

Mississippi Judicial Elections

Updated 02/23/04

1. Editorial decries the fact that “[c]ampaign costs for electing judges in Mississippi is increasing” and that “it’s estimated to take at least \$250,000 in campaigns money to be elected as a Mississippi Supreme Court justice.” It continues: “Who are the biggest contributors? Why, lawyers, of course.... [W]hat do you call it when an ‘impartial’ judge must ask the people who he or she adjudicates for money to get the job as judge?...Trust in the judicial system is the first casualty.” *The Clarion-Ledger (Jackson, Miss.)*, May 23, 2000.
2. Article reports that the U.S. Chamber of Commerce is expecting to raise at least \$10 million to help the election efforts of business-friendly judges running for the state Supreme Courts of Alabama, Illinois, Michigan, Mississippi and Ohio. According to Jim Wootton, executive director of the chamber’s Institute for Legal Reform, “Business is now stepping up to the plate to respond to the new political influence of the trial lawyers in the wake of the tobacco settlement.” The article notes that stakes in Ohio are especially high “because one judgeship could determine the makeup of the court.” It is estimated that total campaign spending in Ohio could reach \$12 million. Peter H. Stone, *Jousting Over Judges*, *The National Journal*, June 24, 2000.
3. Editorial cites the conduct of Sharkey County (Miss.) Justice Court Judge Ellis Willard as an example of the dangers posed by judicial elections. The Mississippi Commission on Judicial Performance petitioned the state Supreme Court to remove Judge Willard for “widespread and serious” transgressions, such as conducting court business at his local pawn shop, wrongfully suspending fines, dismissing cases, and dispensing free legal advice to prospective defendants. The editorial criticizes the fact that Justice Court Judges need only have a high school diploma. It also criticizes judicial elections in general because candidates must “ask for votes and campaign funds from supporters, many of whom may appear before them in a court of law.” The editorial concludes that Mississippi deserves impartial judges with extensive legal training. *Justice? Electing Judges Provides Surprises*, *Jackson Clarion-Ledger (Miss.)*, July 24, 2000.
4. Article reports that candidates for the Mississippi Supreme Court forecast that they will each have to spend over \$300,000 to conduct competitive campaigns. The current candidates are incumbent Justice Oliver Diaz and circuit court judges Keith Starrett and Billy Joe Landrum, the current front-runner in fundraising. All three candidates have criticized the increasing costs of judicial campaigns. According to Judge Starrett, the rise “puts the judiciary in a position of being for sale.” Justice Diaz claims that “something needs to be done with campaign finance.” However, he does not support eliminating elections because “the

- appointive process is not any less political.” Beverly Pettigrew Kraft, *Candidates: Judicial Race Costly*, Jackson, (Miss.) Clarion-Ledger, September 6, 2000.
5. Article reports that, in the upcoming Mississippi Supreme Court election, several incumbents have fallen behind their challengers in raising campaign funds. Challenger Frank Vollor, whose spending is twice the rate of his incumbent opponent, Justice Jim Smith, decries the escalation of campaign spending: “I wish I could just see people and not have to raise funds, but the way the election process is set up, I have to have money to get on TV and in the newspapers and put out signs.” He also worries over the fact that interest groups have come to play a more influential role in the election process: “There has been a concerted effort in recent years for political and special interest groups to try to do in the courts what they couldn’t in the legislature.” University of Southern Mississippi Professor Joseph Parker concurs: “It’s a race between the trial lawyers and the people the trial lawyers like to sue.” Sharing these concerns, Justice Smith, who supports merit selection and lower contribution limits, notes that most of his contributions are less than \$200, even those coming from lawyers. Beverly Pettigrew Kraft, *Judges Fall Behind Foes in Cash Race*, Jackson (Miss.) Clarion-Ledger, October 12, 2000.
 6. Editorial argues that the escalating costs of Mississippi judicial campaigns point to the need for a different system of judicial selection. The editorial asserts that while “the amount of money being raised and spent by Mississippi Supreme Court Justice candidates is troubling . . . , the fact that justices have to campaign and hold fundraisers for what should be a non-partisan, neutral and dispassionate post is even more disturbing.” The editorial calls for the adoption of a system of appointments or modified elections and, failing that, tighter campaign finance restrictions. The editorial concludes: “a judge should have only one constituency - - the law.” Editorial, *Judicial Races*, (Jackson) Mississippi Clarion-Ledger, October 13, 2000.
 7. Article reports that “the race for Supreme Court in Mississippi has grown from a quiet endeavor to a big money machine,” due in large part to the U.S. Chamber of Commerce. The nine Supreme Court candidates have raised \$1.4 million in total, nearly a third of which is from the Chamber. Mississippi Secretary of State Eric Clark has criticized the organization for its involvement in the election and has asked the state attorney general to investigate their funding. Candidate Frank Vollor, whose opponent is supported by the Chamber, says the Chamber’s advertising is “taking the race out of the hands of the people in Mississippi. I hate to see . . . Mississippi taken over by the lobbying groups from Washington.” Chief Justice Lenore Prather, who is running for re-election and has received the Chamber’s endorsement, has asked it to withdraw its advertisements. Associated Press, *Races for Supreme Court Generating Big Bucks*, Commercial Appeal (Memphis, Tenn.), October 22, 2000.

8. Ohio political activists praise a recent decision from Mississippi by U.S. District Judge Henry Wingate, finding that the U.S. Chamber of Commerce, which has spent nearly \$1 million on advertisements for Ohio's judicial elections, had sponsored express advocacy, not issue-advocacy, advertisements, in Mississippi's judicial elections. As a result, the Chamber must comply with Mississippi's election-reporting laws and disclose the sources of their donations. Common Cause/Ohio has charged that the Chamber's judicial election ads for Ohio also cross the boundary from issue to express advocacy. Donald McTigue, Common Cause's attorney, has said he will cite the decision in his complaint against the Chamber before the Ohio Elections Commission. The Ohio Chamber of Commerce, which has spent \$4 million, also faces a lawsuit alleging that its advertisements engage in express advocacy. James Bradshaw, *Judicial Ad Critics Hail Mississippi Court Ruling*, Columbus Dispatch, November 4, 2000.
9. Article reports that a panel of the Ohio Elections Commission found probable cause that advertisements sponsored by the Ohio and U.S. Chambers of Commerce against incumbent candidate Justice Alice Robie Resnick violated state election laws. In a 3-2 ruling, the panel reversed an earlier decision holding that the advertisements did not encourage support for a particular candidate. The decision was influenced by a recent federal district court ruling that the U.S. Chamber of Commerce had engaged in express advocacy in Mississippi's judicial elections. (See Court Pester, November 7.) William Connelly, a Republican who cast the swing vote, said that the Mississippi decision prompted him to reverse his previous decision. Jim Wooten, president of the U.S. Chamber's Institute for Legal Reform, opined that Connelly changed his vote due to "a faulty understanding of what happened in Mississippi," and that the issue-advocacy status of his advertisements will eventually be upheld "unless there's a sea-change on the U.S. Supreme Court." James Bradshaw, *Elections Commission Panel Finds Fault with Anti-Resnick Ads*, Columbus Dispatch, November 7, 2000.
10. Article reports that the U.S. Chamber of Commerce has declared successful its campaign efforts in state judicial elections. The Chamber spent \$6 million on races in Alabama, Michigan, Mississippi, and Ohio. In Alabama, all of the Chamber's preferred candidates were elected. In Mississippi, Chamber candidates won two of the four races and a third faces a run-off. Seth Anderson, of the American Judicature Society, opines that "in Ohio and Michigan [where the incumbents retained their seats], the power of incumbency trumped the influence of all the third-party and interest groups involved." Katherine Rizzo, *Chamber Ads Failed in Ohio, Worked Elsewhere*, Associated Press Wire, November 8, 2000.
11. Article reports that, in a surprise victory, Municipal Judge Chuck Easley defeated incumbent Lenore Prather for the Chief Justiceship of the Mississippi Supreme

- Court. Prather was backed by the U.S. Chamber of Commerce but had asked the Chamber to pull its advertisements on her behalf. She claims that she may have been hurt by the organization's involvement. However, two other candidates supported by the Chamber won their seats, and a third entered a run-off. Jim Wooton, of the U.S. Chamber's Institute for Legal Reform, asserts "Our intent in coming to Mississippi wasn't necessarily to have a particular electoral outcome but to focus more attention on judicial races, and I think everyone agreed we've succeeded in doing that." Beverly Pettigrew Kraft and Jerry Mitchell, *Shakeup on Miss. Supreme Court called 'Unprecedented'*, Jackson (Miss.) Clarion-Ledger, November 8, 2000.
12. Article reports that critics are calling for Mississippi to consider adopting merit selection. Chief Justice Lenore Prather, who lost her re-election bid, urges the state Legislature to study Missouri's system of judicial elections: "We need to revisit how we select judges. . . . The Missouri plan is what most people look at." Missouri Bar Association Executive Director Keith Birkes states that "we have had it for 60 years and there has been no controversy or problems." Carroll Rhodes, an attorney specializing in redistricting cases, disagrees with Prather: "It's always best to let everyday, ordinary citizens decide than an elitist group. We need more voting [rather] than less." Jimmie E. Gates, *Merit Retention System Common*, Jackson (Miss.) Clarion-Ledger, November 19, 2000.
 13. Article reports that, in a speech following his swearing in, Mississippi Supreme Court Chief Justice Edwin Pittman has called for the creation of a commission to study the state's judicial election process. Chief Justice Pittman asserted that interest group advertisements have tainted the campaign process. The Chief Justice states that "judges at all levels do not have a constituency. They must not have a constituency but the law and the common good." Sherri Williams, *Pittman Sworn In as Chief Justice*, Jackson (Miss.) Clarion-Ledger, January 23, 2001.
 14. Editorial argues that, with the election of Mississippi Supreme Court Chief Justice Ed Pittman, "the Mississippi Supreme Court has an opportunity to be revered as a leader in the state and national judiciary." It assails the 2000 Supreme Court elections as "high-stakes, special interest slugfests . . . with a knock-out blow to the dignity of the court." The editorial supports Chief Justice Pittman's proposal for a commission to monitor judicial campaigns, but thinks a better reform would be for lawmakers to create an appointive system for selecting judges. It also advises Pittman to be a strong advocate for higher salaries for trial judges and district attorneys. *Supreme Court*, Jackson (Miss.) Clarion-Ledger, January 28, 2001.
 15. Editorial supports stricter campaign disclosure in Mississippi judicial elections. The U.S. Chamber of Commerce is challenging, in the U.S. Supreme Court, the state's attempt to compel disclosure of the Chamber's contributors. Last year, the

- Chamber spent nearly \$1 million on what it contends were issue advocacy advertisements not subject to disclosure. A federal district judge ruled that the Chamber must disclose the sources of its contributions because the ads qualified as express advocacy. The editorial endorses the judge's ruling: "[Disclosure] does not take away from the First Amendment, but strengthens it, giving voters more information, not less." *Chamber Ads*, Mississippi Clarion-Ledger, April 24, 2001.
16. Article reports that fifteen states and Puerto Rico have joined an amicus brief supporting Mississippi's efforts to regulate judicial election advertising. In the 2000 judicial elections, the U.S. Chamber of Commerce sponsored advertisements criticizing or praising particular judicial candidates. Mississippi's board of elections found that the ads constituted "express advocacy" and called on the Chamber to disclose the source of its funds. After hearing the Chamber's suit against the board, a federal district court ruled against the chamber. The Chamber has now appealed to the U.S. Court of Appeals for the Fifth Circuit. The U.S. Supreme Court is considering whether to hear a related Mississippi Supreme Court ruling in favor of the board of elections. Tripp Baltz and Kenneth Doyle, *Judicial Elections Brief by 15 States Back Mississippi Rule against Chamber's Judicial Campaign Ads*, Money and Politics, May 2, 2001.
 17. Article reports that fifteen states and Puerto Rico have joined an amicus brief supporting Mississippi's efforts to regulate judicial election advertising. In the 2000 judicial elections, the U.S. Chamber of Commerce sponsored advertisements criticizing or praising particular judicial candidates. Mississippi's board of elections found that the ads constituted "express advocacy" and called on the Chamber to disclose the source of its funds. After hearing the Chamber's suit against the board, a federal district court ruled against the chamber. The Chamber has now appealed to the U.S. Court of Appeals for the Fifth Circuit. The U.S. Supreme Court is considering whether to hear a related Mississippi Supreme Court ruling in favor of the board of elections. Tripp Baltz and Kenneth Doyle, *Judicial Elections Brief by 15 States Back Mississippi Rule against Chamber's Judicial Campaign Ads*, Money and Politics, May 2, 2001.
 18. Article reports that the Mississippi Legislature, following the recommendation of state Supreme Court Chief Justice Ed Pittman, has created a 24-member commission to study judicial campaigns and advertising. Over \$3 million, with \$1 million coming from the U.S. Chamber of Commerce, were spent in last year's elections for the state Supreme Court. According to Chief Justice Pittman, "the campaign was extremely costly and extremely caustic." Commission members include former Chief Justice Lenore Prather, who requested unsuccessfully that the Chamber refrain from running ads on her behalf. Patrice Sawyer, *Panel to Study State's Judiciary*, (Jackson, Ms.) Clarion-Ledger, June 21, 2001.

19. Article reports that Mississippi Supreme Court Chief Justice Ed Pittman has urged a state judicial reform commission to consider lengthening the terms of judges and to make some positions appointed rather than elected: “We want to make sure we have a fair and equitable system.” Pittman called for judges’ terms to be extended from four years to six or eight years, thereby allowing sitting judges to worry less about campaign fundraising. Supreme Court Justice Mike Mills asserted that Mississippi will never abandon judicial elections: “People love elections. It’s like a sporting event.” Emily Wagster, *Supreme Court Chief Urges Panel To Review Judges’ Terms*, Mississippi Clarion-Ledger, July 20, 2001.
20. Article reports that Jefferson County, Mississippi, has earned an “extraordinary reputation for doling out massive awards in product liability lawsuits,” with awards often exceeding \$100 million. Yet, despite the plaintiffs’ awards, the county remains poor, suggesting, according to the article, that “only trial lawyers have benefited, pocketing the fees and moving on to their next case.” Moreover, state law allows plaintiffs to consolidate their cases with others around the country. The article asserts: “Add to this the pro-plaintiff reputation of the local circuit court judge, Lamar Pickard, and the result is that more than 21,000 plaintiffs have sued in Jefferson since 1995 in a county of less than 10,000 people.” As a result, business organizations plan to launch extensive efforts to elect pro-business judges. David Baria, President of the Mississippi Trial Lawyers’ Association, anticipates an “onslaught . . . of ultra-conservative judges.” Mike Hotra, of the American Tort Reform Association, asserts, “A lot of what’s happened is tied to the judge -- what does he allow into evidence in his court and is he so tied to the plaintiff as to call into the question the fundamental rule of law?” Betty Liu, *The Poor Southern County That’s Big on Lawsuits*, Financial Times, August 20, 2001.
21. A judicial reform panel convened last week to discuss campaign finance reform in Mississippi judicial elections. Panel member Donald Dornan opined, “We have kind of concluded, as has probably everybody in this room, that we are not going to change our method of selection of judges. It’s always going to be an election. We are focusing on the money.” One proposal would require judges to recuse themselves from cases involving donors who made large contributions to their campaigns. However, Circuit Judge Keith Starrett noted that an increasing number of donors are skirting campaign contribution limits by making contributions under several names. *Staff, Recusing Judges if Large Contributors Involved Reform Possibility*, (Jackson Miss.) Clarion Ledger, September 16, 2001.
22. Article reports that the Mississippi Supreme Court will revise the state code of judicial conduct to require judges to recuse themselves from cases involving big campaign contributors. Other proposals include: creating a committee to monitor judicial campaign conduct and judges’ political activities and giving litigants the chance to ask for a different trial judge without stating a reason. Chief Justice

- Edward Pittman explains, “We are attempting to create a politically clean environment” and “are trying to guarantee to the people . . . that they have a fair and impartial judiciary hearing their cases.” The public has until December 10 to suggest modifications to the proposals. They will become effective on January 1. Associated Press, *Justices to Revise Code of Conduct*, (Biloxi, Miss.) Sun Herald, October 26, 2001.
23. Tyree Irving, Justice of the Mississippi Court of Appeals, defended judicial elections in a speech before the Greenwood Voters League. Responding to the charge that judicial elections politicize the judiciary, Justice Irving contended that “[w]hether a judge is political really depends on the quality of the judge” and that appointive systems “simply move[] the politics to a higher level.” Justice Irving also spoke out against efforts by the U.S. Chamber of Commerce to influence judicial elections. To combat third party attack ads, the state Supreme Court, according to Justice Irving, is planning to create a rapid response team that would assess an ad’s veracity and then hold a press conference to state their findings. Bob Darden, *Irving Supports Electing Judges*, Greenwood (Miss.) Commonwealth, November 16, 2001.
24. Article discusses efforts to reform Mississippi’s code of judicial ethics in light of “the state’s growing reputation as a haven for so-called ‘jackpot justice’ and as the scene of some of the most strident judicial campaigns in history in 2000.” As reforms, state Supreme Court Chief Justice Ed Pittman has proposed that judges be required to recuse themselves from cases involving significant campaign donors and that attorneys be allowed to remove a judge from a case without giving a reason. Lance Stevens, former president of the Mississippi Trial Lawyers’ Association, responds that these amendments are “another way of appointing judges.” Peremptory recusals challenge the “right [of voters] to have the cases in their judicial district heard by judges they elected to do that job.” (See Court Pester, December 4.) Stevens also asserts that the rule concerning recusals and contributions has significant loopholes, with no provisions requiring recusal in cases involving significant supporters of the judge’s opponent, and no recusals for members of PACs that may have contributed to the judge’s election. Dick Wilcox, executive director of the Business and Industry Political Education Committee, adds that he would prefer that the current set of rules be more strictly enforced: absent such enforcement, “new restrictions and controls are probably a waste of time.” Sid Salter, *High Court Considers Major Reform*, (Jackson, Miss.) Clarion-Ledger, December 1, 2001.
25. Editorial defends a Mississippi Supreme Court proposal to give attorneys the power to remove trial judges without stating a reason. (See Court Pester, November 27.) Although the proposal has prompted much criticism, “the fears appear unfounded,” in the editorial’s view. An attorney could launch no more than one challenge, and replacements would be drawn from a number of counties,

- thereby eliminating the possibility of “judge shopping.” It further asserts that the worry that “caseloads [will] swell is bogus . . . unless Mississippi has so many unfit judges that challenges run rampant.” Thus, the only effects of the rules change will be to allow attorneys to avoid either judges with whom they have poor relationships or who are unfit. *Proposal Is Not ‘Judge Shopping’*, Mississippi Clarion-Ledger, December 3, 2001.
26. Letter to the Editor by Richard Wilcox, President of the Business and Industry Political Education Committee (BIPEC), defends his organization’s involvement in Mississippi judicial elections. Wilcox contends that too many judges on the current bench indulge in judicial activism, prompting “greedy lawyers . . . [to] come running to Mississippi courts from Arizona, Alabama, New York or Florida.” In response, BIPEC offers voter education guides with the purpose of identifying those judges who “will practice balance and fairness.” He adds that BIPEC does not seek the election of “pro-business” judges: “A judicial candidate should never be asked to be pro-business. That’s absolutely unfair Dick Wilcox, *Miss. Business Not After One-Sided Courts, Just Fair Ones*, (Jackson, Miss.) Clarion Ledger, January 11, 2002.
27. Article reports that Alabama’s 2000 Supreme Court races were the costliest court races in the nation, with candidates raising over twice as much as the national average, according to a study by the Brennan Center for Justice, the National Institute on Money in State Politics, and Justice at Stake. The National Institute on Money in State Politics found that seven of the top 10 fund-raisers in judicial elections were from Alabama. A field of thirteen candidates raised over \$13 million. By contrast, the 11 candidates for the Mississippi Supreme Court raised \$3.8 million. The increasing cost of campaigning has been attributed to the escalation of the battle over tort reform. Deborah Goldberg of the Brennan Center for Justice comments, “You can’t blame one side of the tort reform debate more than the other. The amount of money is unquestionably a problem, but the fact it is coming from parties appearing before the judges, that is also a problem.” Samantha Sanchez, co-director of the Institute, adds, “There doesn’t seem to be any ceiling” to the amount of money being raised. Mary Orndorff, *State Justice Races Most Costly in U.S.*, Birmingham News, April 1, 2002.
28. The U.S. Court of Appeals for the Fifth Circuit ruled last week, in *Chamber of Commerce of the U.S.A. v. Moore*, that the Chamber’s advertisements during the 2000 Mississippi Supreme Court race cannot be subject to state disclosure regulations. (See *Court Pester*, November 7, 2000.) The court held that since the advertisements did not feature “explicit terms advocating specific electoral action by viewers,” they could not be classified as express advocacy. It conceded however that the interpretation of the advertisements offered may seem “counterintuitive to a common sense understanding of the message conveyed by the television political advertisements at issue.” Kenneth Doyle, *Constitution*

Protects Chamber's Issue Ads In Mississippi Judge Race, Fifth Circuit Says, Money and Politics, April 8, 2002.

29. Column lambastes a recent decision by a panel of the Fifth Circuit finding that ads sponsored by the U.S. Chamber of Commerce during Mississippi's 2000 Supreme Court race did not constitute express advocacy and thus could not be regulated by the state. In the columnist's view, the opinion "sets a new record for incredulity" with its admission that "the result . . . reach[ed] in this case may be counterintuitive to a common-sense understanding of the message conveyed by the television political advertisements." The columnist agrees with Assistant Attorney General Hunt Cole that if the Chamber of Commerce is allowed to engage in electioneering without having to comply with disclosure rules, "[i]t will become open warfare for spending by political special interests in Mississippi elections." He concludes that by extending First Amendment protection to paid political advertising, the ruling is "a desecration of free speech." The Mississippi Attorney General has asked the entire Circuit to review the panel's decision. Bill Minor, *U.S. Chamber's Judicial Election Spending Should Be Disclosed!*, Jackson, Miss. Clarion-Ledger, April 28, 2002.
30. Article reports that the U.S. Chamber of Commerce will hold a news conference tomorrow warning companies about how Mississippi courts handle civil lawsuits. Linda Rozette, a spokesperson for the Chamber, states that in the organization's 90-year history, "This is the first time we have cautioned businesses about a climate in a particular state." The Chamber states that it intends to "send a message to Mississippi that the state does not protect the business communities' rights to due process and will ask the state's citizens for help in cleaning up a deeply flawed legal system." Blake Wilson, executive director of the Mississippi Economic Council, questions the value of the press conference: "We appreciate them sending down suggestions, but we think this issue should be resolved by Mississippians, not guys trying to influence the process from 1,500 miles away." Associated Press, *U.S. Chamber to Caution Businesses about Mississippi*, AP Newswire, May 4, 2002.
31. Editorial calls for Mississippi judges to be appointed in order to end "big money politics" in judicial selection. Calling the 2000 Supreme Court races "a searing indictment of electing judges, with millions of dollars funneled into the races," the editorial notes that both the Supreme and Appeals Court races could be "worrisome" this year. The editorial discusses the ongoing appeal of a Fifth Circuit Court of Appeals decision allowing the U.S. Chamber of Commerce to remain silent on how much it spent on ads in the 2000 election. "If the Fifth Circuit ruling is upheld, then not only will Mississippi's campaign disclosure laws be rendered toothless, but any 'attack ad' by a third party could be construed as acceptable and the November election could be wide open for unrestrained

- spending and negative campaigning.” *Judiciary*, The Clarion-Ledger (Jackson, Miss.), May 14, 2002.
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33. Column criticizes the rules that bar Mississippi Supreme Court candidates from taking positions on legal issues. Asserting that “the death penalty doesn’t work in Mississippi” because there hasn’t been an execution for over 12 years, the columnist blames the state judiciary for failing to “methodically enforce the death penalty.” The Code of Judicial Conduct, which is in part crafted by the state Supreme Court, prevents judicial candidates from speaking openly about this or other controversial topics. However, the columnist argues, “[v]oters should hold judicial candidates accountable for their views on capital punishment and vote accordingly.” Sid Salter, *Supreme Court Candidates Will Dodge This One*, Clarion-Ledger (Jackson, Miss.), May 15, 2002.
34. Article reports that Mississippi Supreme Court candidate Jess Dickinson has rejected any support by the U.S. Chamber of Commerce, despite his popularity in the business community. The Chamber is expected to spend heavily on the race between Dickinson, incumbent Justice Chuck McRae (who is backed by trial lawyers), and Chancery Judge Larry Buffington. “Some predict the total spending by business interests and trial lawyers” in the race “could reach as much as \$10 million.” The Chamber argues that “what the national business community thinks is important,” and that its ads can help voters receive the “best information” about the candidates. Dickinson, however, said, “This is a Mississippi race for Mississippi judges. I don’t believe it should be decided by” outsiders. Jerry Mitchell, *Candidate: U.S. Chamber Should Butt Out*, Clarion-Ledger (Jackson, Miss.), June 12, 2002.
35. Editorial praises the U.S. Supreme Court’s ruling striking down Minnesota’s canon restricting judicial speech. “No longer will Mississippi judicial candidates be able to dodge questions about their positions on issues like the death penalty, abortion and tort reform.” However, the editorial argues that judicial elections are

- “a bad idea,” and speculates that the ruling, on top of expected interest group expenditures on judicial elections in Mississippi, may “make Mississippians rethink their position on elective judges.” *Judicial Rules*, Clarion-Ledger (Jackson, Miss.), June 29, 2002.
36. Article reports on reactions in Mississippi to the U.S. Supreme Court’s recent decision striking down a Minnesota canon restricting the speech of judicial candidates. Mississippi Supreme Court Chief Justice Ed Pittman said he has “mixed feelings” about the ruling because he wants “clean, good desirable campaigns” and for judicial candidates “to adopt judicious speech and attitudes.” However, he said, “I’ve always believed and still believe in open government.” Emily Wagster, *Miss. Judicial Candidates Less Restricted*, Memphis Commercial Appeal, June 28, 2002.
37. Mississippi State Representative Greg Snowden (R.) argues that the U.S. Supreme Court’s decision striking down Minnesota’s canon restricting judicial speech “opens the door for robust campaigns on controversial issues heretofore considered taboo.” Asserting that “tepid” non-partisan campaigns have failed, Snowden hails the fact that judicial candidates can now be asked “hard questions.” “Trust the voters to sort it out. Some voters will be misinformed, but that’s better than most voters being uninformed.” Rep. Greg Snowden, *Supreme Court Ruling Should Impact State’s Judicial Races*, Clarion-Ledger (Jackson, Miss.), July 7, 2002.
38. Article reports that Mississippi Supreme Court Justice Ed Pittman has said that “state judicial candidates have been able to discuss campaign issues since April, when the state’s high bench revised conduct rules for judges,” removing a clause similar to the Minnesota canon recently struck down by the U.S. Supreme Court. Justice Pittman made his remarks “less than one week after Supreme Court Justice Chuck McRae refused to discuss” issues such as tort reform, capital punishment, abortion, gun control, and the separation of church and state with the Sun Herald. Justice McRae’s opponents, lawyer Jess Dickinson and Chancery Court Judge Larry Buffington, answered the questions, “although Buffington would not offer his view on abortion.” Justice McRae said he could not comment until he had studied the U.S. Supreme Court’s decision. Ben Bryant, *Judges Free to Speak on Issues*, Sun Herald (Biloxi, Miss.), July 11, 2002.
39. Column calls for Mississippi voters to ask judicial candidates “substantive questions regarding a candidate’s judicial philosophies” on such issues as the death penalty, tort reform, and mandatory sentencing now that a U.S. Supreme Court decision has struck down Minnesota’s canon restricting the speech of judicial candidates. Noting the state Supreme Court can still cause “political mischief” by retaining certain speech restrictions in its Code of Judicial Conduct, the columnist argues that “it is important that Mississippi citizens hold the feet of

- judicial candidates to the fire in this election cycle. Those judges who decline to answer appropriate questions by hiding behind the political skirts of the Code of Judicial Conduct should be held accountable.” Sid Salter, *Ask Candidates in Judicial Races Hard Questions*, Clarion-Ledger (Jackson, Miss.), July 17, 2002.
40. Mark Kozlowski, Associate Counsel for the Brennan Center for Justice, rebuts the argument of columnist Sid Salter that judicial candidates should be required to speak about hot-button issues. (See Court Pester, July 18.) “A judge owes primary loyalty to a bedrock principle of due process,” but a “successful judicial candidate who has made campaign promises ... will feel an obligation to fulfill those promises,” thus compromising the impartiality of the bench. Salter urged Mississippi voters to “hold the feet of judicial candidates to the fire in this election,” demanding that they comment on issues that may not even come before them as judges. However, Kozlowski argues, “Mississippi voters should think very hard before they accept this advice. A judge whose mind is preoccupied with a fear of being burned cannot adjudicate cases in the manner a judge is supposed to: without fear or favor.” Mark Kozlowski, *Salter, Court Have Forgotten Judiciary’s Role*, Clarion-Ledger (Jackson, Miss.), July 22, 2002.
41. Article reports that the Mississippi Republican Party is considering “filing a suit challenging a law that prohibits political parties from participating in Mississippi judicial elections.” The 1999 law, passed over a gubernatorial veto, bars political parties from contributing to or endorsing judicial candidates. Mississippi Republican Party chairman Jim Herring said that the law has allowed special interest groups to grow stronger as they take over the role previously played by political parties. Herring said that, under the current system, “those ... that know the most of politics and stand for general principles cannot get involved in judicial races.” He added that the party is considering “litigation to repeal that law on the grounds that it’s a violation of our First Amendment rights.” William F. West, *State GOP Chairman Says Party May Sue to Participate in Judicial Races*, Meridian (Miss.) Star, August 15, 2002.
42. Column asserts that Mississippi’s “tort law crisis” is in part the result of judges who “do not have the backbone to do their jobs.” The columnist condemns judicial elections for turning judicial selection into a “special-interest driven political free-for-all.” Because powerful business and trial lawyer interests are pouring millions into judicial races, “Mississippi courtrooms are perceived as a place where there can be either with 1) “jackpot justice,” where a manipulated jury can award the lottery verdict to somebody, or 2) no chance for the average citizen to get a fair day in court against a powerful big company, doctor or hospital.” The columnist concludes, “It’s a lousy way to run a judicial system.” David Hampton, *Lousy Judges Mostly Overlooked in Tort Reform ‘Crisis’*, Clarion Ledger (Jackson, Mississippi), August 25, 2002.

43. Article discusses “a crisis of credibility ... gripping many of the thirty-nine states that elect appellate judges” as judges contend with a “flood of money ... driven by a fierce battle over judicial philosophy that has pitted trial lawyers, consumer advocates and unions against corporations, their attorneys and their trade associations.” “In recent years, the single greatest wild card in judicial races has been the influx of anonymous spending beyond the direct control of candidates,” usually in the form of “issue advertising” which “insulates donors from disclosure, allowing for nastier, more underhanded tactics.” One major player, the U.S. Chamber of Commerce, plans to spend “as much as \$25 million in undisclosed contributions” in 2002. The result of such spending is likely to be “costly and bitter elections in states like Texas, Ohio, Michigan, Florida, Louisiana, Illinois, Mississippi, Alabama and Idaho, where the voters’ decisions could alter the courts’ ideological makeup.” Georgetown University law professor Roy Schotland said that contribution limits and independent expenditure disclosure requirements, if narrowly tailored for judicial elections, “could pass constitutional muster.” Michael Scherer, *State Judges for Sale*, *The Nation*, September 2, 2002.
44. Columnist argues that regardless of “the circus in the Legislature over tort reform, the people of Mississippi can still control a strong measure of their own destiny on the question of tort reform at the ballot box” by voting against Mississippi Supreme Court Justice Charles R. “Chuck” McRae. Justice McRae is “a lifetime member of the Mississippi Trial Lawyers Association and a former governor of the Association of Trial Lawyers of America” and is next in line to become the chief justice of the Mississippi Supreme Court. The columnist notes Justice McRae’s “flamboyant lifestyle,” including “two well-publicized driving-under-the-influence skirmishes while on the Supreme Court,” and concludes that “the outcome of McRae’s re-election bid may well be the single most important factor in whether tort reform ultimately lives or dies in Mississippi.” Sid Salter, *Judicial Elections Will Decide Reforms*, *Clarion-Ledger* (Jackson, Miss.), September 22, 2002.
45. Article reports that “trial lawyers contributed more than \$2 million to candidates in the 2000 Mississippi Supreme Court race, almost twice what big-business donors gave,” according to a report by the Business and Industry Political Education Committee, “a pro-business political group that also contributes thousands of dollars each year to state campaigns.” Lawyer Richard “Dickie” Scruggs gave enough money, with his family members and business associates, to make the trial lawyer’s list of the top 10 contributors. “Scruggs gave \$80,000 to a political-action group called Mississippi for an Independent Judiciary and more than \$100,000 to another political group called the Institute for Consumers and Environmental Political Action Committee, or ICE Pac, in 1999.” Beth Musgrave, *Trial Lawyers Gave \$2M to Candidates*, *Sun Herald* (Biloxi, Miss.), October 7, 2002.

46. Article reports that “after publicly vowing earlier this year to raise and spend more than \$30 million to help elect business-friendly candidates and push legal reform in the 2002 elections, the U.S. Chamber of Commerce has become more tight-lipped about the effort.” Although the Chamber’s Institute for Legal Reform has declined to comment “on how much was being spent on advertising and get-out-the-vote operations in judicial and attorney general races around the country,” several sources say “that a joint fundraising drive by the Chamber and the Business Roundtable has raised about \$20 million so far.” That money “is being spent to bolster Supreme Court and attorney general candidates in Delaware, Florida, Illinois, Michigan, Mississippi, and Texas.” Judicial candidates in Ohio and Wisconsin “may also get some help.” Peter H. Stone and Louis Jacobson, *Chamber Is Coy on Campaign Effort*, National Journal, October 12, 2002.
47. Column argues that in Mississippi, “justice may be blind, but it isn’t cheap.” In 2000, “11 candidates for four state Supreme Court seats and one on the Court of Appeals raised \$3.73 million in campaign funds,” and “an estimated \$1.5 million in additional ‘soft’ political money was thrown into the 2000 judicial races by the U.S. Chamber of Commerce and a small group of the state’s wealthiest trial lawyers.” This year, \$1.65 million in contributions has been reported for one seat on the Mississippi Supreme Court and two Court of Appeals posts, and “‘soft’ money ads are again flooding the airwaves.” Mississippi Trial Lawyers Association president David Baria defended the spending, saying that “modern judicial races cost more because it costs more to get out the message on the candidates today. Unlike states that appoint judges, Mississippi does not conduct this important selection process in smoke-filled back rooms with influence peddlers vying for control of the judiciary.” Sid Salter, *Judicial Election Costs Soaring*, Clarion-Ledger (Jackson, Miss.), October 20, 2002.
48. Article reports that the U.S. Supreme Court has “refused to be drawn into another fight over judicial elections,” denying review in the “latest in a series of disputes that arose out of bitter 2000 judge races” in Mississippi. “At issue in this case was whether a Mississippi court violated” the U.S. Chamber of Commerce’s First Amendment free-speech rights by blocking the chamber’s advertisements, which had been challenged by candidate Billy Joe Landrum, “a lower court judge who lost his [Mississippi] Supreme Court race.” U.S. Supreme Court Justice Antonin Scalia “intervened at the time to let the ads air.” In a petition for review by the U.S. Supreme Court, Mississippi officials ask “the court to define campaign advertising and decide whether the chamber should have been forced to follow the state’s campaign finance reporting law.” Associated Press, *High Court Won’t Hear Election Ads Case*, Sun Herald (Biloxi, Miss.), October 22, 2002.
49. Editorial urges Mississippi voters to approve a constitutional amendment lengthening judges’ terms to six years as a way to combat the increasing amounts

- of money “being funneled into judicial campaigns by trial lawyers and business interests, making elected judges in Mississippi less of a voter’s choice based on sound qualifications that a sweepstakes for narrow interests with deep pockets.” That trend is expected to continue, especially after a recent federal ruling that the Mississippi Republican Party is allowed to endorse and contribute to judicial candidates. The editorial also blasts anonymous interest group advertising: “these attack ads without any kind of accountability or, in some cases, truthfulness are reprehensible.” For example, one such ad is run by the United Seniors Association, which is in fact “a small group - including the president of the U.S. Chamber of Commerce - that supports the pharmaceutical companies.” *Judicial Elections*, Clarion-Ledger (Jackson, Miss.), October 25, 2002.
50. Column decries Mississippi’s “headlong fall toward destruction of a fair and impartial judiciary.” The election of judges “used to be a low-key, somewhat dignified affair with voters passively depending on recommendations of legal groups.” Now, judicial elections “have become highly competitive races, in which the candidates are aligning themselves with special interests, taking large amounts of campaign contributions and running emotional campaigns to influence voters.” The business community, trial lawyers, and now political parties are all “throwing around big money to get their guys on the court.” After the election, “will we have judges ready to take the bench without encumbrances, ready to dispense the law fairly? Or will we have just another bunch of bought-and-sold politicians?” David Hampton, *Politics and Special-Interest Influence on Judges Worsens*, Clarion-Ledger (Jackson, Miss.), October 27, 2002.
51. Article reports on the re-election bid of Mississippi Supreme Court Justice Chuck McRae. “Business groups fed up with tort suits have targeted him for defeat,” and physicians, “infuriated by soaring malpractice-insurance premiums,” have launched an effort to elect his opponent, attorney Jess Dickinson. The Law Enforcement Alliance of America (LEAA), an anti-gun control group from Virginia, has also targeted Justice McRae. This race “is emblematic of a growing trend for [judicial] races to become free-spending political brawls.” According to a report issued by the Brennan Center, interest groups “are organizing as never before to elect ‘their’ judges in battleground states.” The involvement of the LEAA is unclear, since it “doesn’t have a clear stake in the election’s outcome.” Some have suggested that the LEAA’s ads, which as issue ads are not subject to disclosure laws, are “being underwritten by the U.S. Chamber of Commerce.” Michael Orey, *Business Targets Judicial Race in ‘Tort Mecca’*, Wall Street Journal, October 30, 2002.
52. Article reports that, in Mississippi, nine contested judicial races as well as a vote on the Confederate Flag “have election officials expecting a higher-than-usual turnout” in the general election. A three-person Mississippi Supreme Court race “has drawn widespread attention” and been characterized as a fight “between the

- interests of trial lawyers and those of big business.” Mississippi Supreme Court Justice Charles “Chuck” McRae, “whom many have aligned with the trial lawyers, is being challenged by Gulfport lawyer Jess Dickinson, whose campaign has been largely funded by business and doctors’ groups that have pushed for state tort reform.” Larry Buffington, “a Chancery Court judge ... who has strived to maintain his neutrality, also is running for the judgeship.” Reggie Beehner, *Higher Voter Turnout Expected Tuesday*, Sun Herald (Biloxi, Miss.), November 1, 2002.
53. Article reports that “the issue of civil justice reform, which has hung over Mississippi for most of this year, dominated state Supreme Court Justice Chuck McRae’s re-election campaign and contributed to his defeat at the hands of Gulfport lawyer Jess Dickinson on Tuesday. It also was present in two state Appeals Court races, both of which were won by candidates who, like Dickinson, had the support of Mississippi’s business and medical communities.” Justice McRae, who was “accused by merchants and doctors of being too friendly to plaintiffs’ lawyers,” finished last in a field of three. Justice McRae also “carried baggage from being charged twice in the 1990s with driving under the influence of alcohol.” Tort reform proponents “are hoping the popularity of their cause will impress state lawmakers, who have been locked in a special session over civil justice reform since September.” Ben Bryant, *Tort Reformers Get Big Boost*, Sun Herald (Biloxi, Miss.), November 7, 2002.
54. Article reports that the U.S. Supreme Court has turned down a request by “Mississippi and 20 other states that want it to clarify what campaign speech is so states can more closely regulate it.” An appeals court said that the U.S. Chamber of Commerce did not have to disclose financial information about ads it ran in 2000 in several states supporting judicial candidates, because those ads did not include “explicit words like ‘elect’ and ‘vote for.’” Mississippi Attorney General Mike Moore said that the appellate decision “effectively opens and endorses a loophole that swallows the statute and submerges those legitimate state interests served by disclosure.” The U.S. Supreme Court “is expected to get drawn into a much bigger campaign finance case next year involving challenges to the new federal law.” The Chamber’s attorney, Jan Witold Baran, argued that considering the Mississippi challenge in addition to that case “would only add burden to what already will be a large and complex proceeding.” Associated Press, *Court Rejects Campaign Finance Case*, New York Times, November 12, 2002.
55. Article reports that “leading trial and business lawyers” argue that “the influence of money on Mississippi’s civil court system can’t be corrected simply by switching from elected to appointed judges.” Mississippi Supreme Court Justice Edwin Pittman has called for the governor and a nominating commission to select appellate judges, because “the overwhelming amount of money needed to get elected to the Supreme Court is destroying the assurance of an impartial

- judiciary.” David Baria, president of the Mississippi Trial Lawyers Association, said that an appointment system would not “remove politics from the courts,” since “the politics would center around the appointing authority.” Katherine Kerby, president of the Mississippi Defense Lawyers Association, had cautious praise for an appointment system and called for a large nominating commission in order to ensure “checks and balances.” Tom Wilemon, *Lawyers Wary of Appointing Judges*, Sun Herald (Biloxi, Miss.), November 16, 2002.
56. Article reports that Mississippi Supreme Court Justice Ed Pittman has “announced the creation of a task force to recommend to lawmakers by January a constitutional change” from electing to appointing judges to the Supreme Court and Court of Appeals. “If approved, the issue would go before voters in next November’s general election.” Justice Pittman “supports the appointment of judges because, he said, political campaigns for judgeships are getting too contentious and too costly.” He said, “You simply cannot run for judicial office and raise \$500,000, \$1 million, \$2 million or have that much spent on you without in your heart and mind not feeling some obligation.... What we don’t want is a court that reflects a specific paid-for philosophy, a specific paid-for view.” Jack Elliott, Jr. (Associated Press), *Pittman: Voters Should Choose Way to Pick Judges*, Sun Herald (Biloxi, Miss.), November 28, 2002.
57. Article reports that Mississippi Supreme Court Chief Justice Edwin Pittman told the annual conference of the Election Commissioners Associations that it is time to allow justices who win election in November to “take the seat the following January, like other members of the court,” rather than having to wait 14 months, as is current practice. Justice Pittman praised legislation doing away with “the 15 districts - six chancery and nine circuit - that elect judges in what he calls the ‘herd’ system.” At-large “herd” elections in multi-judge districts “force incumbent judges to run against each other as well as challengers,” promoting “discord before the elections and afterwards,” Justice Pittman argued. He also spoke in favor of appointing, rather than electing, state Supreme Court and Court of Appeals judges. Jimmie Gates, *Judicial Election Changes Sought*, Clarion-Ledger (Jackson, Miss.), January 24, 2003.
58. Article discusses the history and prospects of efforts to reform Mississippi’s system of electing judges. As federal and state investigators probe allegations of trial lawyers paying off judges’ loans for favorable rulings, Mississippi’s courts face “a crisis of confidence.” Retired FBI agent Royce Hignight said that the need to raise money for elections has caused “the quality of judges” to sink to “an all new low,” since “people don’t just give huge sums of money for good government. They give it for influence.” Former Gov. William Winter “said the state seemed to be headed in the right direction in the 1980s when, by his executive order, an 18-member committee was formed to screen and interview candidates for judgeships vacated between elections.” His successors abandoned

the system, however. Margaret Baker, Beth Musgrave, and Tom Wilemon, *Justice on Trial*, Sun Herald (Biloxi, Miss.), June 15, 2003.

59. Article reports that four elections for Mississippi Supreme Court seats this fall “could have a significant impact on tort reform and civil justice in that state and beyond.” In past elections, Mississippi has seen “millions of dollars” pumped into judicial races by the U.S. Chamber of Commerce and trial lawyers. In addition, “while both sides gear up for the coming judicial elections, federal prosecutors are airing allegations about corruption in the state’s judiciary.” Justice Oliver Diaz, plaintiffs’ lawyer Paul Minor, and two other judges have been indicted “on charges that Minor, an active Democrat, helped judges pay off their campaign loans in exchange for favorable treatment in court.” The article notes that “the judge considered the most likely target” of the Chamber of Commerce this year “is James Graves Jr., who was named to a vacant seat in October 2001 ... and is facing voters for the first time.” Jonathan Groner, *Tort Reform Battleground*, Legal Times, January 28, 2004.
60. Article reports that “four seats on [Mississippi’s] highest court are up for election this year, fueling speculation about huge campaign spending and special interest groups trying to tilt the balance of justice in their favor.” According to Marty Wiseman of the Stennis Institute of Government at Mississippi State University, “You can expect various groups stirring the pot, and the litmus test will be tort reform and medical malpractice.” Indeed, the article notes that “moments after Hinds County Justice Court Judge Bill Skinner announced his candidacy ... for the post held by Justice James Graves Jr., a supporter who is a physician said Skinner will be pro tort reform.” Justice Graves, the only African-American on the court, faces two other opponents in addition to Skinner. The seats of Justice William Waller, Justice George Carlson, and Chief Justice Edwin Pittman are up for election. Justices Waller and Carlson so far have no opposition, while Chief Justice Pittman has said he is not seeking re-election. Jimmie E. Gates, *Reform to Figure in Supreme Court Races*, Clarion-Ledger (Jackson, Miss.), February 8, 2004.