	$3,000	4.8%
$5,000 to $9,999	$6,000	7.0%	$0	0.0%	$0	0.0%	$0	0.0%
$10,000 to $19,999	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
$20,000 & Over	$0	0.0%	$39,678	54.3%	$0	0.0%	$51,400	82.3%
Total	**$86,129**	**100.0%**	**$73,016**	**100.0%**	**$35,115**	**100.0%**	**$62,437**	**100.0%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

FINKEL		BAMBRICK		TARLE		MOLHO	
Amy Finkel-Shimson•	$6,000	James M. Bambrick•	$39,678	Mendel Tarle•	$1,000	Sonya Molho•	$51,400
SMRR	$2,000	Warren Trepp	$2,500	Sammy Weiss••	$900	Juliet Molho•	$1,000
Eileen Norton	$2,000	Michael Millman••	$2,100	Harriet Cutler	$800	Robert Karns, M.D.	$1,000
George I. Rosenthal	$2,000	Dianne Bambrick•	$1,460	Ash, Vites & Adajian••	$750	William Eisenberg	$1,000
Mary P. Dougherty	$1,500	Moroney & Guarino••	$1,000	Harry E. Weiss••	$750	Duane Hall••	$750

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	FINKEL		BAMBRICK		TARLE		MOLHO	
Broadcast Ads	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Prof. Consultants	$43,046	41.1%	$28,896	39.0%	$11,470	30.7%	$30,841	50.3%
Fundraising	$6,890	6.6%	$1,345	1.8%	$1,101	2.9%	$100	0.2%
General	$5,500	5.3%	$4,811	6.5%	$1,570	4.2%	$896	1.5%
Literature	$39,234	37.5%	$23,634	31.9%	$13,983	37.4%	$23,661	38.6%
Slate Mailers	$5,600	5.3%	$4,300	5.8%	$7,745	20.7%	$0	0.0%
Newspaper Ads	$280	0.3%	$8,296	11.2%	$0	0.0%	$0	0.0%
Outdoor Ads	$0	0.0%	$1,230	1.7%	$490	1.3%	$0	0.0%
Ballot Pamph. Stmt	$3,475	3.3%	$1,550	2.1%	$1,050	2.8%	$1,050	1.7%
Surveys/Polling	$664	0.6%	$0	0.0%	$0	0.0%	$4,750	7.7%
Travel/Accom.	$0	0.0%	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$104,689**	**100.0%**	**$74,062**	**100.0%**	**$37,409**	**100.0%**	**$61,298**	**100.0%**
Cost Per Vote	**$5.07**		**$3.68**		**$7.27**		**$18.86**	

1992
L.A. COUNTY MUNICIPAL COURT:
LOS ANGELES JUDICIAL DISTRICT OFFICE #3

Gerald Richardson (Inc.), Stephanie Sautner, John Ladner

Primary Election Result (Total Votes Cast-462,991): Sautner-61%/Richardson-26%/Ladner-14%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	RICHARDSON		SAUTNER		LADNER	
Attorneys	$4,850	10.8%	$14,405	32.0%	$9,150	76.3%
Law Enforcement	$0	0.0%	$1,050	2.3%	$0	0.0%
Med. Industry	$0	0.0%	$200	0.4%	$100	0.8%
Insur. Industry	$0	0.0%	$200	0.4%	$0	0.0%
Business	$550	1.2%	$900	2.0%	$0	0.0%
Individual	$2,400	5.4%	$13,585	30.2%	$2,750	22.9%
Labor Org's	$0	0.0%	$0	0.0%	$0	0.0%
Pol. Parties	$0	0.0%	$0	0.0%	$0	0.0%
Broadbased Org's	$0	0.0%	$625	1.4%	$0	0.0%
Other Judges	$900	2.0%	$600	1.3%	$0	0.0%
Other Officeholders	$0	0.0%	$100	0.2%	$0	0.0%
Candidate/Family	$36,080	80.6%	$13,375	29.7%	$0	0.0%
Total	**$44,780**	**100.0%**	**$45,040**	**100.0%**	**$12,000**	**100.0%**

CONTRIBUTION SIZE

	RICHARDSON		SAUTNER		LADNER	
Under $100	$1,990	4.3%	$14,676	24.6%	$1,988	14.2%
$100 to $249	$4,700	10.0%	$15,865	26.6%	$5,600	40.0%
$250 to $499	$2,500	5.3%	$4,950	8.3%	$2,900	20.7%
$500 to $999	$500	1.1%	$4,750	8.0%	$3,500	25.0%
$1,000 to $4,999	$1,000	2.1%	$7,150	12.0%	$0	0.0%
$5,000 to $9,999	$0	0.0%	$0	0.0%	$0	0.0%
$10,000 to $19,999	$0	0.0%	$12,325	20.6%	$0	0.0%
$20,000 & Over	$36,080	77.1%	$0	0.0%	$0	0.0%
Total	**$46,770**	**100.0%**	**$59,716**	**100.0%**	**$13,988**	**100.0%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

RICHARDSON		SAUTNER		LADNER	
Gerald T. Richardson•	$36,080	Stephanie Sautner•	$12,325	Dennis Mulcahy••	$500
Alexander Astin	$1,000	McGregor & Emenwein•	$1,500	Sammy Weiss••	$500
Jacob Adajian••	$500	Pamela A. Albers••	$1,500	Adam Bezanoff	$500
Carl Jones	$400	Robert M. Segall	$1,150	Dagney J. Corcoran	$500
Michael T. Shannon••	$300	Ayse Manyas Kenmore	$1,000	David Yeskel	$500

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	RICHARDSON		SAUTNER		LADNER	
Broadcast Ads	$0	0.0%	$0	0.0%	$2,455	15.8%
Prof. Consultants	$15,954	31.1%	$12,272	20.4%	$0	0.0%
Fundraising	$154	0.3%	$1,705	2.8%	$380	2.5%
General	$3,214	6.3%	$200	0.3%	$3,492	22.5%
Literature	$7,395	14.4%	$805	1.3%	$1,779	11.5%
Slate Mailers	$0	0.0%	$21,700	36.0%	$4,000	25.8%
Newspaper Ads	$0	0.0%	$0	0.0%	$3,383	21.8%
Outdoor Ads	$0	0.0%	$0	0.0%	$0	0.0%
Ballot Pamph. Stmt	$24,507	47.8%	$23,600	39.1%	$0	0.0%
Surveys/Polling	$0	0.0%	$0	0.0%	$0	0.0%
Travel/Accom.	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$51,224**	**100.0%**	**$60,282**	**100.0%**	**$15,489**	**100.0%**
Cost Per Vote	**$0.43**		**$0.22**		**$0.26**	

1994
L.A. COUNTY MUNICIPAL COURT
DOWNEY JUDICIAL DISTRICT #3

OPEN SEAT

Roy Paul and B.R. Margolis

Primary Election Result (Total Votes Cast-25,081): Paul-73%/Margolis-27%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	PAUL		MARGOLIS	
Attorneys	$5,440	7.0%	$0	0.0%
Law Enforcement	$0	0.0%	$0	0.0%
Med. Industry	$1,400	1.8%	$0	0.0%
Insur. Industry	$0	0.0%	$0	0.0%
Business	$2,100	2.7%	$0	0.0%
Individual	$5,555	7.2%	$0	0.0%
Labor Org's	$400	0.5%	$0	0.0%
Pol. Parties	$0	0.0%	$0	0.0%
Broadbased Org's	$0	0.0%	$0	0.0%
Other Judges	$2,200	2.8%	$0	0.0%
Other Officeholders	$0	0.0%	$0	0.0%
Candidate/Family	$60,507	78.0%	$64,507	100.0%
Total	**$77,602**	**100.0%**	**$64,507**	**100.0%**

CONTRIBUTION SIZE

	PAUL		MARGOLIS	
Under $100	$6,958	8.2%	$0	0.0%
$100 to $249	$4,485	5.3%	$0	0.0%
$250 to $499	$3,010	3.6%	$0	0.0%
$500 to $999	$6,600	7.8%	$0	0.0%
$1,000 to $4,999	$3,000	3.5%	$0	0.0%
$5,000 to $9,999	$0	0.0%	$0	0.0%
$10,000 to $19,999	$0	0.0%	$0	0.0%
$20,000 & Over	$60,507	71.6%	$64,507	100.0%
Total	**$84,560**	**100.0%**	**$64,507**	**100.0%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

PAUL		MARGOLIS	
Roy L. Paul•	$60,507	Benjamin Robert Margolis•	$64,507
John P. Buffa	$1,000		
John D. Lord	$1,000		
Internal Medicine Med. Group	$1,000		
Daniel W. Bunnett••	$600		

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	PAUL		MARGOLIS	
Broadcast Ads	$9,420	11.6%	$0	0.0%
Prof. Consultants	$6,501	8.0%	$0	0.0%
Fundraising	$1,353	1.7%	$0	0.0%
General	$5,411	6.7%	$907	1.4%
Literature	$37,800	46.5%	$60,662	94.5%
Slate Mailers	$7,741	9.5%	$0	0.0%
Newspaper Ads	$4,383	5.4%	$0	0.0%
Outdoor Ads	$6,039	7.4%	$0	0.0%
Ballot Pamph. Stmt	$2,600	3.2%	$2,600	4.1%
Surveys/Polling	$0	0.0%	$0	0.0%
Travel/Accom.	$0	0.0%	$0	0.0%
Total	**$81,248**	**100.0%**	**$64,169**	**100.0%**
Cost Per Vote	**$4.50**		**$9.42**	

1994
L.A. COUNTY MUNICIPAL COURT
LONG BEACH JUDICIAL DISTRICT

OPEN SEAT

Deborah Andrews, Alexander Polsky and William Shibley

1994 Primary Election Result (Total Votes Cast- 50,331): Andrews-62%/Polsky-23%/Shibley-16%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	ANDREWS		POLSKY		SHIBLEY
Attorneys	$6,420	15.3%	$900	6.5%	
Law Enforcement	$0	0.0%	$0	0.0%	
Med. Industry	$750	1.8%	$1,000	7.2%	
Insur. Industry	$0	0.0%	$0	0.0%	
Business	$800	1.9%	$0	0.0%	
Individual	$2,275	5.4%	$0	0.0%	
Labor Org's	$0	0.0%	$0	0.0%	
Pol. Parties	$100	0.2%	$0	0.0%	
Broadbased Org's	$0	0.0%	$0	0.0%	
Other Judges	$1,700	4.0%	$0	0.0%	
Other Officeholders	$0	0.0%	$0	0.0%	
Candidate/Family	$30,000	71.4%	$11,922	86.3%	
Total	**$42,045**	**100.0%**	**$13,822**	**100.0%**	

The Los Angeles County Registrar's office could not locate any campaign disclosure records for this candidate.*

CONTRIBUTION SIZE

	ANDREWS		POLSKY		SHIBLEY
Under $100	$7,692	15.5%	$59	0.4%	
$100 to $249	$9,300	18.7%	$400	2.9%	
$250 to $499	$1,125	2.3%	$0	0.0%	
$500 to $999	$620	1.2%	$500	3.6%	
$1,000 to $4,999	$1,000	2.0%	$1,000	7.2%	
$5,000 to $9,999	$0	0.0%	$0	0.0%	
$10,000 to $19,999	$0	0.0%	$11,922	85.9%	
$20,000 & Over	$30,000	60.3%	$0	0.0%	
Total	**$49,737**	**100.0%**	**$13,881**	**100.0%**	

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

ANDREWS		POLSKY		SHIBLEY
Deborah B. Andrews•	$30,000	Alexander S. Polsky•	$11,922	
McGregor & Erenwein••	$1,000	June G. Yackness	$1,000	
Perona, Langer & Beck••	$620	Law Offices of L.S. Eisenberg••	$500	
Edward P. George, Jr.••	$325	Dimarco & Araujo••	$150	
Prolong International	$300	Law Offices of Troy D. Roe••	$150	

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	ANDREWS		POLSKY		SHIBLEY
Broadcast Ads	$0	0.0%	$0	0.0%	
Prof. Consultants	$12,750	44.6%	$750	6.4%	
Fundraising	$1,720	6.0%	$0	0.0%	
General	$4,674	16.4%	$906	7.7%	
Literature	$778	2.7%	$6,763	57.7%	
Slate Mailers	$6,200	21.7%	$0	0.0%	
Newspaper Ads	$0	0.0%	$0	0.0%	
Outdoor Ads	$0	0.0%	$858	7.3%	
Ballot Pamph. Stmt	$2,450	8.6%	$2,450	20.9%	
Surveys/Polling	$0	0.0%	$0	0.0%	
Travel/Accom.	$0	0.0%	$0	0.0%	
Total	**$28,572**	**100.0%**	**$11,727**	**100.0%**	
Cost Per Vote	**$0.94**		**$1.03**		

**Disclosure statements may not be available for several reasons: the candidate may not have raised or spent amounts triggering the reporting requirements ($500), may not have filed despite exceeding these amounts (a violation), or the secretary of state's office may have misplaced the candidate's statements.*

1994
L.A. COUNTY MUNICIPAL COURT
SOUTHEAST JUDICIAL DISTRICT #3

OPEN SEAT

R. Espinosa, Janet Araujo, Paul Jajan

Primary Election Result (Total Votes Cast-9988): Espinosa-42%/Araujo-42%/Jajan-16%
General Election Result (Total Votes Cast-20,305): Espinosa-51%/Araujo-49%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	ESPINOSA		ARAUJO		JAJAN	
Attorneys	$4,800	9.2%	$7,590	18.5%	$700	7.5%
Law Enforcement	$0	0.0%	$0	0.0%	$0	0.0%
Med. Industry	$0	0.0%	$0	0.0%	$100	1.1%
Insur. Industry	$200	0.4%	$0	0.0%	$0	0.0%
Business	$4,414	8.5%	$2,000	4.9%	$514	5.5%
Individual	$2,450	4.7%	$6,200	15.1%	$500	5.4%
Labor Org's	$0	0.0%	$0	0.0%	$0	0.0%
Pol. Parties	$0	0.0%	$0	0.0%	$0	0.0%
Broadbased Org's	$0	0.0%	$0	0.0%	$0	0.0%
Other Judges	$1,000	1.9%	$0	0.0%	$0	0.0%
Other Officeholders	$0	0.0%	$1,500	3.7%	$0	0.0%
Candidate/Family	$39,141	75.3%	$23,708	57.8%	$7,470	80.5%
Total	**$52,005**	**100.0%**	**$40,998**	**100.0%**	**$9,284**	**100.0%**

CONTRIBUTION SIZE

	ESPINOSA		ARAUJO		JAJAN	
Under $100	$2,601	4.8%	$5,245	11.3%	$1,227	11.7%
$100 to $249	$3,700	6.8%	$3,340	7.2%	$100	1.0%
$250 to $499	$2,700	4.9%	$800	1.7%	$0	0.0%
$500 to $999	$2,850	5.2%	$2,580	5.6%	$1,714	16.3%
$1,000 to $4,999	$3,614	6.6%	$12,878	27.8%	$0	0.0%
$5,000 to $9,999	$0	0.0%	$5,000	10.8%	$7,470	71.1%
$10,000 to $19,999	$0	0.0%	$16,400	35.5%	$0	0.0%
$20,000 & Over	$39,141	71.7%	$0	0.0%	$0	0.0%
Total	**$54,606**	**100.0%**	**$46,243**	**100.0%**	**$10,511**	**100.0%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

Ruffo Espinosa•	$39,141	Law Offices of Andres Bustante••	$100	Paul S. Jajan•	$7,470
Atomic Investments, Inc.	$2,614	Law Offices of Manuel E. Martinez••	$1,250	Tom McKnew••	$700
HP Disposal Company	$1,000	Torres & Brenner••	$1,500	J.V. Printing Service	$514
John A. Bunnett	$750	Alba Marrero••	$150		
Daniel W. Bunnett••	$600	Alvin S. Michaelson••	$100		

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	ESPINOSA		ARAUJO		JAJAN	
Broadcast Ads	$0	0.0%	$0	0.0%	$0	0.0%
Prof. Consultants	$8,010	20.2%	$4,320	10.6%	$0	0.0%
Fundraising	$0	0.0%	$1,100	2.7%	$1,250	14.1%
General	$10,943	27.7%	$5,534	13.6%	$1,715	19.4%
Literature	$17,847	45.1%	$17,605	43.4%	$5,493	62.0%
Slate Mailers	$0	0.0%	$7,229	17.8%	$0	0.0%
Newspaper Ads	$0	0.0%	$680	1.7%	$0	0.0%
Outdoor Ads	$1,470	3.7%	$2,819	6.9%	$403	4.5%
Ballot Pamph. Stmt	$1,300	3.3%	$1,300	3.2%	$0	0.0%
Surveys/Polling	$0	0.0%	$0	0.0%	$0	0.0%
Travel/Accom.	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$39,570**	**100.0%**	**$40,587**	**100.0%**	**$8,861**	**100.0%**
Cost Per Vote	**$9.51**		**$9.93**		**$6.53**	

DATA FOR 1994 PRIMARY ELECTION ONLY

1994
L.A. COUNTY MUNICIPAL COURT
SOUTHEAST JUDICIAL DISTRICT #3

OPEN SEAT

R. Espinosa, Janet Araujo, Paul Jajan

Primary Election Result (Total Votes Cast-9988): Espinosa-42%/Araujo-42%/Jajan-16%
General Election Result (Total Votes Cast-20,305): Espinosa-51%/Araujo-49%

SOURCES OF CONTRIBUTIONS (Amounts $100 or more)

	ESPINOSA		ARAUJO		JAJAN	
Attorneys	$4,800	9.2%	$7,590	18.5%	$700	7.5%
Law Enforcement	$0	0.0%	$0	0.0%	$0	0.0%
Med. Industry	$0	0.0%	$0	0.0%	$100	1.1%
Insur. Industry	$200	0.4%	$0	0.0%	$0	0.0%
Business	$4,414	8.5%	$2,000	4.9%	$514	5.5%
Individual	$2,450	4.7%	$6,200	15.1%	$500	5.4%
Labor Org's	$0	0.0%	$0	0.0%	$0	0.0%
Pol. Parties	$0	0.0%	$0	0.0%	$0	0.0%
Broadbased Org's	$0	0.0%	$0	0.0%	$0	0.0%
Other Judges	$1,000	1.9%	$0	0.0%	$0	0.0%
Other Officeholders	$0	0.0%	$1,500	3.7%	$0	0.0%
Candidate/Family	$39,141	75.3%	$23,708	57.8%	$7,470	80.5%
Total	**$52,005**	**100.0%**	**$40,998**	**100.0%**	**$9,284**	**100.0%**

CONTRIBUTION SIZE

	ESPINOSA		ARAUJO		JAJAN	
Under $100	$2,601	4.8%	$5,245	11.3%	$1,227	11.7%
$100 to $249	$3,700	6.8%	$3,340	7.2%	$100	1.0%
$250 to $499	$2,700	4.9%	$800	1.7%	$0	0.0%
$500 to $999	$2,850	5.2%	$2,580	5.6%	$1,714	16.3%
$1,000 to $4,999	$3,614	6.6%	$12,878	27.8%	$0	0.0%
$5,000 to $9,999	$0	0.0%	$5,000	10.8%	$7,470	71.1%
$10,000 to $19,999	$0	0.0%	$16,400	35.5%	$0	0.0%
$20,000 & Over	$39,141	71.7%	$0	0.0%	$0	0.0%
Total	**$54,606**	**100.0%**	**$46,243**	**100.0%**	**$10,511**	**100.0%**

TOP FIVE CONTRIBUTORS TO EACH CANDIDATE

ESPINOSA		ARAUJO		JAJAN	
Ruffo Espinosa•	$39,141	Law Offices of Andres Bustante••	$100	Paul S. Jajan•	$7,470
Atomic Investments, Inc.	$2,614	Law Offices of Manuel E. Martinez••	$1,250	Tom McKnew••	$700
HP Disposal Company	$1,000	Torres & Brenner••	$1,500	J.V. Printing Service	$514
John A. Bunnett	$750	Alba Marrero••	$150		
Daniel W. Bunnett••	$600	Alvin S. Michaelson••	$100		

•Candidate or Candidate's Family / ••Attorneys or Law Firms

EXPENDITURE PATTERNS (Amounts $100 or More)

	ESPINOSA		ARAUJO		JAJAN	
Broadcast Ads	$0	0.0%	$0	0.0%	$0	0.0%
Prof. Consultants	$8,010	20.2%	$4,320	10.6%	$0	0.0%
Fundraising	$0	0.0%	$1,100	2.7%	$1,250	14.1%
General	$10,943	27.7%	$5,534	13.6%	$1,715	19.4%
Literature	$17,847	45.1%	$17,605	43.4%	$5,493	62.0%
Slate Mailers	$0	0.0%	$7,229	17.8%	$0	0.0%
Newspaper Ads	$0	0.0%	$680	1.7%	$0	0.0%
Outdoor Ads	$1,470	3.7%	$2,819	6.9%	$403	4.5%
Ballot Pamph. Stmt	$1,300	3.3%	$1,300	3.2%	$0	0.0%
Surveys/Polling	$0	0.0%	$0	0.0%	$0	0.0%
Travel/Accom.	$0	0.0%	$0	0.0%	$0	0.0%
Total	**$39,570**	**100.0%**	**$40,587**	**100.0%**	**$8,861**	**100.0%**
Cost Per Vote	**$9.51**		**$9.93**		**$6.53**	

DATA FOR 1994 PRIMARY ELECTION ONLY

APPENDIX F

Selection and Retention of Judges Among the States for Specified Courts

	Supreme Court		Appeals Court		Circuit/ Superior Court		District Court		Municipal Court		Predominant Selection Process			
	App't	*Elected*	*App't*	*Elected*	*App't*	*Elected*	*App't*	*Elected*	*App't*	*Elected*	*App't*	*Ret. Elec.*		*Elect*
Alabama		PB		PB		PB		PB	LGB					x
Alaska	GRE		GRE		GRE		GRE					x		
Arizona	GRE		GRE		GRE	NB[1]						x		
Arkansas		PB		PB		PB		PB		PB				x
California	GRE		GRE			NB				NB				x
Colorado	GRE		GRE		GRE		GRE		LGB			x		
Connecticut	LEG		LEG		LEG				LEG		x			
Delaware	GOV		GOV		GOV				GOV		x			
Florida	GCE		GCE					NB		NB				x
Georgia		NB		NB		NB				PB				x
Hawaii	GOV		GOV		JUS						x			
Idaho		NB		NB		NB								x
Illinois		PB		PB		PB								x
Indiana	GRE		GRE			PB				PB				x
Iowa	GRE		GRE				GRE		JUS			x		
Kansas	GRE		GRE				JUS					x		
Kentucky		NB		NB		NB		NB		NB				x
Louisiana		NB		NB		NB		NB		NB				x
Maine	GOV		GOV		GOV		GOV		GOV		x			
Maryland	GRE		GRE		GCE		GOV					x		
Massachusetts	GOV		GOV		GOV		GOV		GOV		x			
Michigan		NB		NB		NB		NB		NB				x
Minnesota		NB		NB		NB		NB		NB				x
Mississippi		PB		PB		PB		PB	LGB					x
Missouri	GRE		GRE		GRE			PB		PB		x		
Montana		NB		NB		NB		NB		NB				x
Nebraska	GRE						GRE		GRE			x		
Nevada		NB		NB		NB		NB		NB				x
New Hampshire	GOV		GOV		GOV		GOV		GOV		x			
New Jersey	GOV		GOV		GOV		GOV		LGB		x			
New Mexico	GCE		GCE				GCE		GCE					x
New York		PB	GOV			PB		PB	MAY					x
North Carolina		PB		PB		PB		PB		PB				x
North Dakota		NB		NB		NB		NB		NB				x
Ohio		NB		NB		NB		NB		NB				x
Oklahoma	GRE		GRE[2]	NB		NB		NB	LGB					x
Oregon		NB		NB		NB		NB	LGB					x
Pennsylvania		PB		PB		PB		PB		PB				x
Rhode Island	LEG				GOV		GOV		LGB		x			
South Carolina	LEG		LEG		LEG				MAY		x			
South Dakota	GRE					NB								x
Tennessee		PB	GCE			PB		PB	LGB					x
Texas		PB		PB		PB		PB		PB				x
Utah	GRE				GRE		GRE					x		
Vermont	GOV				GOV		GOV				x			
Virginia	LEG		LEG		LEG		LEG		LEG		x			
Washington		NB		NB		NB		NB		NB				x
West Virginia		PB				PB				PB				x
Wisconsin		NB		NB		NB				NB				x
Wyoming	GRE						GRE		MAY			x		
Dist. of Columbia			SEN		SEN						x			
											12	10		29

Note:
GRE—Gubernatorial appointment and subsequent noncompetitive Retention Elections.
GCE—Gubernatorial appointment and subsequent Competitive Elections for retention.
GOV—Gubernatorial appointment.
LEG—Legislative appointment.
JUS—Appointed by the courts.
LGB—Appointment by the Local Governing Body.
MAY—Appointment by the Mayor.
SEN—Appointment by the U.S. Senate.
PB—Election on a Partisan Ballot.
NB—Election on a Nonpartisan Ballot.

1 In counties with a population of less than 150,000.
2 Judges for Criminal Appeals are appointed by the governor and then run in retention elections for subsequent terms; judges for Court of Appeals run on nonpartisan ballots.

Source: California Commission on Campaign Financing

APPENDIX G

Consultants

The Commission wishes to thank the many individuals who offered their valuable advice and comments to the Commission and its staff as this report was prepared. A list of those persons consulted appears below. Helpful as these individuals have been, they bear no responsibility for the Commission's final conclusions and recommendations. In the case of any inadvertent omissions from the following list, the Commission offers its apologies.

Persons and Organizations Consulted

American Judicature Society, Chicago, Illinois

Michael Avey, Assistant Professor, Northern Kentucky University

Larry Berg, Professor, University of Southern California

Ann Byerly, Budget Officer, North Carolina State Board of Elections

Joseph Cerrell, Cerrell Associates

Dolores Colburg, Commissioner, Montana Political Practices Commission

Charlene Cruz, Elections Division, Los Angeles County Registrar-Recorder's Office

Janice Cull, Assistant Registrar of Voters, Los Angeles County Registrar of Voters

Phil Dubois, University of North Carolina

David Finkel, Santa Monica Municipal Court Judge

Judicial Council of California, San Francisco, California

Leon Kaplan, Los Angeles County Superior Court Judge

Joyce Karlin, Los Angeles County Superior Court Judge

John Leahy, Los Angeles County Superior Court Judge

Michael Luros, Los Angeles County Superior Court Judge

Andrew Martin, Commissioner, Texas Ethics Commission

Richard Nydorff, Los Angeles County Superior Court Judge

Janice Perry, Community Relations Director, Utah State Tax Commission

Richard Piedmont, Legislative Coordinator, State Bar of California

Cruz Reynoso, former California Supreme Court Justice

Judith Ryan, former Orange County Superior Court Judge

Gayle Shea, Administrator, Wisconsin Campaign Finance and Elections

Marcia Skolnik, Information Officer, Los Angeles Municipal Court District

James Stewart, Santa Clara County Superior Court Judge

Diane Wayne, Los Angeles County Superior Court Judge

APPENDIX H

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California Commission on Campaign Financing

This is the final report of the California Commission on Campaign Financing on the impact of money on judicial elections, using the Los Angeles area as a case study. The report discusses the history and structure of judicial selection procedures and proposes a comprehensive set of campaign finance reforms.

The California Commission on Campaign Financing was formed in 1984 as a private, non-profit organization. The bipartisan Commission is composed of 23 Californias from the state's business, labor, agricultural, legal, political and academic communities.

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