

AMERICAN JUDGES ASSOCIATION/AMERICAN JUDGES FOUNDATION

2012 Midyear Meeting and

National Symposium on Judicial Selection and Retention –

The Politicization of the Judiciary: How to Respond

Doubletree Hotel Downtown

May 17-19, 2012

Nashville, Tennessee

SCHEDULE

Thursday, May 17

Registration

9:00 AM – 5:00 PM

Budget Committee Meeting

12:30 – 1:30 PM

Executive Committee Meeting

2:00 – 5:00 PM

Friday, May 18

Registration

7:00 AM – 5:00 PM

AJF Trustees Meeting

7:30 – 9:00 AM

Continental Breakfast

7:30 – 8:30 AM

AJA National Symposium on Judicial Selection and Retention –

The Politicalization of the Judiciary: How to Respond

Plenary 1

8:00 to 8:15 AM

Introduction: Judge Kevin Burke, President, American Judges Association

8:15 to 8:45 AM

How to Respond to Issue-oriented Challenges (Part 1)

Speaker: Dana Fabe, Justice, Alaska Supreme Court

Description: Justice Fabe will describe her experience with a retention attack that was funded with outside money and launched at the last minute in order to prevent her from responding effectively.

8:45 to 9:15 AM

How to Respond to Issue-oriented Challenges (Part 1)

Speaker: Michael Streit, Former Justice, Iowa Supreme Court

Session 1

9:30 AM to Noon

Track A

9:30 to 10:25 AM

Electing Judges: The Surprising Effects of Campaigning on Judicial Legitimacy

Speaker: James Gibson, Professor,
Washington University, St. Louis

Description: Professor Gibson will discuss the connections

Track B

9:30 to 10:25 AM

Judicial Campaigns & Judicial Independence

Speaker: Mark White, Chair, National Ad Hoc Committee
on Judicial Oversight

Description: Mr. White will comment on the future – the
2012 judicial races. He will compare and contrast what has

between judicial elections and the legitimacy of courts, based on research reported in his forthcoming book, *Electing Judges: The Surprising Effects of Campaigning on Judicial Legitimacy* (to be published by the University of Chicago Press in summer 2012). Gibson has discovered that some campaign activities – and especially campaign contributions that generate perceptions of conflicts of interest – tend to undermine judicial legitimacy, while other types of activity – e.g., announcing one’s positions on salient legal policies – have no negative consequences for how people view courts. Whether a campaign activity affects the legitimacy of courts depends upon citizen judgments of the appropriateness of the activity, and surprisingly little consensus on what is and what is not appropriate exists among the American people. Gibson’s most important finding, however, is that, despite the negative consequences of some campaign activities, the *net effect* of judicial elections is to enhance courts’ legitimacy. This is because many Americans prefer accountability from their legal institutions, and when given the chance to hold their judges accountable, legitimacy therefore profits. The most general conclusion that Gibson draws from his research is that the various different aspects of judicial elections ought not be studied and weighed in isolation from one another. Rather, the most useful information social scientists can provide policy makers concerns the total effects of the various systems of selecting and retaining judges, including all that is good about these systems and all that is bad.

happened historically in judicial races with what other panel participants will have shared about their own ‘personal journeys’. He will discuss the three known and constant items on the judicial campaign ‘salad bar of sin’. He also will address what lawyers and non-lawyers can and should do to ‘stop the bleeding’ in judicial campaigns.

Break

10:25 to 10:40 AM

Track A

10:40 to 11:35 AM

How to Defend Against Issue Challenges

Speaker: Phil Nichols, White Star Strategies

Track B

10:45 to 11:35 AM

Responding to Attacks on Judicial Independence: Getting It Right

Speaker: Mark Grebner, Practical Political Consulting, Inc.

Track A

11:35 AM to Noon

How to Respond to Issue-oriented Challenges (Part 2)

Speaker: Dana Fabe, Justice, Alaska Supreme Court

Description: Justice Fabe will describe her successful statewide responsive campaign, which was developed just two weeks before the election and which cost less than \$5,000, and she will provide participants with some tools they need to respond to an attack in a manner that is both ethical and effective.

Track B

11:35 AM to Noon

How to Respond to Issue-oriented Challenges (Part 2)

Speaker: Michael Streit, Former Justice, Iowa Supreme Court

Luncheon

Noon – 1:30 PM

Campaigning for The Courts: Fighting Political Rhetoric with Outreach and Education

Speaker: K.O. Myers, Director of Research and Programs, American Judicature Society

Description: By increasing their outreach and education efforts, judges can help the public understand what they do, how their courts function, and why an independent, non-partisan judiciary is essential to the preservation of freedom. The presentation will draw on successful programs created by state courts, fair courts coalitions and forward-thinking jurists, to demonstrate how judges can put a human face on judicial institutions, and help to inoculate the public against political arguments made about the courts.

Session 2

1:30 – 4:00 PM

The morning discussions will be repeated. Please attend the discussion you did NOT attend in the morning.

Track A

1:30 to 2:25 PM

Electing Judges: The Surprising Effects of Campaigning on Judicial Legitimacy

Speaker: James Gibson, Professor, Washington University, St. Louis

Description: Professor Gibson will discuss the connections between judicial elections and the legitimacy of courts, based on research reported in his forthcoming book, *Electing Judges: The Surprising Effects of Campaigning on Judicial Legitimacy* (to be published by the University of Chicago Press in summer 2012). Gibson has discovered that some campaign activities – and especially campaign contributions that generate perceptions of conflicts of interest – tend to undermine judicial legitimacy, while other types of activity – e.g., announcing one’s positions on salient legal policies – have no negative consequences for how people view courts. Whether a campaign activity affects the legitimacy of courts depends upon citizen judgments of the appropriateness of the activity, and surprisingly little consensus on what is and what is not appropriate exists among the American people. Gibson’s most important finding, however, is that, despite the negative consequences of some campaign activities, the *net effect* of judicial elections is to enhance courts’ legitimacy. This is because many Americans prefer accountability from their legal institutions, and when given the chance to hold their judges accountable, legitimacy therefore profits. The most general conclusion that Gibson draws from his research is that the various different aspects of judicial elections ought not be studied and weighed in isolation from one another. Rather, the most useful information social scientists can provide policy makers concerns the total effects of the various systems of selecting and retaining judges, including all that is good about these systems and all that is bad.

Track B

1:30 to 2:25 PM

Judicial Campaigns & Judicial Independence

Speaker: Mark White, Chair, National Ad Hoc Committee on Judicial Oversight

Description: Mr. White will comment on the future – the 2012 judicial races. He will compare and contrast what has happened historically in judicial races with what other panel participants will have shared about their own ‘personal journeys’. He will discuss the three known and constant items on the judicial campaign ‘salad bar of sin’. He also will address what lawyers and non-lawyers can and should do to ‘stop the bleeding’ in judicial campaigns

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| <p>Track A 2:25 – 2:50 PM <i>How to Respond to Issue-oriented Challenges (Part 2)</i> Speaker: Dana Fabe, Justice, Alaska Supreme Court Description: Justice Fabe will describe her successful statewide responsive campaign, which was developed just two weeks before the election and which cost less than \$5,000, and she will provide participants with some tools they need to respond to an attack in a manner that is both ethical and effective.</p> | <p>Track B 2:25 – 2:50 PM <i>How to Respond to Issue-oriented Challenges (Part 2)</i> Speaker: Michael Streit, Former Justice, Iowa Supreme Court</p> |
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Break
2:50 to 3:00 PM

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| <p>Track A 3:00 – 4:00 PM <i>How to Defend Against Issue Challenges</i> Speaker: Phil Nichols, White Star Strategies</p> | <p>Track B 3:00 – 4:00 PM <i>Responding to Attacks on Judicial Independence: Getting It Right</i> Speaker: Mark Grebner, Practical Political Consulting, Inc.</p> |
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Plenary Session
4:00 – 5:00 PM
Topic: *Reporting from Groups and Facilitated Discussion*
Facilitators: Judge Kevin Burke, Judge Mary Celeste, Dr. David Rottman, Mr. Jesse Rutledge

Reception
5:30 – 6:30 PM
Cash Bar and Light Hors d'oeuvres-Business Attire

Saturday, May 19

AJA Office
7:00 AM – Noon

Committee Meetings (see schedule in your packet and attend any in which you are interested)
8:00 – 9:00 AM

Board of Governors Meeting
9:00 AM – Noon

Meeting adjourns
Noon

American Judges Association Officers

Kevin Burke, *President*

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Brian MacKenzie, *Secretary*

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