



Campaign Contributions and the Illinois Supreme Court

Samantha Sanchez

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Over the last decade, the cost of running for a position on a state Supreme Court has been increasing dramatically in many states, Illinois among them. As Courts become political targets, more Justices find that they are the subject of attack advertising that, in turn, forces them to raise increasingly larger campaign war chests in order to respond. The issue then becomes what impact does the increased pressure to raise funds have on the candidates for the Court.

Questions have arisen about the practice of judicial candidates accepting campaign contributions from people who might appear before them as attorneys or parties in a case. Indeed, one-third of the cases decided by the Illinois Supreme Court involved a contributor as either a party or as an attorney. While it is beyond the scope of this paper to determine whether this relationship has caused any bias in the Court's decisions, there is no statistical evidence of it from the frequency with which contributors are successful in their Supreme Court appeals. In fact, the vast majority of campaign contributors have no cases before the Court, and most litigants who appear before the Court have not contributed.

Indeed, of 68 contributors who gave \$5,000 or more in the three elections cycles, only seven appeared before the Court and their success was mixed, losing as many cases as they won. To put it in perspective, the funds contributed by all parties appearing in Court equal just 40 percent of the amount the candidates themselves contributed to their own campaigns from their personal funds.

The Money in Judicial Politics Project by the National Institute on Money in State Politics was developed to track contributions and spending in Supreme Court elections in a number of states, including Illinois. To compile a complete campaign profile of the Court, that included at least one election for each of the seven sitting Justices, data was collected for three election cycles -- 1990, 1992 and 1994. In these election cycles, 32 candidates sought one of the seven positions. The Supreme Court races of 2000, in which 12 candidates spent \$7.7 million, are not included here because those elected have not yet participated in enough cases to make the process of matching contributors and litigants worthwhile.

The purpose of this study, prepared with a grant from the Joyce Foundation, is to collect and publish the underlying data as part of the dialogue on judicial independence. This study is intended to gather together the data on the cost of judicial races, who gives to judicial candidates, how much they give, what their

business interests are and whether or not they appeared before the Court. A summary of the findings is below.

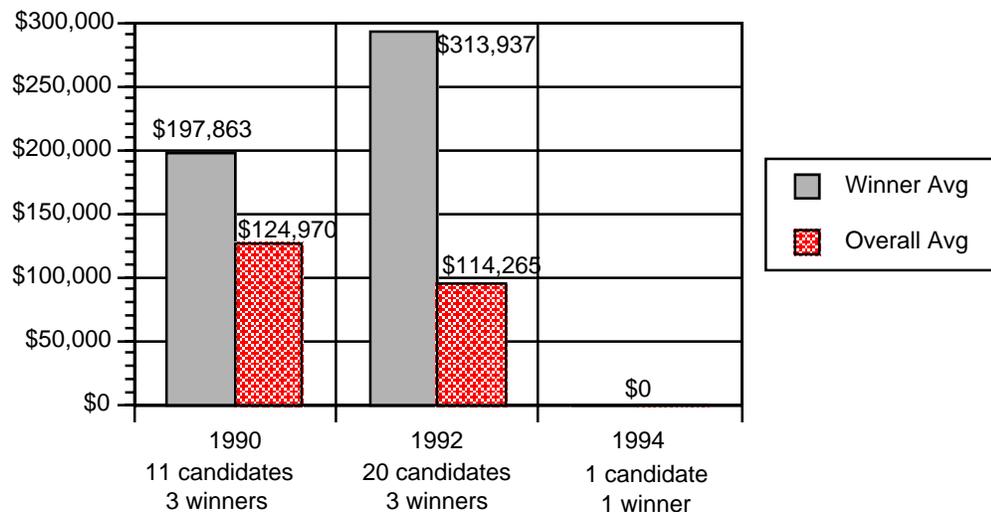
Note that the data, though comprehensive in its coverage of the Illinois Supreme Court, is necessarily a small dataset and that averages and trends calculated from such a small sample can be misleading and should be read with caution. A summary list of the cases is attached as an appendix and the complete databases are available on request.

Summary

- The average contribution made to judicial candidates was \$645 over the two election years.
- Of the cases heard by the Illinois Supreme Court between 1991 and 1999, 34 percent involved a party, lawyer or organization that made a campaign contribution to a Supreme Court justice in 1990 or 1992, but more than two-thirds of those cases involve public attorneys representing the state.
- The contributor-litigants constituted 10 percent of contributors to the winning candidates (and only 3.4 of all contributors) and gave 6.6 percent of the money they raised.
- Fewer than 4 percent of the lawyers who appeared before the Supreme Court made a contribution to a winning candidate.
- One-third of the funding for judicial candidates came from inside the system, that is, from political parties and from the candidates themselves.

The Cost of Running

The average amounts raised by candidates declined over the three election cycles studied, from \$124,970 to \$114,265 to \$0, but the average amount raised by winners actually increased 59 percent. The reason for the ostensible decline in the cost of running is the growth in the number of candidates from 1990 to 1992 and the fact that three 1992 candidates raised no funds at all.



While the number of candidates increased by 82 percent between 1990 and 1992, the number of contributions increased by only 24 percent and the size of the contribution increased 46 percent from an average of \$515 to \$750.

The cost of winning a seat on the Illinois Supreme Court has increased more than three-fold over the last decade, from an average of \$197,863 in 1990 to \$313,937 in 1992 to \$644,188 in 2000. The exception to the trend was the 1994 election of Justice Miller, who ran for retention, without opposition in either primary or general elections, and reported raising no campaign funds. There were no elections in 1996 or 1998.

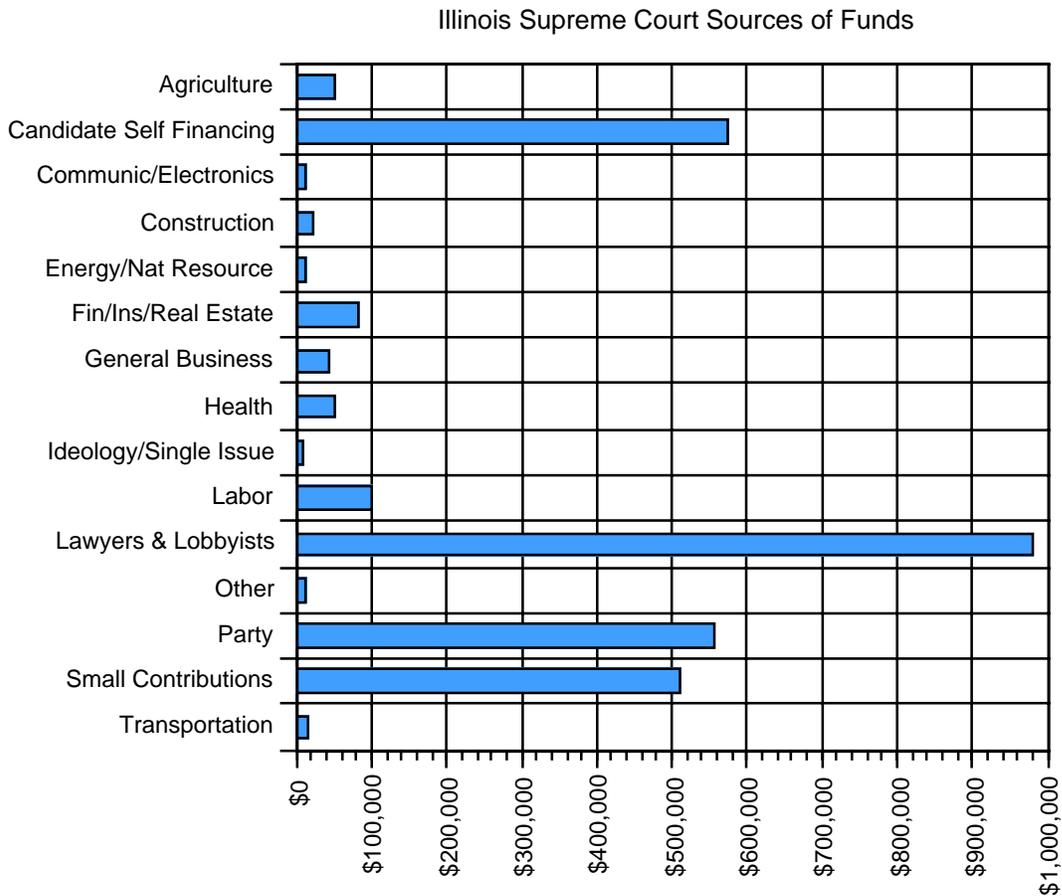
1990 Illinois Supreme Court Candidates			
BILANDIC, MICHAEL	\$2,684	D	W
FREEMAN, CHARLES E	\$146,022	D	W
HEIPLE, JAMES	\$444,882	R	W
Winner Avg	\$197,863		
BARRY, TOBIAS (TOBY)	\$342,218	D	L
BOHARIC, ROBERT V	\$62,227	R	L
BUCKLEY, ROBERT CHAPMAN	\$137,503	R	L
Loser Avg	\$180,649		
COUSINS JR, WILLIAM	\$51,067	D	PL
BAILEY, JAMES M	\$37,215	D	PL
MANNING, BLANCHE M	\$9,678	D	PL
MCMORROW, MARY ANN GROHWIN	\$64,225	D	PL
RIZZI, DOM J	\$76,945	D	PL
Primary Loser Avg	\$47,826		
Overall Average	\$124,970		

1992 Illinois Supreme Court Candidates			
HARRISON, MOSES W	\$420,554	D	W
MCMORROW, MARY ANN GROHWIN	\$363,423	D	W
NICKELS, JOHN L	\$157,833	R	W
Winner Avg	\$313,937		
BUCKLEY, ROBERT CHAPMAN	\$59,746	R	L
GRUNDEI, AUGUST	\$0	D	PL
WEBER, DON W	\$15,702	R	L
Loser Avg	\$25,149		
BECKER, CARL H	\$27,126	D	PL
CHAPMAN, CHARLES W (BILL)	\$59,236	D	PL
EPSTEIN, EDNA SELAN	\$134,104	D	PL
ANAGNOST, THEMIS	\$0	R	PL
HOWLETT JR, MICHAEL J	\$306,796	D	PL
MANNING, BLANCHE M	\$15,810	D	PL
MCNULTY, JILL KATHLEEN	\$2,883	D	PL
MOORE, JOHN L	\$4,291	R	PL
ODONNELL, THOMAS J	\$4,374	R	PL
REID, ELLIS E	\$92,725	D	PL
RHINE, JOHN E	\$0	R	PL
RIZZI, DOM J	\$153,582	D	PL
TULLY, JOHN P	\$25,819	D	PL
UNVERZAGT, GEORGE W	\$98,508	R	PL
Primary Loser Avg	\$66,090		
Overall Average	\$97,126		

Sources of Contributions

Attorneys were the leading source of contributions, followed by political parties and party leaders, as the chart below illustrates. The candidates themselves were the second-highest source of funds. Those three sources, all within the political-judicial system, supplied 64 percent of the total funds, \$2,106,440 of the \$3,317,178 raised in the elections covered in this study.

Small contributions, that is, those below the \$150 reporting threshold, accounted for 15 percent of the funds. These are reported by the candidates as aggregate lump sums without contributor names or specific amounts. Note also that nearly 9 percent of the funds came from named contributors whose economic interests could not be identified and are not shown in the chart below.



1. Attorneys

Attorneys contributed \$978,162 to the candidates for Supreme Court over the three elections cycles, or 29.5 percent of the total funds raised. In all, 612 individual attorneys and 230 law firms contributed an average of \$1,147 each. Nearly 20 percent (162 lawyers or firms) of those attorneys had a case in the Illinois Supreme Court and they made 170 contributions, averaging \$564 each, to winning candidates. Four of those attorneys represented the State of Illinois in some capacity while the rest were private attorneys. There were no contributions from attorney organizations, such as the Bar Association or the Trial Lawyers.

2. Candidates' Self-Funding

Eighteen judicial candidates contributed \$573,341 to their own campaigns. Three more candidates loaned funds to their campaigns that were later repaid in full. Republican candidates supplied 84 percent more money to their campaigns than Democratic candidates did, \$371,306 compared with \$202,035. The 12 Democrats averaged \$16,836 each, and the six Republicans averaged \$61,884 each.

The top self-financing candidate was Justice James D. Heiple, whose contribution of \$346,703 supplied more than three-quarters of his campaign funding. Other family members supplied another \$35,000.

3. Parties

Political parties, their legislative leaders and candidates (other than the judicial candidates themselves) contributed a total of \$554,937 to judicial candidates in 1990 and 1992, amounting to 17 percent of the total funds. Democratic Party committees and candidates gave more than three times as much as Republican sources to their candidates, \$436,071 compared to \$118,416. However, Republican candidates supplied much more of their own personal funds to their campaigns, as shown below.

The Democratic Party of Illinois supplied \$304,759 to four different candidates, and House Majority Leader Michael Madigan gave \$76,097 to Justice Mary Ann McMorrow in her successful 1992 campaign. On the Republican side, the Republican Judicial Campaign Committee gave \$48,963 to Justice James Heiple for his successful 1990 campaign, and the United Republican Fund of Illinois gave \$10,500 to three candidates in 1990 and 1992.

Contributor Litigants

Matching the list of contributors who gave money to a winning judicial candidate with the list of parties and attorneys who have appeared before the Supreme Court during that time period revealed 81 contributors (3.4 percent of all contributors) who appeared in 374 of the 1,087 cases before the Court between 1991 and 1999.

Contributor-litigants gave an average of \$1,253 each, for a total of \$101,779. In comparison, all contributors to judicial candidates gave an average of \$1,409 each, slightly higher than the average for litigants.

Do Contributors Win?

Given the importance of judicial impartiality, a system that forces candidates to seek funds from those they know raises questions of favoritism. However, it is nearly impossible to accurately evaluate whether contributors receive better treatment because of their contributions. The cases that go before the Supreme Court of any state involve the most complicated legal questions that the state's legal system produces, and the result can be split decisions or complex holdings which are not easily scored as a victory for one party or the other. Furthermore, it is impossible to guess whether the successful party would have been successful *without* the contribution since, unlike the situation that arises with contributions to legislative candidates, one of the two parties before the Court *will* prevail, with or without contributions. It is also a fact of legal practice that a client with a difficult case will want to retain the largest, best-connected law firm but as the analysis below shows, they do not always win.

There is no statistical evidence from these cases that connects contributions with success before the Court except for the Attorney General. It seems unlikely that his winning record representing the state is a result of any personal favoritism. A summary of the 374 cases in which contributors were involved shows:

- 161 cases had contributions only from the parties or attorneys on the winning side, but 82 percent (all but 29) of those cases involved attorneys representing the state.
- 127 cases had contributions only from the parties or attorneys on the losing side, but 69 percent (all but 36) of those cases involved attorneys representing the state.
- 11 cases had contributions from parties on both the winning and losing sides; in five cases the winning side gave more, and in six cases the losing side gave more.
- 48 cases resulted in split decisions.
- 27 cases involved only contributors who filed amicus briefs.

Seventy-seven of the 81 contributor litigants were attorneys. That figure includes attorneys who represent the State of Illinois in cases before the Supreme Court and, therefore, have no personal or financial stake in the outcome of their appeals. In fact, nearly 70 percent of the 374 cases involved Attorney General James Ryan, who is listed as appearing in 257 cases. Ryan contributed \$1,700 to winning judicial candidates, and three other attorneys representing the state also contributed a total of \$3,525. The state attorneys won 132 (51 percent) of their cases, lost 88 (34 percent) and received split decisions in 34 (10 percent) cases. They filed amicus briefs in the three remaining cases.

If the publicly employed attorneys are removed from consideration, on the theory that their success before the Court is unlikely to be related to their contributions, just 10.7 percent of cases before the Supreme Court involved a contributor. When those contributors appeared before the Court, they were more often on the losing side than the winning side of the case.

The private lawyers who contributed to at least one member of the Court and later appeared before the Court, are listed below in order of funds contributed:

- Jerome Mirza, who gave \$11,264, appeared in three cases and lost all three.
- Robert A Clifford, who gave \$9,500, appeared in two cases and lost both.
- Leonard M. Ring, who gave \$7,750, appeared in two cases, lost one and received a split decision in the second
- Philip H. Corboy, who gave \$4,450, appeared in three cases, lost one and had two split decisions
- Joseph Curcio, who gave \$4,100 and appeared in one case which he won.
- Patrick A. Salvi gave \$3,030 and appeared in only one case in which he filed an amicus brief.
- Amiel Stephen Cueto gave \$3,000 and appeared in one case, which he lost.
- And 66 other attorneys who gave less than \$3,000 each and had similar mixed results.

The four non-attorneys who contributed and appeared before the court were the labor union the American Federation of State, County and Municipal Employees (AFSCME), the Illinois Power Co., Loyola University of Chicago and an individual, Dr. Mitchell Kaminsky.

- AFSCME contributed a total of \$3,000 to winning judicial candidates and was involved in five cases before the Court. It won three, lost one and had one split decision.
- Illinois Power Co. gave \$242 to a winning candidate and was involved in four cases, of which it won three and had one split decision.
- Loyola University of Chicago contributed \$225 to a winning candidate and was involved in one case, which it won.
- Dr. Mitchell Kaminsky contributed \$500 to a winning candidate and was involved in one case, which he lost.

Expenditures

The candidate expenditure reports list the expense amounts and the reasons for the payment, but the single greatest use of campaign funds is simply described as payments to consultants. These payments, of course, can cover polling and advertising expenses as well as political advice, communications strategy, mailing expenses and many similar forms of assistance that candidates receive from consultants. Candidates often pay these costs in one lump sum without breaking out the itemized expenses in their campaign reports.

When a candidate specifically describes an expense for media or the payment is made to a television station, it was included in the media category shown below. Those costs described as advertising expenses are generally print advertising and

mailing expenses, but again, the records often do not detail the nature of the advertising expense.

Expenses for events are generally the cost of renting the space and paying for the catering for a campaign event, and sometimes includes special personnel expenses related to the event.

Administrative expenses are the rent and telephone bills paid by the campaigns and could include travel and other overhead costs in some cases. When the travel expenses are separately itemized in the reports, they are so described in the list on the right.

The payments to political parties are itemized below the subtotal of \$136,494 because some of the payments are for routine campaign expenses. However, more than 60 percent of that total is for contributions to the party PACs for general use by the party.

Similarly, the campaign contributions of \$15,909 are to other candidates' campaigns and do not include the judicial candidates' contributions to their own campaigns. Political contributions are those payments that are simply described that way without further detail.

ILLINOIS CAMPAIGN EXPENDITURES	
CONSULTANTS	\$1,107,216
ADMINISTRATIVE	\$631,866
ADVERTISING	\$411,986
MEDIA	\$327,933
EVENTS	\$171,928
TOTAL PAYMENT TO PARTY FOR:	\$136,494
CONTRIBUTION	\$83,347
MISC	\$20,936
ADMINISTRATIVE	\$20,102
ADVERTISING	\$8,396
ELECTION NIGHT	\$2,050
TICKETS	\$1,483
EVENTS	\$180
FOOD/TRAVEL	\$39,479
GIFTS	\$29,911
CAMPAIGN CONTRIBUTION	\$15,909
FUNDRAISING	\$12,035
ELECTION DAY ACTIVITIES	\$2,500
TICKETS	\$2,017
SMALL EXPENDITURES	\$1,951
POLITICAL CONTRIBUTIONS	\$1,880
TOTAL EXPENDITURES	\$2,893,104

[Appendix](#)