



## **Campaign Contributions and the Michigan Court of Appeals**

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While the cost of running for a position on the state Supreme Court increased dramatically in Michigan in the 1990s, contributions to candidates for the Michigan Court of Appeals rose only moderately between 1994 and 1998. In addition, the total amounts raised by Appeals Court candidates were significantly lower overall than those raised by candidates for the Supreme Court during the same time period.

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. Indeed, about 17.5 percent of the cases heard by the Michigan Court of Appeals between 1994 and 1998 involved campaign contributors who had given to a judge hearing their case. As races become more expensive and more contributors are added to the list, the potential for bias increases.

This study, prepared with grants from the Open Society Institute and the Joyce Foundation, collected and published contribution data and information 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 is relatively small, at 2.5 percent, and no statistical evidence suggests that contributors fared better than non-contributors. 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.

### **SUMMARY**

- In general election contests, 45 Court of Appeals candidates seeking the 31 positions available from 1994 through 1998 raised less than \$2.5 million.
- Overall, lawyers were the largest source of campaign funds, contributing \$665,467, or 27 percent of the total raised by candidates in the general election.
- Candidates gave themselves more than one-fourth of their campaign funds -- \$640,462.

- A total of 340 cases, or 17.5 percent of the 1,945 cases decided during the study period, involved a party or attorney who contributed to a Court of Appeals judge before that judge ruled on the contributor's case.
- About 1.8 percent of all litigants contributed to a judge at least once before a case decision by that judge; they accounted for 2.3 percent of the 7,641 contributors named in campaign-finance reports and gave just 2.5 percent of the total money.
- The amount raised by winning candidates in contested races ranged from \$14,080 in 1996 to \$380,921 in 1998.
- Political parties gave slightly more than 1.5 percent of the total contributions to all candidates, despite the fact that the races are nonpartisan.

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 Michigan. Data on Court of Appeals campaigns was collected for a five-year period, 1994 through 1998. During that time, 63 individuals ran in primary and general election races for one of the 28 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 of Appeals from 1995 through 1999. If those parties or attorneys were contributors, the list of recipients of their contributions was matched to the list of judges who actually ruled on their cases.

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 as an Appendix at the end of this report.

## **The Court**

The Michigan Court of Appeals is the appellate court between the trial-level Circuit Court and the Michigan Supreme Court. It consists of 28 judges elected from four geographic districts. Each district elects seven judges who serve six-year terms. Candidates are listed on the ballot as nonpartisan. If there are more than twice as many candidates as positions, a nonpartisan primary is held to narrow the field.

Although incumbents must run in potentially contested races to retain their seats, the system favors their re-election. In fact, all the incumbents who ran during this study period were re-elected. Three categories of judgeships may be on the ballot: positions for which an incumbent is running, positions for which the incumbent is not running, and new judgeships. If an incumbent runs for re-election, that position is identified as an "incumbent position" and the incumbent's name is printed on the ballot with the title "Judge of the Court of Appeals." Other candidates may run against the incumbent. A position for which an incumbent is not running is listed separately on the ballot.

If multiple seats in the same category in a district are on the ballot, all candidates for those positions run together in one race and the top vote-getters are elected. For instance, in 1994 in District 2, three incumbent seats were up for election and the three incumbents plus two challengers decide to run. All five names were listed together on the ballot as one race (the incumbents with their titles), and the three candidates who received the most votes (in this case the three incumbents) were elected to the three positions.

If a judge resigns mid-term, the governor appoints a replacement who serves until the next primary (at least 105 days after the vacancy). The appointed incumbent then must stand election to fill the remainder of that term. That position is identified on the ballot as a separate incumbent race. (For instance, in 1998 in District 1, an incumbent who was appointed mid-term was on the ballot for a two-year term. In a separate race, a challenger ran against an incumbent for a regular six-year term.)

Although the judges are elected by the voters in their district, they serve statewide. The Chief Clerk of the court administers a computerized system that randomly assigns the 28 judges to panels of three judges. Each panel is randomly assigned to a court in one of several cities, which may or may not be in a judge's election district. When judges recuse themselves or are unavailable to sit on a case for other reasons, the clerk's office assigns a local judge from the area in which the case arose.

Cases are randomly assigned to the panels, but judges file with the Clerk a list of names that could constitute a conflict, and the computer program will not assign that judge's panel to any case involving one of those names. The panels are changed each month, with the intent of

rotating judges so that over the course of their terms they will probably serve at least once with each of the other judges and in each of the cities. The court states that the rotation encourages "statewide uniformity in rulings by eliminating the likelihood of conflicting legal philosophies developing in specific geographical areas."

Year	District	Ballot Category	Status	ICO*	Candidate	Contrib \$	
1994	1	INCUMBENT--UNOPPOSED	W	I	CORRIGAN, MAURA	\$17,156	
				W	I	GRIBBS, ROMAN	\$19,989
					<b>DISTRICT 1 TOTAL</b>	<b>\$37,145</b>	
1994	2	INCUMBENT--CONTESTED	W	I	JANSEN, KATHLEEN	\$71,079	
				W	I	KELLY, MARILYN	\$62,555
				W	I	KELLY, MICHAEL	\$25,783
				L	C	MODELSKI, MICHAEL	\$18,655
				L	C	STRELCHUK, DENNIS	\$0
					<b>DISTRICT 2 TOTAL</b>	<b>\$178,073</b>	
1994	3	INCUMBENT--UNOPPOSED	W	I	MURPHY, WILLIAM B	\$0	
				W	I	NEFF, JANET	\$0
					<b>DISTRICT 3 INCUMB TOTAL</b>	<b>\$0</b>	
1994	3	NEW--CONTESTED	W	O	BANDSTRA, RICHARD	\$105,377	
				L	O	CARRIER, MEG	\$44,684
				L	O	FLYNN, MICHAEL	\$91,226
				L	O	FORSYTH, WILLIAM	\$76,514
				W	O	HOEKSTRA, JOEL	\$77,527
				L	O	KRUPP, DAWN	\$20,414
				W	O	MARKEY, JANE	\$22,226
				W	O	SMOLENSKI, MICHAEL	\$54,810
					<b>DISTRICT 3 NEW TOTAL</b>	<b>\$492,778</b>	
1994	4	INCUMBENT--UNOPPOSED	W	I	MCDONALD, GARY R	\$0	
					<b>DISTRICT 4 INCUMB TOTAL</b>	<b>\$0</b>	
1994	4	NEW--CONTESTED	L	O	MURPHY, DENNIS	\$58,242	
				W	O	OCONNELL, PETER	\$106,207
					<b>DISTRICT 4 NEW TOTAL</b>	<b>\$164,449</b>	
				<b>1994 TOTAL</b>	<b>\$872,444</b>		

### Cost of Running

The chart at right shows the total amounts raised by Appeals Court candidates.

During the three election cycles in this study, 31 Court of Appeals positions were up for election in a total of 16 races. (Due to mid-term appointments, three of the 28 court seats were up twice during the study period).

Only three of the races involved a primary election. Two primary races for five

Year	District	Ballot Category	Status	ICO*	Candidate	Contrib \$
1996	1	INCUMBENT--CONTESTED	W	I	HOOD, HAROLD	\$31,113
			L	C	KELLY, JOHN	\$11,175
			L	C	MACDONALD, KATHLEEN	\$51,531
			W	I	REILLY, MAUREEN	\$14,080
			W	I	YOUNG JR, ROBERT	\$153,779
					<b>DISTRICT 1 TOTAL</b>	<b>\$261,678</b>
1996	2	INCUMBENT--CONTESTED	W	I	CAVANAGH, MARK	\$19,642
			L	C	CHRZANOWSKI, MARY	\$31,944
			W	I	FITZGERALD, E THOMAS	\$65,399
			W	I	SAAD, HENRY	\$345,114
					<b>DISTRICT 2 TOTAL</b>	<b>\$462,100</b>
1996	4-2YR	INCUMBENT--UNOPPOSED	W	I	MARKMAN, STEPHEN	\$0
					<b>DISTRICT 4-2YR TOTAL</b>	<b>\$0</b>
1996	4-6YR	INCUMBENT--CONTESTED	L	C	FIELD, GARY	\$71,259
			W	I	GRIFFIN, RICHARD	\$0
			W	I	HOLBROOK JR, DONALD	\$59,544
			W	I	MACKENZIE, BARBARA	\$20,141
					<b>DISTRICT 4-6YR TOTAL</b>	<b>\$150,944</b>
		<b>1996 TOTAL</b>	<b>\$874,722</b>			
1998	1-4YR	INCUMBENT--CONTESTED	L	C	BRENNAN, JOSEPH	\$44,924
			W	I	TALBOT, MICHAEL	\$90,068
					<b>DISTRICT 1-4YR TOTAL</b>	<b>\$134,992</b>
1998	1-6YR	INCUMBENT--CONTESTED	L	C	BROWN, HELEN	\$15,400
			L	C	RYAN, DANIEL	\$20,407
			W	I	WAHLS, MYRON	\$50,821
			W	I	WHITE, HELENE	\$48,648
					<b>DISTRICT 1-6YR TOTAL</b>	<b>\$135,276</b>
1998	2-2YR	INCUMBENT--UNOPPOSED	W	I	GAGE, HILDA	\$0
					<b>DISTRICT 2-2YR TOTAL</b>	<b>\$0</b>
1998	2-6YR	INCUMBENT--CONTESTED	W	I	DOCTOROFF, MARTIN	\$380,921
			L	C	OSULLIVAN, PAMELA	\$41,803
					<b>DISTRICT 2-6YR TOTAL</b>	<b>\$422,723</b>
1998	3	INCUMBENT--UNOPPOSED	W	I	SAWYER, DAVID	\$0
					<b>DISTRICT 3 TOTAL</b>	<b>\$0</b>
1998	4	INCUMBENT--UNOPPOSED	W	I	MARKMAN, STEPHEN	\$13,957
			W	I	WHITBECK, WILLIAM	\$32,661
					<b>DISTRICT 4 TOTAL</b>	<b>\$46,618</b>
					<b>1998 TOTAL</b>	<b>\$739,609</b>
		<b>TOTAL</b>	<b>\$2,486,776</b>			

open seats involved 26 candidates and one race for two incumbent seats involved five candidates (the two incumbents and three challengers).

Forty-five candidates, including 25 incumbents, ran in the general election. One of the incumbents, Judge Markman, was on the ballot twice during the study period. Eleven of the incumbents were unopposed.

In 1993, the court expanded and underwent redistricting. So in 1994, District 3 had four open seats and District 4 had one open seat on the ballot. All other races in the study involved incumbent seats, and the incumbents always won. The only way a new individual was able to break into the court during the study period was by appointment or expansion of the court.

The amounts of money raised by candidates fluctuated over the years, but there was a general increase from 1994 through 1998. The most raised by a single candidate in a general election was the \$380,921 that incumbent Martin Doctoroff raised in 1998 (of which \$239,582 was his own money). He won a narrow victory over his opponent, Pamela O'Sullivan, who raised only \$41,803.

Eight candidates reported raising no money, including seven unopposed incumbents and one challenger.

Incumbents in contested races generally raised more money than their challengers. However, in 1996 the lone challenger in District 4 -- Gary Field -- raised \$71,259, outraising all three of the incumbents he faced.

The largest amount raised by a single candidate rose during each general election, from \$105,377 by Richard Bandstra in 1994 to \$345,114 by Henry Saad in 1996 and the \$380,921 by Judge Doctoroff in 1998.

Richard Bandstra raised the most money of the eight candidates running for the four new open seats in District 3 in 1994, but he was only the third highest vote-getter. The first- and second-place winners, Joel Hoekstra and Jane Markey, raised only \$77,527 and \$22,225, respectively. Michael Flynn raised the second-highest amount of money in that race, at \$91,226, but lost the contest.

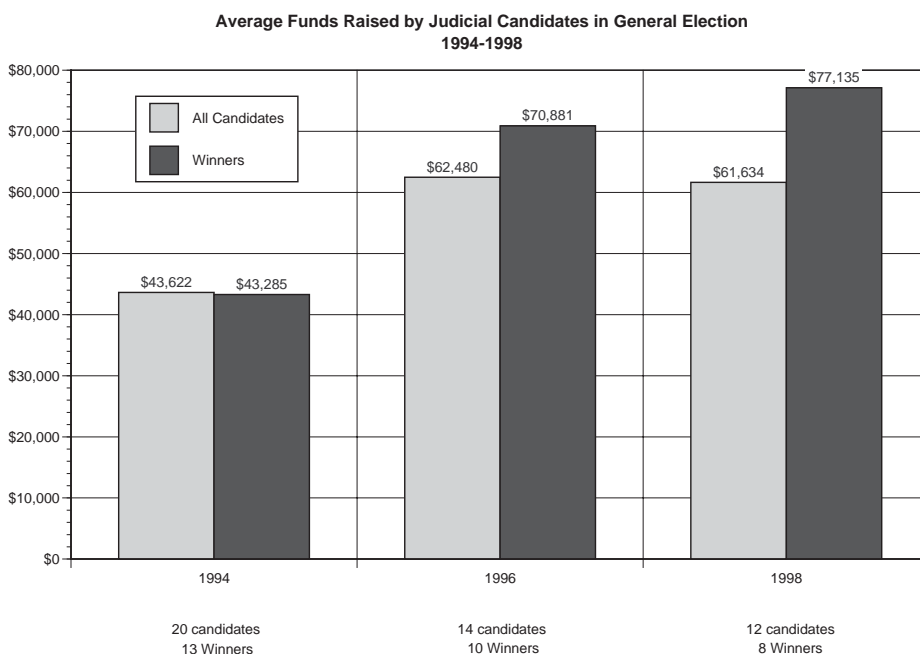
In 1996, Judge Saad was an incumbent in District 2. While he raised \$345,114, the two other incumbents in his race raised only \$19,642 and \$65,399, and the challenger raised \$31,944.

In 1998, as noted above, Judge Doctoroff (who raised \$380,921) was in a tight race but his opponent only raised \$41,803.

The only other candidates who raised more than \$100,000 were Peter O'Connell and Robert Young. O'Connell won the open race for the new seat in District 4 in 1994. He raised \$106,206 compared to the \$58,242 raised by the loser. Judge Young, who ran as an incumbent in 1996, raised \$153,779, more than the combined total of the other two incumbents and two challengers running in District 1 that year.

## Yearly Averages

The average amount raised by all general election candidates rose from \$43,622 in 1994 to \$62,480 in 1996 and then dropped slightly to \$61,634 in 1998. The average raised by just the winners rose steadily from \$43,285 in 1994 to \$70,881 in 1996 and \$77,135 in 1998.



The average contribution size from named contributors for all candidates in general election races rose from \$117 in 1994 to \$170 in 1996 but dropped to \$130 in 1998. The average size of contributions to winners followed the same pattern, rising from \$121 in 1994 to \$194 in 1996, but dropping in 1998 to only \$117 -- below the 1994 level. Peter O'Connell, who won the open District 4 seat in 1994, had the largest average

contribution size, at \$258. The average for the three election cycles was \$139.

The average number of contributions to winners was at its lowest in 1994 at 321 per candidate. The average rose to 362 in 1996 and dropped to 338 in 1998. The average number for the study period was \$339.

### Litigants and Contributors

In order to assess the frequency with which a contributor to a judicial candidate appeared before the Michigan Court of Appeals, 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.

Recipient	Year	Total \$	\$ from Litigants	% from Litigants
BANDSTRA, RICHARD	1994	\$105,377	\$700	0.7%
CORRIGAN, MAURA	1994	\$17,156	\$975	5.7%
GRIBBS, ROMAN	1994	\$19,989	\$450	2.3%
HOEKSTRA, JOEL	1994	\$77,527	\$600	0.8%
JANSEN, KATHLEEN	1994	\$71,079	\$4,808	6.8%
KELLY, MARILYN	1994	\$62,555	\$3,725	6.0%
KELLY, MICHAEL	1994	\$25,783	\$1,922	7.5%
MARKEY, JANE	1994	\$22,226	\$410	1.8%
MCDONALD, GARY R	1994	\$0	\$0	0.0%
MURPHY, WILLIAM B	1994	\$0	\$0	0.0%
NEFF, JANET	1994	\$0	\$0	0.0%
OCONNELL, PETER	1994	\$106,207	\$1,300	1.2%
SMOLENSKI, MICHAEL	1994	\$54,810	\$2,000	3.6%
CAVANAGH, MARK	1996	\$19,642	\$1,925	9.8%
FITZGERALD, E THOMAS	1996	\$65,399	\$4,263	6.5%
GRIFFIN, RICHARD	1996	\$0	\$0	0.0%
HOLBROOK JR, DONALD	1996	\$59,544	\$2,150	3.6%
HOOD, HAROLD	1996	\$31,113	\$3,125	10.0%
MACKENZIE, BARBARA	1996	\$20,141	\$1,200	6.0%
MARKMAN, STEPHEN	1996	\$0	\$0	0.0%
REILLY, MAUREEN	1996	\$14,080	\$325	2.3%
SAAD, HENRY	1996	\$345,114	\$3,135	0.9%
YOUNG JR, ROBERT	1996	\$153,779	\$2,960	1.9%
DOCTOROFF, MARTIN	1998	\$380,921	\$8,750	2.3%
GAGE, HILDA	1998	\$0	\$0	0.0%
MARKMAN, STEPHEN	1998	\$13,957	\$696	5.0%
SAWYER, DAVID	1998	\$0	\$0	0.0%
TALBOT, MICHAEL	1998	\$90,068	\$850	0.9%
WAHLS, MYRON	1998	\$50,821	\$185	0.4%
WHITBECK, WILLIAM	1998	\$32,661	\$228	0.7%
WHITE, HELENE	1998	\$48,648	\$150	0.3%

This comparison showed that 532 of the 7,641 contributors identified in candidates' disclosure reports appeared before the court after their contribution, but only 176 of those contributors were involved in cases in which the three-judge panel included judges to whom they had contributed.

These 176 contributors gave a total of \$46,982. This "contributor-litigant" group represented 1.9 percent of the 9,345 litigants, 1.9 percent of the nearly \$2.5 million raised by all candidates, and 2.5 percent of the \$1.89 million given to winners.

## 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 Court of Appeals 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 parties won about the same number of cases as they lost.

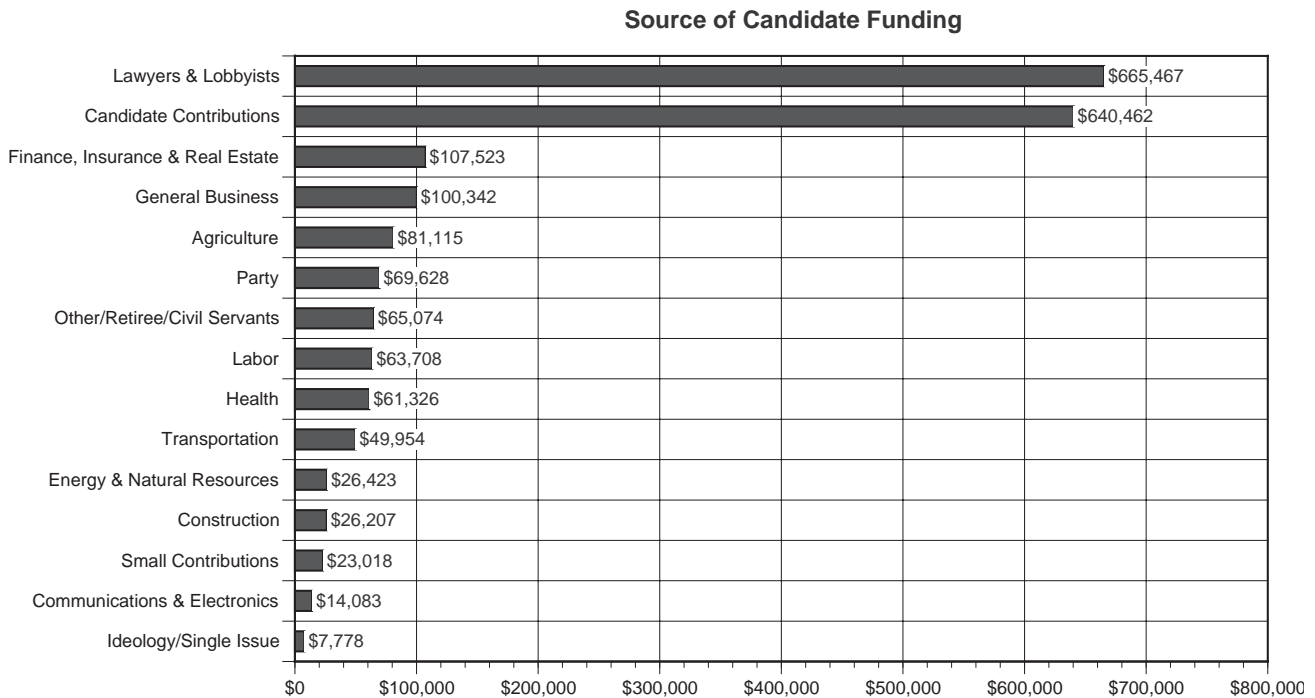
The Court of Appeals' three-judge panel system reduces the chances that a contributor will ever appear before a particular judge, making it unlikely that contributions were made with the intent of gaining an advantage in court. During the study period, 563 of the 7,641 named contributors appeared before the court after making a contribution. But only about one-third of them, or 176, appeared before one of the judges to whom they had contributed.

Contributors were involved, either as a party, an attorney or an *amicus*, in 340 cases in which they had given to a judge on the panel hearing the case. This represents 17.5 percent of the 1,945 cases decided during the study period. Analysis of these cases showed:

- In 160 cases, or 47 percent, contributions came only from parties on the winning side of the case. However, 91 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 69 cases (including one case in which both private and public attorneys were involved).
- In 106 cases, or 31 percent, contributions came only from the losing side of the case. Thirty-nine of those cases involved only contributing public attorneys. Sixty-seven of those cases involved private attorneys or litigants.
- In 45 cases, or 13 percent, the court issued split decisions; 15 cases involved only contributing public attorneys, while 30 involved private attorneys and litigants.
- In 19 cases, contributions came from both winning and losing parties. In nine of the cases, the winning parties gave more than the losing parties. In seven cases, the losers gave more than the winners. In three cases, the two parties gave equal amounts. None of the cases involved contributing public attorneys or litigants on both the winning and the losing sides. Nine cases involved only contributing private attorneys and litigants, and the other ten involved both private and public attorneys.
- In nine cases, the only contributions came from *amicus* parties. None of those cases involved a public attorney, although a contributing public attorney filed an *amicus* brief in a case that also involved private money on the winning side.
- One case that involved a contributing public attorney was ruled moot.

## Sources of Funds

The 45 judicial candidates who ran in the general elections raised a total of \$2,486,776 during the three election cycles. The sources of about 81 percent of that money have been identified and classified by business sector or party. The lack of information on employer and occupation in the reports filed by the candidates makes it impossible to classify the remaining 19 percent.



### a. Attorneys

Candidates collected contributions totaling \$665,467 from 1,991 attorneys during the three election cycles, representing almost 27 percent of the total contributions raised by all candidates. The 1,633 attorneys who gave to winning candidates represented more than 27 percent of the 5,898 named contributors who gave to winners; their \$516,850 in contributions represented more than 27 percent of the money raised by winners.

#### *Attorney contributor-litigators*

Less than 2 percent (176) of the 9,345 individuals or organizations who appeared before the court had contributed to a judge who was on a panel deciding their case. More than 91 percent (161) of those 176 contributor-litigants were attorneys or legal political action committees (PACs) for legal associations or law firms, representing almost 10 percent of the 1,632 attorneys who contributed to winning candidates. Those 161 contributors gave \$29,250, or an average of \$182 each.



### *Public attorneys*

Public attorneys who represented state or local government agencies before the Court appeared in 43 percent of the cases in this study, or 838 of the 1,945 cases. But those who contributed to a Judge on a panel hearing their case appeared in only 159 cases, or 8 percent of the total cases. Only 14 public attorneys who contributed to winning candidates appeared before those candidates, though they appeared repeatedly in the 159 cases. They represent 2.5 percent of the 551 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 14 public attorneys contributed only \$1,859, an average of \$133 per attorney, for less than 4 percent of the funds given by contributor-litigants.

### *Michigan Trial Lawyers Association*

The Michigan Trial Lawyers Association was one of the single largest contributors, giving \$35,000 to candidates. But only \$15,000 of this amount went to winning candidates, and none went to judges who decided appeals of cases involving the association. The association itself did not appear before the court, but nine attorneys filed *amicus* briefs on behalf of the group in five different cases. Two of those attorneys had given a total of \$5,250 to judges on their panels

### *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. However, a survey of the five largest contributor law firms does not suggest that they fared better than average in court.

- The law firm whose attorneys, as a group, gave the most to Court of Appeals judges was Dickinson Wright. The firm has almost 200 attorneys in five Michigan cities and Washington, D.C. Total giving was \$36,532, of which \$35,962 went to winning candidates. Judge Saad, a partner in the firm before he joined the Court, received \$15,720 of the firm's contributions; he was never assigned a case involving the firm. However, \$15,363 was given to Judge Young, who also had been a partner in the firm, and he participated in five cases involving the firm. Twenty-seven attorneys who appeared before the court gave \$7,938, but only nine of them – who gave a total of only \$1,354 -- appeared before the judges to whom they had contributed. They won three cases, lost four and received a split decision in two cases. However, 62 Dickinson attorneys gave a total of \$19,167 to judges who later ruled on 37 cases that involved firm attorneys who were not necessarily contributors themselves. The Dickinson attorneys won 17 cases, lost 11, received a split decision in five and filed *amicus* briefs in four of those cases. Firm attorneys appeared in another eight cases in which the judges had not received contributions. They won four, lost two, received a split decision in one and filed an *amicus* brief in one of those cases.
- Employees of Sommers Schwartz Silver & Schwartz (which bills itself as "Michigan's largest plaintiff litigation law firm") gave \$34,777, of which \$28,927 went to winning candidates. Seventeen attorneys who contributed \$15,685 appeared before the court, but only two of them (who combined gave \$6,932) appeared before the judges to whom they had contributed. They won only one of those cases, lost three, received split decisions in

three and filed an *amicus* brief in one. Contributions by members of the firm totaled \$27,577 to judges who later ruled on 17 cases in which Sommers attorneys were involved. They won six, lost six, received split decisions in three and filed *amicus* briefs in two of those cases. Firm attorneys appeared in another 12 cases in which the judges had not received contributions. They won four, lost six, and received split decision in two.

- Dykema Gossett attorneys gave a total of \$15,068 to candidates, including \$13,218 to winners. Twenty attorneys appeared before the court. But only nine of those attorneys, who gave \$895, later appeared before the judges to whom they had contributed (one of the attorneys was with a different law firm at the time of the case). Those attorneys won one case, lost three and filed *amicus* briefs in two. However, 69 firm attorneys gave a total of \$12,418 to judges who later ruled on 31 cases involving Dykema Gossett attorneys. They won 12 cases, lost 10, received a split decision in four and filed *amicus* briefs in five cases. Firm attorneys also appeared in four cases in which the judges had not received contributions from the firm. They won three of those cases and received a split decision in the fourth.
- Plunkett & Cooney attorneys gave \$14,675, of which \$13,575 went to winning candidates. The firm itself and eight attorneys who contributed \$11,750 appeared in court. But only two attorneys, who gave a total of \$300, later appeared before the recipient judges. They won two and lost one of those cases. Altogether, the firm's members gave \$13,275 to judges who ruled on 38 cases involving the firm's attorneys. They won 16, lost 12, received split decisions in nine and filed an *amicus* brief in one of those cases. Firm attorneys appeared in another 18 cases before judges to whom they had not contributed. They won 10 of those cases, lost seven, and received a split decision in one.
- Ackerman & Ackerman attorneys gave \$11,950, with \$10,850 going to winners. Alan Ackerman gave all but \$50 of the total, and he appeared in only one case, which he won.

#### **b. Self-funding**

Thirty-five of the candidates in the general election contributed a total of \$640,462 to their own campaigns, representing 26 percent of all money raised and average contributions of \$18,304. Winning candidates gave themselves \$413,980, and \$239,582 of that was from Judge Doctoroff, representing almost two-thirds of his total.

Three of the self-funding candidates were unopposed incumbents: Judge Whitebeck contributed \$20,532 to his campaign, Judge Markman gave \$1,653, and Judge Corrigan gave \$2,978. In addition, former state Rep. Richard Bandstra, who gave up his seat in the state House to run for one of the new seats in District 3, gave his campaign \$47,577 from his House campaign committee, for about 45 percent of his total funds.

### Candidate Self-Financing

Year	Recipient	Contrib \$	Year	Recipient	Contrib \$	
1994	BANDSTRA, RICHARD	\$20	1996	CAVANAGH, MARK	\$1,063	
	CARRIER, MEG	\$8,463		CHRZANOWSKI, MARY	\$34	
	CORRIGAN, MAURA	\$2,978		FIELD, GARY	\$35,493	
	FLYNN, MICHAEL	\$60,772		FITZGERALD, E THOMAS	\$11,550	
	FORSYTH, WILLIAM	\$59,307		HOLBROOK JR, DONALD	\$47,479	
	GRIBBS, ROMAN	\$6,401		HOOD, HAROLD	\$600	
	HOEKSTRA, JOEL	\$20,384		MACDONALD, KATHLEEN	\$-500	
	JANSEN, KATHLEEN	\$11,596		MACKENZIE, BARBARA	\$636	
	KELLY, MARILYN	\$1,251		YOUNG JR, ROBERT	\$100	
	KRUPP, DAWN	\$17,341		<b>1996 Total</b>	<b>\$96,455</b>	
	MARKEY, JANE	\$6,223		1998	BRENNAN, JOSEPH	\$3,267
	MODELSKI, MICHAEL	\$1,350			DOCTOROFF, MARTIN	\$239,582
	MURPHY, DENNIS	\$39,553			MARKMAN, STEPHEN	\$1,653
	OCONNELL, PETER	\$4,405			OSULLIVAN, PAMELA	\$432
SMOLENSKI, MICHAEL	\$2,615	RYAN, DANIEL	\$970			
<b>1994 Total</b>	<b>\$242,659</b>	TALBOT, MICHAEL	\$2,920			
		WAHLS, MYRON	\$26,219			
		WHITBECK, WILLIAM	\$5,774			
		WHITE, HELENE	\$20,532			
		<b>1998 Total</b>	<b>\$301,349</b>			
		<b>3 Election Total</b>	<b>\$640,462</b>			

#### c. Business Sources

Individuals and PACs may give a maximum of \$3,400 to Court of Appeals candidates. Corporations and unions are prohibited from making direct contributions but can form PACs to which their employees and members can contribute. And independent committees can give 10 times the amount a regular political action committee can contribute.

The combined contributions of business individuals and companies (in the agriculture, communication/electronics, construction, energy/natural resources, financial/insurance/real estate, health, transportation and general business fields) came to \$464,965 to all candidates in the general election, and \$420,284 to winning candidates.

- The single largest business source was Norval Morey of Morbark Industries. He gave \$60,000 to Judge O'Connell, but was never a litigant. Morbark manufactures heavy equipment, primarily for forestry and sawmill uses.
- Justice for Michigan Citizens contributed \$14,550, all of it to winners, but the group was never a litigant. When the PAC was formed by the business community in 1996, the Democratic Party unsuccessfully challenged its creation in circuit court, alleging the

committee was an attempt by the Chamber of Commerce to illegally operate two PACs in order to evade the contribution limits.

- Executives of the Amway Corporation gave \$13,694, with \$13,144 going to winners, but neither the company nor the contributors were litigants during the study period.
- The PAC of the Automobile Club of Michigan (also known as AAA Michigan) and its employees gave a total of \$13,297, of which \$12,597 went to winners. However, \$10,247 of that went to Judge Young, who did not sit on any cases involving the Automobile Club. Young was a vice president of AAA Michigan before joining the Court. The Club and one employee gave only \$1,000 to judges before whom they appeared. The Auto Club Insurance Association and its parent, the Automobile Club of Michigan, were parties in 26 cases, but only had 10 cases before the judges to whom they had contributed. They won only two of those cases, lost four and received split decisions in four.
- The Chamber of Commerce PAC and its employees gave \$6,918, \$4,918 of it to winners. But they gave only \$550 to Judge O'Connell, the only judge before whom they appeared. They lost one case in which they were a party and filed an *amicus* in the other.

#### **d. 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 \$65,074, about 2.6 percent of the total funds raised by candidates. Sixty-six percent, or \$49,652, went to winning candidates. None of these contributors were identified as litigants.

#### **e. Labor**

Labor organizations and staff members gave \$63,708 during the study period, of which \$42,608 went to winners. Two unions, representing autoworkers and teachers, gave more than half the labor money:

- The United Auto Workers gave \$28,400 to candidates in the general election, of which \$17,900 went to winning candidates and \$5,200 to judges before whom the union later appeared. The union, its affiliates and attorneys appeared in court 18 times, but only four times before judges to whom they had contributed. They won one case, lost two and received a split decision in one. In the other 14 cases before judges to whom they had not contributed, they won seven, lost four and filed an *amicus* brief in three.
- Michigan Education Association PACs and staff gave \$18,800, including \$13,800 to winning candidates and \$12,300 to judges before whom they appeared. The state association and local affiliates were parties in 11 cases, but appeared before the judges to whom they had contributed in only five cases. They won two of those cases, lost one and filed *amicus* briefs in two. The other seven cases were handled by judges to whom they had not contributed. They lost five of those cases and filed *amicus* briefs in the other two.

**f. Political Parties**

Michigan Court of Appeals races are nonpartisan, but the major political parties, candidates and officials gave \$45,644 to candidates in the general election. That amounts to less than 2 percent of the total funds raised. The Republican Party outspent the Democratic Party \$34,914 to \$7,050, with an additional \$1,250 coming from Republican officials and candidates, compared to \$2,450 from Democratic officials and candidates.

In addition, nonpartisan officials and candidates (primarily other judicial candidates and justices) gave \$23,815.

Aside from the state Republican and Democratic parties, the largest political giver was the Posthumus Leadership Fund, run by Republican Dick Posthumus, who at the time was the state Senate Majority Leader. The Fund gave \$11,000, but \$10,000 went to a losing candidate.

**Expenses**

The candidates running in the general elections spent a total of \$2,693,614 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.

**Candidate Expenditures**

Purpose	Expend \$
MEDIA ADVERTISING	\$971,667
OTHER ADVERTISING	\$697,841
ADMINISTRATIVE	\$525,712
PRINTING	\$158,790
CONSULTANTS	\$136,997
FUNDRAISING	\$110,879
EVENTS	\$33,283
PAYMENT TO PARTY	\$19,623
POLITICAL CONTRIBUTIONS	\$18,746
TRAVEL	\$12,345
CONTRIBUTIONS	\$4,717
TICKETS	\$3,015
<b>TOTAL</b>	<b>\$2,693,614</b>

Those expenditures are included in the Administrative category. This analysis has assigned the expenditures to 12 categories, based on the information available.

- Advertising was by far the largest expense in Appeals Court campaigns. Advertising for all the candidates came to \$1,669,509, almost 62 percent of the total expenditures. Candidates spent \$971,667 on media advertising that 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 \$697,841 included newspaper ads, yard signs and unspecified advertising.
- The administrative expenses accounted for \$525,712. 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.

- General printing expenses came to \$158,790.
- Payments for unspecified consulting services totaled \$136,997.

- Candidates spent \$44,162 on fundraising and events such as rallies.
- Payments to political parties totaled \$19,623, with \$5,034 of that amount identified as advertising costs. Candidates spent \$7,789 on costs such as tickets to events and reimbursement for expenses such as labels. The remaining \$6,799 was specified as contributions or dues to the parties.
- Candidates also spent \$18,746 on contributions to other candidates, PACs, or other political groups. This included payments for tickets to events and services such as endorsement literature.

All other expenses accounted for less than 1 percent of the total. Candidates spent \$12,345 on travel expenses, including gas, food and lodging. The contributions category totaling \$4,717 consists of donations to nonprofits such as NAACP. Payments of \$3,014 were also made for tickets and other fees to non-party events such as Chamber of Commerce dinners and community parades.

#### [Appendix](#)