



CAMPAIGN CONTRIBUTIONS AND THE LOUISIANA SUPREME COURT

By

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July 14, 2003

INTRODUCTION

The cost of running for a position on a state Supreme Court has increased dramatically in many states, as organizations and individuals have poured money into what previously were often low-profile races. In Louisiana, total contributions to Supreme Court candidates generally rose between 1990 and 1998, reaching an all-time high in 1998 when the incumbent Chief Justice raised more than \$1 million.

The question of whether the pressure to raise funds affects candidates for a state's highest court deserves scrutiny, since many of the people who contribute to judicial candidates may end up appearing in Court before them. In Louisiana, slightly less than 15 percent of the cases heard by the Supreme Court between 1991 and 1999 involved campaign contributors who had given to a judge hearing their case. However, as races become more expensive and more contributors are added to the list, the potential for bias increases.

This study, prepared with support from the Program on Law & Society of the Open Society Institute, collected and published contribution data and data on Supreme Court cases as part of the dialogue on judicial independence. It is intended to gather together 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. While it is beyond the scope of this paper to determine whether this relationship has caused any bias in the Court's decisions, the proportion of funds that came from litigants was relatively small, at less than 9 percent. A review of case decisions shows that contributors were somewhat more successful in their cases than non-contributors. Yet the vast majority of campaign contributors had no cases before the Court and, conversely, most litigants who appeared before the Court had not contributed. A summary of the findings follows.

- In the three election cycles considered by this study, 21 individuals raised \$7.26 million while seeking the seven Supreme Court positions available from 1990 through 1998.
- Overall, attorneys and their firms were by far the largest source of campaign funds, contributing \$3.54 million, roughly half of the total raised by all candidates.
- Despite the highly partisan nature of the campaigns, political parties, elected officials and other campaigns contributed only \$305,454, or less than 5 percent of the total raised.
- Only \$415,355 came from the candidates themselves.
- A total of 431 cases decided during the study period, or less than 15 percent of the total, involved a party or attorney who contributed to a Supreme Court Justice before the Court ruled on the contributor's case.
- Contributors ended up on the winning side in 167 of the 431 cases and on the losing side in 138 cases.
- About 3 percent of all litigants, or 299, contributed to a Justice before the Court decided their cases; they accounted for 4 percent of the 7,529

contributors named in campaign-finance reports and gave \$503,722 — less than 7 percent of the total money.

- The amount raised by winning candidates ranged from the \$68,055 raised by unopposed incumbent Harry Lemmon in 1992 to a high of \$1.29 million raised by Chief Justice Pascal Calogero in his successful re-election bid in 1998. Incumbent Walter Marcus reported no money in 1990, the only candidate in the study who did not raise money.

ABOUT THE PROJECT

The Money in Judicial Politics Project of the Institute on Money in State Politics was developed to track contributions and spending in judicial elections in a number of states, including Louisiana. Data on Supreme Court campaigns was collected for a nine-year period, 1990 through 1998. During that time, 21 individuals ran in primary and general election races for one of seven judgeships.

Databases were created of all campaign contributions to all candidates who ran in the general elections during that study period, and those contributors' names were matched against a database of the parties and attorneys whose cases were heard by the Court from 1991 through 1999.

Note that the data is a small dataset; averages and trends calculated from such a small sample can be misleading and should be read with caution. The complete databases are available on request.

THE COURT

The Louisiana Supreme Court consists of one Chief Justice and six Associate Justices who serve for 10-year terms. From 1990 through 1998, candidates ran in one of six geographic districts, with two candidates being elected from District 1, which included the New Orleans area.

A voting rights lawsuit filed by African-American voters in 1986 claimed the district boundaries prevented minorities from being elected, and in fact, no African American had been elected to the Supreme Court in Louisiana in the 20th century. As part of the settlement of the case, the Louisiana Legislature created a temporary additional seat on the Appeals Court from the New Orleans area, pending redistricting in 2000, and assigned that judge to the Supreme Court, creating in essence an eighth Supreme Court seat. Revius Ortique was elected to that seat in 1992; when he retired in 1994, Bernette Johnson won the seat.¹ The special Appeals Court seat created by the settlement was contested, but a federal court upheld the settlement in 1999. After redistricting, when the original District 1 was split into two districts, Johnson won the seat from the new district in 2000.

Candidates for the general election are elected in open primaries. They qualify for the primary ballot by means of nominating petitions or payment of qualifying fees, rather than party primaries. The top two vote-getters for each district move on to the general election, regardless of their party, and the general election race may be between two candidates of the same party, or no designated party. However, because the party (if any) of a candidate is listed on the primary and general election ballots, the elections are generally considered to be partisan. During the study period, only four Republicans ran for a seat on the Court: two lost in the primary, one qualified for the runoff but withdrew before the general election, and only one Republican candidate was elected (after first being defeated in a special election to fill a vacancy). There were only two independent candidates on the ballot, both of whom lost in the primary.

If a vacancy occurs mid-term, the governor calls for a special election to fill the vacancy within a year of the day on which the vacancy occurred (unless the vacancy is within a year of the next scheduled election). The Supreme Court then appoints a replacement who temporarily serves until the seat is filled. That appointee is not eligible to run for the vacant seat.

The sitting Justice with the most seniority on the Court is automatically designated Chief Justice.

After the 1992 election added the temporary Court of Appeals judge to the Supreme Court roster, the Court rotated the eight Justices so that only seven Justices ruled on each case, in order to prevent tie votes (although all eight could sit in on the arguments).

¹ The Institute's study did not include campaign contribution data for Ortique or Johnson because they did not run specifically for the Supreme Court.

THE POLITICS

The 1990s was a decade of change for the Court. In 1992, the first woman (Kitty Kimball) and the first African American (Ortique in the temporary Court of Appeals seat) were elected. At the same time, although the Court remained predominantly Democratic with only one Republican elected during the five election cycles, the philosophical alignment of the Court shifted with the election of three business-backed candidates. In campaigns pitting Democrats against other Democrats, the more conservative candidates attacked their opponents for being liberal or anti-business.

Two 1990 races — one an incumbency, the other for an open seat — were both uncontested. In 1992, the incumbent ran unopposed but the open seat drew four candidates, the most for that district in 30 years. In 1996, the open seat on the ballot that year attracted six candidates, the most in the study period. As the races became more competitive, the funding increased and became a campaign issue.

In races involving both Republican and Democratic candidates, the majority of attorney money was given to the Democrats, and the business money went primarily to the Republicans. In races between Democrats, the allocation of funding from different sources was not as clear cut, but there was a general pattern of more business money going to the more conservative candidates, and a higher percentage of attorney money going to the more liberal candidates in the contested races. However, philosophical differences between the candidates were not always consistent, depending on the issue. While "tort reform" was a major issue attracting attorneys and business interests, a number of other issues such as crime and workers' compensation also played large roles in different campaigns but are more difficult to track for funding interests.

The leaders of the funding battle were the Louisiana Trial Lawyers Association and the pro-business Louisiana Association of Business and Industry, or LABI. The business group was formed by the Louisiana Chamber of Commerce, the Louisiana Manufacturers Association and the Louisiana Public Affairs Council in 1975 and "has emerged as the dominant voice of business in Louisiana."² The Trial Lawyers Association itself gave no money to candidates; in 1992, the group's incoming president, John deGravelles, said the association had "a longstanding policy not to get involved in judicial races" and its members and officers contributed only as individuals.³ Lawyers giving as individuals made up the largest source of contributions, giving more than \$3.5 million during the study period. However, it was impossible to reliably identify which attorneys gave out of interests associated with trial lawyers.

LABI President Don Juneau took a more direct approach: "The business community cannot simply stand by and let a 'super Legislature' in the judiciary branch continue unchecked in its quest to liberalize our tort laws with the aid and comfort of those who would benefit most from a more liberal system."⁴ LABI's four political action committees (PACs) — SOUTHPAC, WESTPAC, NORTH PAC and EASTPAC — gave almost \$115,000 during the study period, as well as thousands more in loans that were eventually repaid. Business sources in general gave more than \$1.6 million.

² John D. Echeverria, "Changing the Rules by Changing the Players: The Environmental Issue in State Judicial Elections," *N. Y. U. Environmental Law Journal*, Vol. 9, 2001, p. 258.

³ Tim Talley, "Louisiana Supreme Court runoff grabs statewide attention," *Baton Rouge Advocate*, Oct. 19, 1992, 1A.

⁴ Carl Redman, "LABI campaigning to change judiciary," *Baton Rouge State Times*, Nov. 17, 1989, 1B.

In 1995, Juneau acknowledged that LABI's "public stance on which judges business should support – coupled with contributions in election – may indeed influence courts," but argued that influence is inevitable under a system of electing judges.⁵

By 1998, three LABI-supported candidates (Jeffrey Victory, Chet Traylor and Jeannette Knoll) had won their elections, defeating two incumbents in the process. This created a 4-3 split on many rulings, with Chief Justice Calogero generally being considered the swing vote. Bernie Pinsonat, a political analyst, said of LABI: "Their ability to elect judges has turned the court around, and the court already has become much more cognizant of what business likes and does not like."⁶

Although Republicans only ran in three general elections, each race after 1990 was predicted to change the direction of the Court, depending on whether the more conservative or liberal of the Democrats were elected.

In the 1992 contested race, Democrat Kitty Kimball beat Democrat Dan LeBlanc for an open seat in District 5 in a race the Baton Rouge Advocate said was "being touted by some lawyers as pivotal in determining the character of the state's highest court for years to come...the race...will decide whether the balance between conservative and liberal justices on the high court will change."⁷ The two candidates raised similar amounts of money, but Kimball received the majority of the attorney money — \$309,500, compared to \$159,444 for LeBlanc. However LeBlanc received only slightly more money from business sources, at \$47,700, than did Kimball, who received nearly \$43,700, even though LeBlanc received almost \$14,000 from LABI PACs.

In 1994, three Democrats vied for an open seat in District 2. Again, both candidates raised similar amounts of money. But Jeffrey Victory, who barely survived the primary, won the general election with heavy backing from business. He received nearly \$129,000 from business interests, including more than \$25,000 from LABI PACs and \$56,300 from medical-related sources, and about \$107,000 from lawyers. His opponent, Henry Brown, received about \$237,700 from lawyers, and only \$11,000 from business sources.

In 1996, challengers beat incumbent Justices for the first time in at least 20 years in an election predicted to have a long-lasting impact: "The surprise victories of two state Supreme Court candidates over more liberal incumbents might result in rulings more favorable to business interests, especially in personal-injury cases and other disputes in which individuals oppose large companies."⁸ In District 3, Democrat Jeannette Knoll beat fellow Democrat and incumbent Jack Watson despite the 3:1 fundraising advantage Watson held. Knoll was viewed as a moderate compared to Watson, who was described as a "liberal pro-plaintiff judge."⁹ Attorney contributions made up 66 percent of Watson's contributions and nearly 60 percent of Knoll's, while business interests accounted for 26 percent of Knoll's funds and 16 percent of Watson's total.

⁵ Fred Kalmbach, "Doctors, business targeting Louisiana's courts," *Baton Rouge Sunday Advocate*, Feb. 19, 1995, 1A.

⁶ Mark Schleifstein, "Election might shift balance on Supreme Court focus on business, law clinics, crime," *New Orleans Times-Picayune*, Sept. 20, 1998.

⁷ Tim Talley, "Louisiana Supreme Court runoff grabs statewide attention," *Baton Rouge Advocate*, Oct. 19, 1992, 1A.

⁸ Stewart Yerton, "High Court Races a Surprise, Business May Be Big Winner," *New Orleans Times-Picayune*, Sept. 23, 1996, B1.

⁹ *Ibid.*

Also in 1996, a special election to fill the unexpired term of Justice James Dennis boiled down to a contest between Democrat Joe Bleich and Republican Chet Traylor. Traylor drew strong backing from business and portrayed himself as a conservative voice that would fight the interests of trial lawyers, while Bleich maintained Traylor was "in the pocket of big business."¹⁰ Traylor raised almost 70 percent of his funds from business sources, including almost \$20,000 from LABI PACs, and only 8 percent from attorneys. Bleich received almost 67 percent of his campaign funds from attorneys and only about 19 percent from business sources.

The two met again only months later in the fall election for the full 10-year term, and this time Traylor beat the short-term incumbent Bleich with the help of a controversial endorsement from Gov. Mike Foster. Without actually naming Traylor, the governor urged members of the Citizens Against Lawsuit Abuse to "support candidates who support our position," calling the race "the bad guys vs. us."¹¹ In the fall race, Traylor raised 74 percent of his funds from business interests and less than 1 percent from attorneys. Meanwhile, Bleich raised 73 percent of his funds from attorneys and 15 percent from business sources.

In 1998, Chief Justice Calogero raised more than \$1.2 million in his successful effort to keep his seat, despite heavy opposition from the business community — making this the most expensive election race in the study period. In the primary, Calogero ran against Republican Charles Cusimano and William Quigley, a Loyola law professor who ran as an independent. Cusimano was a state district judge who ran as a pro-business conservative and was accused by Calogero of being hand-picked by LABI.¹² Cusimano received a last-minute endorsement from Gov. Mike Foster, who said he wanted to see the Court go in a more conservative and business-oriented direction.¹³ Quigley entered the race because of a controversial Court decision limiting the ability of law students and clinics to represent low-income clients in lawsuits against businesses. He raised relatively little money, but his presence on the ballot was enough to prevent Calogero from receiving a majority of the votes. That necessitated a general election runoff, but Cusimano withdrew from that race, giving Calogero the win.

But before pulling out, Cusimano raised half of his money from business interests, including about \$27,000 from LABI and its PACs. He received just 11 percent of his \$674,084 total from attorneys. Conversely, Calogero received \$847,000, or two-thirds of his total, from attorneys and just 10 percent from business sources.

¹⁰ Associated Press, "Supreme Court race gets mean," *The Baton Rouge Advocate*, April 19, 1996.

¹¹ Ed Anderson, "Foster Says He'll Zero in on Car Insurance," *The New Orleans Times-Picayune*, Aug. 23, 1996, A2.

¹² Joe Gyan Jr., "Louisiana chief justice questions timing of LABI rating," *The Baton Rouge Advocate*, Sept. 22, 1998, 1B.

¹³ Ed Anderson, "Foster Backs Cusimano for Supreme Court; Governor Hopes Endorsement of Conservative Challenger Will Tip Scales," *The New Orleans Times-Picayune*, Oct. 1, 1998, A4.

THE COST OF RUNNING

During the five election cycles of the study period, 21 individuals ran for seven positions in 10 separate elections. Three of the candidates ran twice: Kitty Kimball won an open seat in 1992 and then ran again for a full term in 1998. Joe Bleich and Chet Traylor ran against each other in a special election to fill a vacancy in spring of 1996 and then faced each other again that fall to fill the full term. Bleich won the first election; Traylor won the second time around.

Three incumbents ran unopposed (Marcus in 1990, Harry Lemmon in 1992 and Kimball in 1998), plus Pike Hall ran unopposed for an open seat in 1990. There were three open seats. Only three seats involved incumbents who were challenged, and in 1996 two of those incumbents were upset by their challengers, the first time an incumbent had lost in 20 years.

Only four races drew enough candidates to require a runoff — the three open seats plus the race for Chief Justice Calogero's seat in 1998.

The largest amount raised by a single candidate was the \$1,258,503 raised by Chief Justice Calogero in his race against Republican Cusimano, who raised \$674,084 before dropping out after the primary. Both candidates assumed they would have raised several hundred thousand more if Cusimano had continued campaigning through the general election.¹⁴

Justice Lemmon, who was unopposed in 1992, raised the smallest amount of those who raised money, with \$68,055. Justice Marcus, an incumbent who ran unopposed in 1990, was the only candidate who reported raising no money during the study period.

Incumbents raised more than their opponents in their three contested races, but losing candidates actually raised more money than the winners in three out of the six contested races: Daniel LeBlanc raised slightly more than Kitty Kimball in 1992, incumbent Watson raised more than twice the amount that Knoll raised in her winning effort, and Bleich raised more than Traylor in both his winning and his losing campaigns.

The chart on the following page details the amounts of money raised by each candidate during each of the elections in the study period.

¹⁴ Joe Gyan Jr., "Cusimano quits high court race," *Saturday State Times/Morning Advocate*, Oct. 19, 1998, 1A.

Year	District	Recipient	Status	ICO*	Party	Contrib \$
1990	1	MARCUS JR, WALTER F	W	I	D	\$0
1990	2	HALL JR, PIKE	W	O	D	\$146,287
1990		1990 TOTAL				\$146,287
1992	5	KIMBALL, CATHERINE (KITTY)	W	O	D	\$463,976
1992	5	LEBLANC, DANIEL W (DAN)	L	O	D	\$471,708
1992	5	DUMAS, WALTER C	PL	O	D	\$20,918
1992	5	GEORGE, JAMES A (JIM)	PL	O	R	\$91,048
1992	6	LEMMON, HARRY T	W	I	D	\$68,055
		1992 TOTAL				\$1,115,706
1994	2	VICTORY, JEFFREY P	W	O	D	\$361,545
1994	2	BROWN JR, HENRY N	L	O	D	\$359,919
1994	2	SCOTT, CHARLES R	PL	O	D	\$218,139
		1994 TOTAL				\$939,604
1996	3	KNOLL, JEANNETTE THERIOT	W	C	D	\$280,317
1996	3	WATSON, JACK CROZIER	L	I	D	\$776,742
1996	4	TRAYLOR, CHET D	W	C	R	\$315,873
1996	4	BLEICH, JOE	L	I	D	\$452,258
1996	4 SPEC	BLEICH, JOE	W	O	D	\$447,813
1996	4 SPEC	TRAYLOR, CHET D	L	O	R	\$244,030
1996	4 SPEC	BARHAM, CHARLES C	PL	O	D	\$41,433
1996	4 SPEC	HURD, PAUL	PL	O	R	\$42,482
1996	4 SPEC	JOHNSON, NEAL	PL	O	D	\$122,490
1996	4 SPEC	KIDD JR, PAUL	PL	O	U**	\$44,344
		1996 TOTAL				\$2,767,781
1998	1	CALOGERO JR, PASCAL F	W	I	D	\$1,258,503
1998	1	CUSIMANO II, CHARLES (CHUCK)	W/D	C	R	\$674,084
1998	1	QUIGLEY, WILLIAM	PL	C	U**	\$101,216
1998	5	KIMBALL, CATHERINE (KITTY)	W	I	D	\$259,352
		1998 TOTAL				\$2,293,155
						\$7,262,532

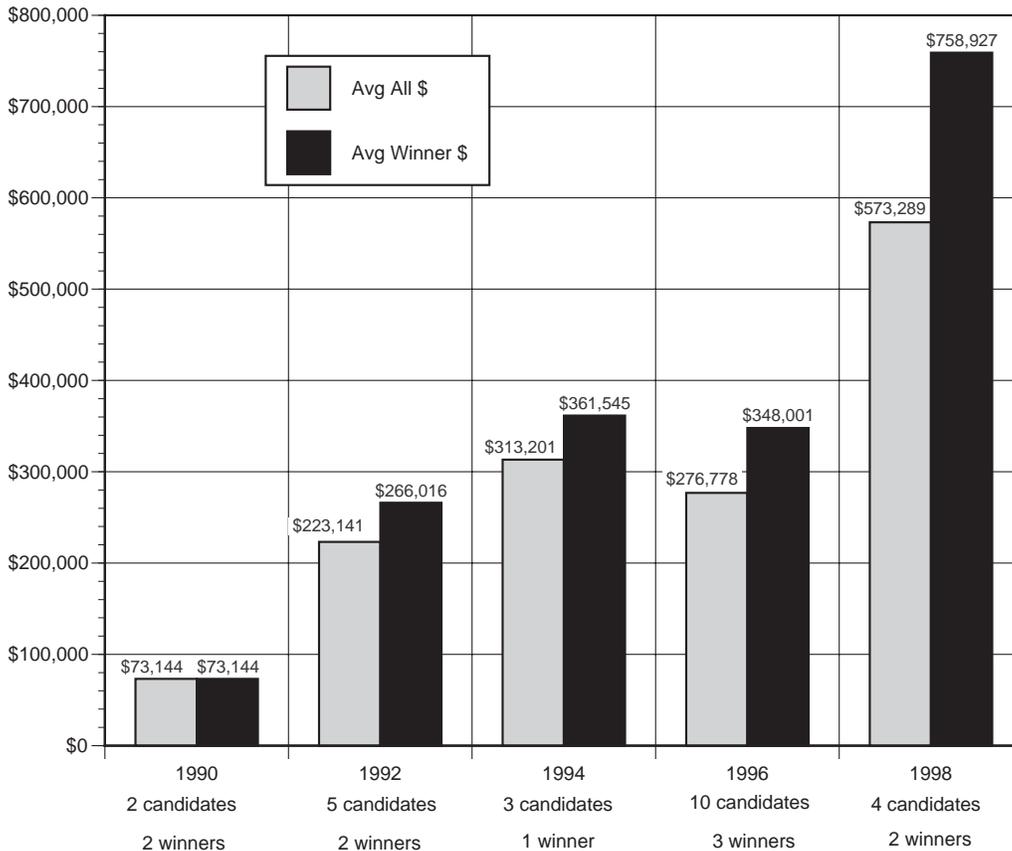
*I=Incumbent C=Challenger O=Open Seat ** U=Unaffiliated

YEARLY AVERAGES

The average amount raised by all Supreme Court candidates for the five election cycles was \$302,605. As the chart below shows, the average amount raised by all candidates generally rose from 1990, at \$73,144 for the two candidates (one of whom raised no money), to a high of \$573,289 in 1998. However, when candidates who had no opponent and those who lost in the primary election are removed from the calculations, the average amount raised increases by more than \$200,000, to \$508,897. The yearly averages for these general election candidates in contested races dropped from \$467,842 in 1992 to \$360,732 in 1994, rose to \$419,506 in 1996 and then more than doubled to a high of \$966,294 in 1998.

The average contribution size for all candidates rose steadily from only \$267 in 1990 to \$831 in 1996, but then dropped to \$602 in 1998, with an overall average of \$580. Bleich raised the largest average contribution, at \$1,392 from only 325 contributions in his winning fall election in 1996. Justice Lemmon, an unopposed incumbent, had the smallest average contribution of \$121. Primary losers raised smaller contributions, with an average contribution of only \$339, but losing candidates in the general election raised larger contributions than the winners in four out of the six contested races.

The average number of contributions per year was 513. The average was highest in 1998, with 921 contributors per candidate, and lowest in 1996 with, 321 per candidate.



LITIGANTS AND CONTRIBUTORS

In order to assess the frequency with which a contributor to a judicial candidate appeared before the Louisiana Supreme Court, this study matched a list of contributors who gave money to winning candidates against the list of parties and attorneys who had appeared before the Court. This comparison showed that 299, or 4 percent of the 7,529 contributors, appeared before the Court after their contribution. This "contributor-litigant" group represented about 3.3 percent of

Recipient	Year	Total \$	\$ from Litigants	% from Litigants
HALL JR, PIKE	1990	\$146,287	\$11,273	7.7%
MARCUS JR, WALTER F	1990	\$0	\$0	0.0%
KIMBALL, CATHERINE (KITTY)	1992	\$463,976	\$98,328	21.2%
LEMMON, HARRY T	1992	\$68,055	\$10,577	15.5%
VICTORY, JEFFREY P	1994	\$361,545	\$30,125	8.3%
BLEICH, JOE	1996	\$900,071	\$82,500	9.2%
KNOLL, JEANNETTE THERIOT	1996	\$280,317	\$33,350	11.9%
TRAYLOR, CHET D	1996	\$559,903	\$19,395	3.5%
WATSON, JACK CROZIER	1996	\$776,742	\$115,800	14.9%
CALOGERO JR, PASCAL F	1998	\$1,258,503	\$84,675	6.7%
KIMBALL, CATHERINE (KITTY)	1998	\$259,352	\$17,700	6.8%

the 8,895 litigants whose cases came before the Court and includes both the litigating attorneys as well as the parties to a case.

These 299 contributors gave a total of \$503,284, representing less than 7 percent of the \$7.26 million raised by all candidates and almost 10 percent of the approximately \$5 million raised by winners.¹⁵

¹⁵ This amount includes all contributions to Watson, Bleich and Traylor. Even though each of them lost an election, they all served on the Court for at least a portion of the study period.

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 calculate whether contributors receive better treatment because of their contributions. The cases that go before the Supreme Court involve complicated legal questions, and the result can be split decisions or complex holdings that 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. As the breakdown below shows, private attorneys who contributed won slightly more cases than they lost.

During the study period, 299 of the 7,529 named contributors appeared before the Court after making a contribution. Contributors were involved, either as a party, an attorney or an *amicus*, in 431 cases in which they had given to a Justice. This represents less than 15 percent of the 2,926 cases decided during the study period. Analysis of these cases showed:

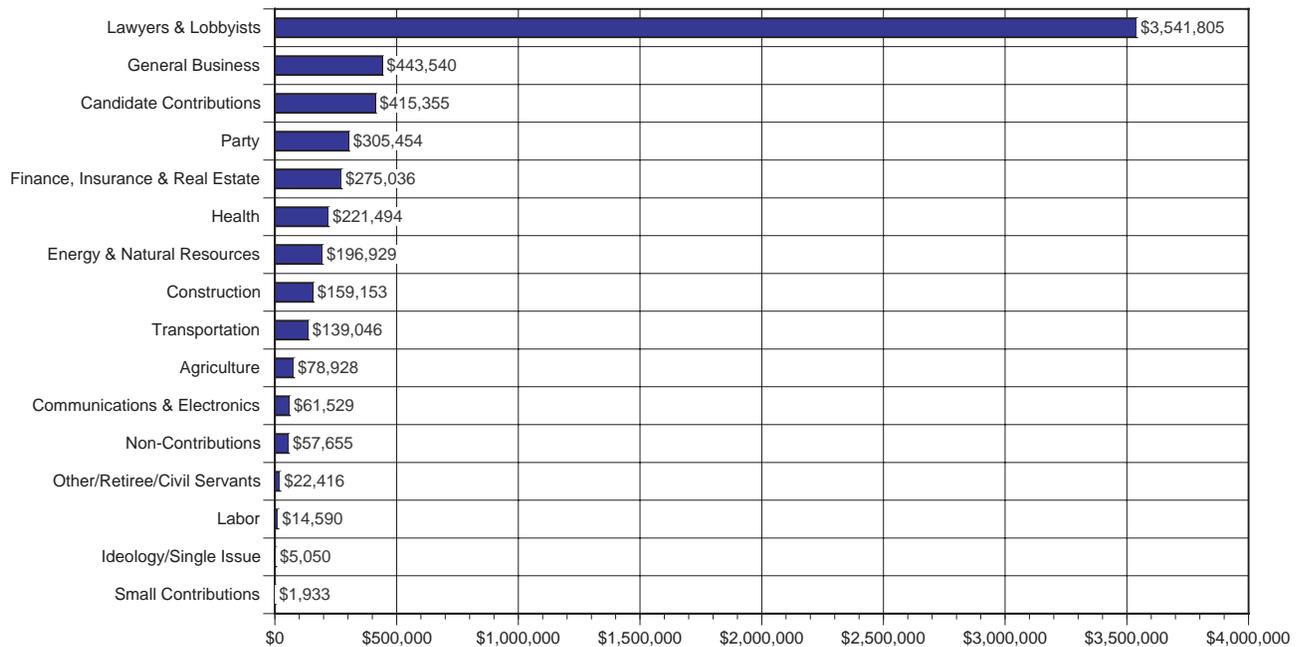
- In 167 cases, or 39 percent, contributions came only from parties on the winning side of the case. Eighteen of those cases involved only contributing public attorneys whose contributions probably had little to do with their success or failure, as they represented the government rather than an individual client in Court. If these cases are counted separately, private attorneys and litigants were on the winning side in 149 cases.
- In 138 cases, or 32 percent, contributions came only from parties on the losing side of the case. Twelve of those cases involved only contributing public attorneys, while 126 involved private attorneys or litigants.
- In 41 cases, or 9.5 percent, the Court issued split decisions; two of those cases involved only contributing public attorneys, while 39 involved private attorneys and litigants.
- In 48 cases, or 11 percent, contributions came from both winning and losing parties. In 18 cases, contributors on the winning side gave more than those on the losing side. In 25 cases, contributors on the losing side had given more, and in five cases, both sides gave equal amounts.
- In 36 cases, or 8 percent, the only contributions came from *amicus* parties. Two of those cases involved a public attorney.
- One of the cases was ruled moot.

SOURCES OF FUNDS

The 21 judicial candidates who ran in the five election cycles raised \$7,262,532. The sources of about 82 percent of that money have been identified and classified by business sector or political party. The lack of information on employer and occupation in the reports filed by the candidates makes it impossible to classify the remaining 18 percent. Louisiana does not require occupation or employer to be disclosed on the campaign finance reports.

State law limits contributions from individuals and organizations, including small PACs, to \$5,000 per candidate per primary and general election. So-called "big" PACs (with at least 250 members who each contributed at least \$200 per year) have a limit of \$10,000 per primary or general election. Under state law, labor unions and corporations also may give directly to candidates. During the study period, candidates were allowed to accept an aggregate of only \$50,000 per election from all PACs (the limit was later raised and is currently \$80,000).

SOURCES OF FUNDS, 1990-98



A. ATTORNEYS

Candidates collected \$3.54 million from 1,664 attorneys and law firms during the five election cycles, representing 50 percent of the total contributions raised by all candidates.

Attorney contributor-litigators

Less than 4 percent (299) of the 8,895 individuals or organizations who appeared before the Court had contributed to a Justice before the case was decided. More than 88 percent (264) of those 299 contributor-litigants were attorneys or law firms, representing more than 15 percent of the

attorneys who contributed, or 18 percent of the 1,431 attorneys who contributed to winning candidates. These attorneys gave \$464,820, or an average of \$1,761 each.

Public attorneys

The 431 public attorneys who represented state or local government agencies before the Court appeared in 41 percent of the cases in this study, or 1,208 of the 2,926 cases. But only 21 of those public attorneys contributed to a Justice, and they appeared in only 39 cases — less than 2 percent of the total cases. They represent less than 5 percent of the 431 public attorneys who appeared in Court during the study period. Some of those attorneys worked directly for a government agency, such as a prosecuting attorney's office or a state agency. Others were private practice attorneys who contracted with the state for a particular case. The 21 public attorneys contributed only \$7,915 to Justices before whom they later appeared, less than 2 percent of the funds given by all contributor-litigators.

Law Firms

It can be important to examine the total giving by all members of a law firm, even those who did not appear before the Court, to evaluate their potential influence in matters before the Court. Although members of law firms change over the years, the firm's name often carries the weight of reputation as much or more than the individuals who argue the cases. A survey of prominent law firms does suggest that they won more cases than they lost during the study period. Following is a look at contributions by five of the top firms and their attorneys:

- The law firm of Baggett McCall & Burgess and five firm attorneys gave a total of \$97,918. The firm describes itself as a "moderately sized" firm that handles "personal injury and toxic tort actions for citizens and individual workers."¹⁶ The firm gave \$82,418 to winning candidates, and \$11,000 was given by attorneys who later appeared before the Justices to whom they had contributed. More than two-thirds of their contributions went to Justices Bleich and Watson, who heard very few cases during the study period. Altogether, six firm attorneys participated in eight cases. They won the two involving contributing attorneys and another two cases, lost one case, received a split decision in one case and filed *amicus* briefs in two cases.
- Due Caballero is a plaintiff's law firm that represents individuals and families in "high stakes personal injury, wrongful death and admiralty/maritime cases."¹⁷ The firm and eight attorneys gave \$76,215, of which \$67,465 went to winners and \$46,215 was given before the attorneys appeared before the Justices (although two of the attorneys were with different law firms by the time they appeared in Court). Six of the contributing attorneys (plus three firm attorneys who were with different law firms when they contributed) appeared in 19 cases after their contributions. They won eight of the cases, lost two, received a split decision in four, and filed *amicus* briefs in five cases.

¹⁶ Baggett, McCall, Burgess & Watson Web site, www.baggettmccall.com/clorida_pages/profile.html, May 5, 2003.

¹⁷ Due Caballero Web site, www.duecaballero.com/firm_overview.htm, May 5, 2003.

- Usry Weeks and Matthews represents both plaintiffs and defendants and serves as general counsel to the Louisiana Sheriffs' Association. The firm and two of its partners gave a total of \$70,330, including \$55,330 to winning candidates and \$36,000 to Justices before whom they later appeared. The firm itself was a party in one case, which it won. The contributing partner filed *amicus* briefs in four cases. In addition, non-contributing attorneys appeared in four cases. They won one case, lost one, received a split decision in one and filed an *amicus* brief in one.
- Kelly Townsend & Thomas is a general and trial practice firm. Partner Donald G. Kelly served in the state House of Delegates and Senate and was president of the Louisiana Trial Attorneys Association from 1998-99. The firm and two partners gave \$66,802, of which \$60,552 went to winning candidates. Only one of the contributing partners appeared in a case, which he lost. Three other non-contributing partners appeared in five additional cases. They won four of those cases and lost one.
- The law firm of Simpson & Simpson, which focuses on "personal injury — defense"¹⁸ and the two partners, Joseph and William Simpson, gave a total of \$58,942, with \$30,375 going to winning candidates. Joseph Simpson gave \$21,825 to Justices before whom he later appeared in four cases. He won one of those cases, lost one, received a split decision in one and filed an *amicus* brief in one.

B. BUSINESS SOURCES

The combined contributions of business individuals and companies other than attorneys came to \$1.55 million to all candidates, about 21 percent of the total raised. Winning candidates received about \$1 million. Only \$23,335 of this amount came from contributors who later appeared before the Court (21 different individuals and businesses).

As a group, the business litigants were parties in 37 cases. They won 22 cases, lost 10, received split decisions in four, and submitted an *amicus* brief in one.

- The largest business contributor was the Louisiana Association of Business and Industry. The four LABI PACs and the LABI Service Corporation gave \$121,182. The biggest beneficiaries were the two Republican general election candidates, Traylor and Cusimano, who received \$50,000 and \$26,799 respectively, plus Jeffery Victory, a pro-business Democrat who received \$25,320. Three other Democrats (Kimball, Knoll and LeBlanc) received the balance. LABI itself was never a party in a Court case.
- LAMPAC, the Louisiana Medical Association's PAC, gave \$59,950, and \$48,950 went to winning candidates. The group was not a party to a Court case. Jeffrey Victor received almost \$20,000 from the PAC.

¹⁸ Westlaw Web site, *web2.westlaw.com*, April 24, 2003.

He also received the biggest backing from all health-related sources, \$58,584 out of a total of \$221,494.

- The Diefenthals and Southern Holdings (metal recycling, oil and gas services and plastics manufacturing) gave \$65,500 — \$45,500 of it to Justice Traylor. None of the contributors were litigants.
- Dow Chemical was the largest of the business contributors that was also a litigant. The company gave \$23,550, of which \$13,550 went to winning candidates and \$7,800 was given to Justices before whom the company appeared in Court. Dow lost three of its cases and received a split decision in one.

C. SELF-FUNDING

Contributions from the candidates to their own campaigns were not a major source of funding. Seventeen of the candidates loaned or contributed money, and three candidates completely repaid their loans. The candidates contributed a net total of \$415,355, an average of \$24,432 per candidate and less than 6 percent of the total funds raised. Losing candidate LeBlanc gave his campaign \$95,752, the largest amount given by any candidate.

The chart below shows the amount of money each candidate contributed to his or her own campaign during the study period.

Year	Recipient	Contrib \$	Year	Recipient	Contrib \$
1990	HALL JR, PIKE	\$2,656	1996	BARHAM, CHARLES C	\$200
	1990 total	\$2,656		HURD, PAUL	\$8,182
1992	DUMAS, WALTER C	\$18,593		JOHNSON, NEAL	\$42,375
	GEORGE, JAMES A (JIM)	\$46,294		KIDD JR, PAUL	\$34,620
	LEBLANC, DANIEL W (DAN)	\$95,752		KNOLL, JEANNETTE THERIOT	\$0
	1992 total	\$160,639		TRAYLOR, CHET D	\$1,782
1994	BROWN JR, HENRY N	\$61,049		TRAYLOR, CHET D (SPECIAL	\$0
	SCOTT, CHARLES R	\$15,535		WATSON, JACK CROZIER	\$15,030
	VICTORY, JEFFREY P	\$0		1996 total	\$102,189
	1994 total	\$76,583	1998	CALOGERO JR, PASCAL F	\$0
				CUSIMANO II, CHARLES (CHUCK)	\$10,000
				QUIGLEY, WILLIAM	\$63,288
				1998 total	\$73,288
				1990-1998 total	\$415,355

D. POLITICAL PARTIES

Political parties, candidates and elected officials gave \$305,500, only 4 percent of the total funds raised. Democratic sources gave about 88 percent of the party money — not surprising considering most of the races involved Democratic candidates. Chief Justice Calogero received the lion's share of the Democratic money at \$142,577, including \$120,000 from the Victory 98 PAC. Justice Hall's 1990 primary campaign committee account gave \$85,448 to LeBlanc in 1992.

E. NON-BUSINESS SOURCES

The "Other" category consists of non-business interests such as clergy, military, government employees, nonprofit institutions, artists and retirees. Contributions to candidates from these sources totaled only \$22,400, less than 1 percent of the total funds raised by candidates. Only one contributor in this category was a litigant; he gave \$200 and appeared in one case that he lost.

F. LABOR

Labor was not a significant factor in Supreme Court funding. Labor organizations and staff members gave only \$14,590 (all but \$500 of it to winners, none of it from litigants), far less than 1 percent of the total funds raised. More than half of the labor money (\$8,600) went to Chief Justice Calogero. Two teachers' unions gave \$6,565. A non-contributing attorney filed an *amicus* brief on behalf of the Louisiana Federation of Teachers in one case.

EXPENSES

The candidates running in the general elections spent \$7,227,332 on their campaigns. Their expenditure reports list the amount and purpose of each payment they made. But in many cases, the purpose listed on the candidate reports is too vague or general to reliably identify the specific reason for the payment. Those expenditures are included in the Administrative category. This analysis has assigned the expenditures to 13 categories, based on the information available.

Advertising was by far the largest expense in Supreme Court campaigns, totaling \$3.85 million, or more than half of the total expenditures. Candidates spent \$2.88 million on media advertising that

Expenditure	Amount
MEDIA ADVERTISING	\$2,879,093
ADMINISTRATIVE	\$1,148,277
CONSULTANTS	\$1,130,080
OTHER ADVERTISING	\$975,243
FUNDRAISING	\$285,303
ELECTION DAY ACTIVITIES	\$182,961
FOOD/TRAVEL	\$174,413
PRINTING	\$157,515
EVENT	\$122,551
CONTRIBUTIONS	\$111,281
PAYMENT TO PARTY	\$43,561
TICKET	\$16,003
CAMPAIGN CONTRIBUTIONS	\$1,050
TOTAL	\$7,227,332

was clearly identified as TV or radio. This total includes consultants when the payment was clearly identified as media consulting. The other advertising expenses of about \$975,200 included newspaper ads, yard signs and unspecified advertising.

Administrative expenses accounted for \$1.15 million. These expenses included payroll, office overhead such as rent, phones, computers and general supplies, postage when the purpose of the postage wasn't specified, and all unidentifiable expenses. This category also includes nearly \$9,300 in gifts made by recipients to individuals for non-campaign purposes such as weddings and graduations.

Payments for unspecified consulting services totaled \$1.13 million.

Candidates also spent about \$407,900 on fundraising and events such as rallies; nearly \$183,000 on expenses identified as Election Day activities; \$174,400 on food and travel expenses; \$157,500 on general printing expenses; about \$111,300 on contributions to charitable organizations, primarily churches; and \$43,561 on payments to political parties, primarily for Election Day activities, advertising, and tickets to events.

All other expenses accounted for less than 1 percent of the total. Payments for tickets and registrations for events such as banquets and parades totaled \$16,000. Candidates gave only \$1,050 to other campaigns.

[Appendix](#)