

CAMPAIGNING FOR STATE SUPREME COURT, 2006*

C. SCOTT PETERS

This article reports the results of a survey of candidates who ran in partisan and nonpartisan state supreme court elections in 2006. While much recent scholarship aimed at explaining election outcomes has demonstrated that candidates and voters act strategically in state supreme court elections, we know little about how supreme court candidates organize their campaigns to achieve their goals, how tightly their campaigns are integrated with parties or interest groups, or how they communicate with voters. This study provides such insights into high-court campaigns. Candidates' campaign organizations rely largely on volunteer labor rather than on paid staff or consultants, although candidates in closer races have more professionalized organizations than do others. Parties and interest groups tend to play a limited role in helping candidates organize their campaigns, although candidates recognize their influence with their high levels of participation, despite qualms, in the candidate questionnaires. State supreme court campaigns are becoming more sophisticated in their modes of communication, even if they are not yet on par with congressional campaigns.

While state supreme court elections used to be characterized by low turnout and a dearth of salient issues or informed voters, today they often feature expensive, media-driven campaigns centered on controversial legal or political issues. This transformation is being well documented by watchdogs and scholars alike. The group Justice at Stake has published a series of reports examining the influence of money and the nature of television advertising in these elections since 2000 (Goldberg and Sanchez, 2001, 2003; Goldberg et al., 2005; Sample, Jones, and Weiss, 2007). At the same time, a fresh spate of scholarship, kick-started by Hall (2001), has made great strides in explaining the factors determining the competitiveness of these elections, their overall cost, the decision to challenge incumbents, and the success of incumbents. In general, this body of research has demonstrated that candidates for state supreme courts act strategically in timing their runs for office and that voters choose among candidates in the general election based upon candidate experience within the context of the larger political or institutional environment of the election. This research program has already paid great dividends and promises to continue to add significantly to our knowledge about judicial elections.

What we still lack, despite all of this energy and activity, is insight into the inner workings of the campaigns themselves. Because election outcomes evidence strategic actors, we may assume that candidates are becoming more sophisticated in

* The author would like to thank Paul Herrmson, Rachel Paine Caufield, and Chris Bonneau for their suggestions in the early stages of this research, and Holly Ross and Nick Stark for their research assistance. Of course, any errors are the author's responsibility. This research was completed with the aid of a Summer Fellowship from the Graduate College of the University of Northern Iowa.

their campaign organization, communications, and campaign tactics. So far, however, we have had to rely only on anecdotal evidence of such changes. This article reports the results of a nationwide survey of state supreme court candidates who ran in the 2006 general elections. It is the largest survey of state supreme court candidates to date that inquires into the internal workings of their campaigns, and its results allow for comparison to Abbe and Herrnson (2002), which included some supreme court candidates, as well as to Herrnson's chronicles of congressional campaigns (e.g., Herrnson, 2004). The findings reveal significant changes in state supreme court elections in the past decade, especially with regard to television advertising, but also underline that the average state supreme court campaign remains much less professionalized and less sophisticated (especially with regard to campaign communications) than the average congressional campaign.

STATE SUPREME COURT ELECTIONS TODAY

Over twenty years ago, Lovrich and Sheldon (1983:24) warned that state supreme court elections were "becoming a new arena for political contest," which threatened the unique, low-key nature of those elections. Up to that time, levels of contestation had been relatively low, and little information was typically available to voters. From 1958 to 1974, uncontested races were the norm in nearly every state (Dubois, 1980). Much research has shown that, at least through the 1980s, voters were often ill-informed about candidates, unable to name or recognize them, and knew little of the record of incumbents (see, e.g., Dubois, 1980; Baum, 1983, 1987; Lovrich and Sheldon, 1983). Because of the paucity of information about candidates, voters often did not vote in judicial races or were forced to make decisions based upon the few cues available, such as party, sex, race/ethnicity, assessments of candidate character, or union ties (see, e.g., Dubois, 1980, for discussion of ballot roll-off and voter information; see also Baum, 1983, 1987; Hojnacki and Baum, 1992a, 1992b). According to Hojnacki and Baum (1992a), this lack of information among voters was the key factor that distinguished judicial elections from other elections. Support for this conclusion can also be seen in Lovrich and Sheldon (1983), whose survey of voters in Oregon and Washington revealed that those voters who had some information about the candidates—even basic information like the ability to recognize them—were more likely to vote than were others.

More recently, however, judicial races have begun to resemble other races for major political office. Between 1980 and 1995, sitting justices were challenged 52.1 percent of the time and were defeated at roughly the same rate as were incumbents running for reelection to the U.S. House of Representatives (Hall, 2001). If we include open-seat elections, the 1990s saw an even higher level of contestation. Between 1990 and 2000, 202 of 289 elections in partisan and nonpartisan election states were contested, for an average contestation rate of 69.9 percent (Bonneau, 2005b). These higher levels of competition are occurring in a context of, and are possibly driven by, higher levels of spending (Bonneau, 2005b, 2007b; see also Hall and

Bonneau, 2006) and the normalization of television advertising (Sample, Jones, and Weiss, 2007).

Writing both together and separately, Melinda Gann Hall and Chris W. Bonneau have explored the strategic choices voters and candidates make in these races. Hall (2001) collected data on all judicial elections from 1980 to 1995 and, as mentioned above, found that judicial elections were more competitive than one might have thought. Subsequent studies have shown that potential candidates are quite strategic in deciding when to challenge incumbent judges. Most important in determining whether a challenger will step to the plate is whether the incumbent is vulnerable. Just as scholars of congressional elections have observed a freshman effect in U.S. House races (e.g., Canon, 1990:92-100), state high-court incumbents who won their previous elections with small margins or who were appointed to the bench *ad interim* are more likely to draw a challenger in the next race (Bonneau and Hall, 2003; Hall and Bonneau, 2006). These studies have also established that challengers are more likely to arise in states with partisan elections, and the likelihood of a challenge increases where institutional factors such as higher salaries and longer terms make a seat on the bench more attractive. Most of these factors, especially the institutional features of the office, also help to predict whether a quality challenger will arise (Bonneau and Hall, 2003). Quality challengers are also more likely to step forward when incumbents are vulnerable and when terms of office are long (Bonneau and Hall, 2003). Bonneau and Hall (2003) further found that the presence in the race of a quality challenger significantly reduces the incumbent's vote share, a finding upheld in Hall and Bonneau (2006), and which echoes much research about the influence of challengers' experience in congressional races (see, e.g., Abramowitz, 1991; Green and Krasno, 1988, 1990; Bond, Covington, and Fleischer, 1985; Van Dunk, 1997).

Once the race is joined, candidates spend money strategically. Bonneau (2004) described the increase in spending in contested elections throughout the 1990s, as well as the effects of institutional features (such as partisan vs. nonpartisan electoral systems) on the levels of spending in these elections. Another study found that, on average, open-seat races are more expensive than those where incumbents face challengers, and that expectations of a tight race (as measured by whether previous races on the court were close) lead to higher levels of spending in the election (Bonneau, 2005b). Bonneau (2005a) found that the ratio of incumbent spending to challenger spending explains incumbent victories. As with races for many offices, incumbents have a notable spending advantage over challengers in state supreme court elections (Bonneau, 2004), which contributes to their success—the more they outspend challengers, the more electoral success they will experience (Hall and Bonneau, 2006). On the other hand, much like previous research on congressional and state legislative elections (e.g., Jacobson, 1978, 1980, 1990, 2001; Gierzynski and Breaux, 1991, 1996), Bonneau (2007) found that challenger spending is much more important in explaining the incumbent's performance than is the incumbent's own spending.

Money is important to candidates in open-seat races as well. Winners and losers can both add to their vote shares by spending, implying the need to outspend the opposition (Bonneau, 2006).

Finally, this line of research makes it clear that state judicial races are not entirely insulated from the larger forces of politics. Hall (2001) initially demonstrated that voters engage in a form of retrospective voting, punishing incumbents for macro-level indicators of the judiciary's performance, such as the murder rate in the state. This finding has been repeated in subsequent works (see, e.g., Bonneau, 2005a; Hall and Bonneau, 2006). Among the other factors that affect these elections is the overall level of competitiveness in the state, usually measured by the level of party competition at the state level (Bonneau, 2005b; Hall, 2001; Bonneau and Hall, 2003; Hall and Bonneau, 2006), but Bonneau (2006) found no effect in open-seat races of the degree of partisan consonance between winners of presidential, gubernatorial, and senatorial contests in a state.

In short, prospective candidates and voters make rational decisions in elections, which are similar to the strategic choices that we see in elections to fill legislative or executive office. Rather than elections that serve merely to rubber-stamp an incumbent's choice to run for reelection, we see elections in which incumbents lose with some frequency, in which potential candidates strategically bide their time until incumbents are vulnerable or choose not to run, and in which candidates raise and spend ample amounts of money in search of victory. Further, the evidence demonstrates that voters hold incumbents liable for broad directions of policy, and candidates are subject to the winds of the broader political environment.

Despite this progress on explaining key elements of state supreme court elections, we know nearly nothing about how state supreme court campaigns are organized, how professionalized they are, how tightly they are integrated with political parties or interest groups, or what kinds of strategic choices they make in targeting and communicating with voters. In short, we know that candidates act strategically, but we do not yet have a very good understanding of how they go about doing it. As Herrnson (e.g., 2004, 2008) has demonstrated with his study of congressional campaigns, such depth of knowledge can only be gathered by surveying the key actors in the elections.

Most legislative races at the state level are amateur campaigns—57 percent of candidates surveyed said that they managed their own campaigns and handled their own fund-raising (Herrnson and Faucheux, 1999b). Even at this relatively low level of politics, however, more professionalized campaigns, complete with hired staff and paid consultants, are available to campaigns with more resources. In 1998, Herrnson and Faucheux identified \$50,000 as the “fault line” (1999b:10) that separated amateur and professional campaigns in state supreme court elections. They suggest that the main factor holding candidates back from running professionally organized, media-driven campaigns is the lack of funds. While over 75 percent of candidates were able to utilize low-budget communications techniques, such as newspaper ads,

direct mailing, leaflets, billboards, or signs, more sophisticated advertising techniques, such as television advertising and telephone marketing, are far more common among candidates with larger budgets. Given the number of statehouse races throughout the country, Herrnson and Faucheux conclude that “despite the glitz of major races, political campaigning in America is still essentially an amateur operation” (1999b:8).

By contrast, “[m]ost contemporary congressional campaigns are waged by specialized, professional organizations” (Herrnson, 2008:71). Nearly 70 percent of candidates for the U.S. House rely on either paid staff or hired consultants to manage their campaigns, and over 60 percent rely on such workers to perform such tasks as media advertising, opposition research, direct mailings and fund-raising. The average congressional campaign relies on professionals to perform 6.7 out of 12 vital campaign functions (Herrnson, 2008:73-75). Incumbents have a substantial organizational advantage, however. Although some challengers can build organizations to rival those of incumbents, many fall into the category of “likely losers” and rely on amateurs to perform the vast majority of campaign tasks. While today’s congressional campaigns are candidate centered (see Herrnson, 2008:Ch. 1), parties and interest groups do play an important support role. The most common organizational support provided by parties and interest groups is get-out-the-vote activities, with a third of congressional campaigns relying on such help.

Congressional candidates are also much more likely than candidates for the statehouse to rely on sophisticated communications techniques, especially mass-media advertising. Half of all campaigns ranked broadcast television ads as important; this was true for three quarters of the incumbents, along with over 80 percent of competitive challengers or open-seat candidates. Generally, though, congressional campaigns put more stock in direct contact with voters, direct mailings, door-to-door campaigning, and yard signs. In short, while candidates in competitive races often rely on newer, more modern forms of communication, the bulk of candidates, whether shoo-in incumbents or their “likely loser” opponents, put their stock in more traditional ways of campaigning.

DATA AND METHODS

As part of the Campaign Assessment and Candidate Outreach Project, Abbe and Herrnson (2002, 2003) surveyed candidates who ran for state offices between 1996 and 1998, capturing 261 judicial candidates among their 2,951 respondents. The vast majority of these candidates were running for seats on trial courts; only thirteen candidates for intermediate appellate courts and fifteen candidates for state supreme courts are among the sample. This survey caught judicial candidates at a time when competitive, expensive elections were just starting to become common, and the results highlighted the changing nature of judicial elections.

To gauge the state of state supreme court elections in 2006, a survey was mailed to all seventy-three candidates who appeared on the ballot in contestable partisan and nonpartisan state supreme court races across the country, and a follow-up mail-

ing was sent in February 2007. The survey is based closely on the Campaign Assessment and Candidate Outreach Project (Herrnson and Faucheux, 1999a) and on Herrnson's series of Congressional Campaign Studies (e.g., Herrnson, 2004), with modifications and additional questions pertaining specifically to state supreme court races and to newly relevant issues. In the end, thirty-one general election candidates replied to the survey, providing the largest sample of state supreme court candidates to detail the inner workings of their campaigns. The sample includes candidates from twenty-four different races in thirteen states. All data presented here are derived from these survey responses.¹

In 2006 there were forty-four elections in states that select their supreme court justices through competitive partisan or nonpartisan elections. There were seventy-three candidates in these elections, sixteen running unopposed. Based on rate of contestation, the 2006 state supreme court elections were less competitive than many recent election cycles. Of thirty-eight incumbents on the ballot, fifteen were unopposed. This contestation rate of 60.5 percent against incumbents is on the low end of what has become a typical range of 60 to 70 percent of incumbents challenged in these races (Bonneau, 2005b). Only three incumbents in 2006 lost their reelection bids, a success rate of 92.1 percent—or 87 percent of those who were challenged. The elections look even less competitive once one factors in that of the five incumbents on the ballot in Texas: four faced only token opposition by Libertarian candidates who raised no money. Across the country, winners won with a mean vote of 74.7 percent, a much higher vote share than any of the preceding election cycles (see Table 1).

The sample responding to the study roughly reflects the makeup of the 2006 candidate pool. Nearly half (48.4 percent) of respondents were incumbents, compared to 52.1 percent of all candidates who ran in 2006. The sample's nine respondents who were challengers (29 percent of the sample) is similarly comparable to the 31.5 percent of challengers in the population of state supreme court candidates. Finally, open-seat candidates made up 17.8 percent of all candidates who ran in 2006 and constitute 22.6 percent of the sample here. Most respondents to the survey (19 of 31, or 61 percent) were winners. Because of the number of unopposed incumbents running in 2006, this percentage is also similar to the share of winners in the population (45 of 73, or 61.6 percent). The sample may be slightly biased toward nonpartisan elections—51.6 percent of respondents ran in nonpartisan elections, while only 42.5 percent of all candidates in 2006 ran in nonpartisan elections. Table 1 displays some additional comparisons between the sample and the population. Winners, incumbents, and open-seat candidates who responded to the survey were involved in somewhat more competitive elections than the average similar candidate in the population. The average winner in the sample spent more and won a smaller share of the vote than did the average winner in the population; the same is true for incumbents

¹ The survey questionnaire is available on the author's Web site at <http://www.uni.edu/~petersc/research/2006supctsurvey.pdf>

Table 1
Characteristics of Respondents to 2006 State Supreme Court Campaign Study

	Survey Respondents	All Candidates
All Candidates		
Mean Vote Share	53.9%	60.7%
Mean Spending	\$413,260	\$412,856
Winners		
Mean Vote Share	69.1%	74.7%
Mean Spending	\$595,678	\$442,026
Losers		
Mean Vote Share	29.9%	38.9%
Mean Spending	\$124,431	\$367,593
Incumbents		
Mean Vote Share	69.6%	76.0%
Mean Spending	\$544,095	\$ 488,126
Challengers		
Mean Vote Share	27.7%	39.2%
Mean Spending	\$331,239	\$288,189
Open-Seat Candidates		
Mean Vote Share	54.5%	63.3%
Mean Spending	\$433,465	\$413,404

Source: Vote shares collected from state election officials' Web sites.
 Spending figures collected from the National Institute on Money in
 State Politics (www.followthemoney.org) and state election officials'
 Web sites.

as a group and open-seat candidates as a group. The average respondent who lost a race, however, spent less and won a smaller share of the vote than did the average loser of supreme court elections in 2006; the same is true for challengers as a group. In other words, if there is a deficiency in the sample, it may stem from the relative dearth of runaway winners among incumbents or from a failure to capture participants who were more competitive challengers.

FINDINGS

Aspects of Campaigns. The survey queried candidates for state supreme court about several aspects of running for office, including how they organize their campaigns, whether they rely on professional or amateur/volunteer labor, how they coordinate activities with political parties or interest groups, and how they communicate with voters. As described above, these factors have been identified as keys to understanding campaigning for other offices, especially legislative offices.

Campaign Organization. Most state supreme court candidates run campaigns that are relatively unprofessionalized; they rely quite a bit on volunteers to coordinate key campaign activities or they perform them by themselves (see Table 2). Fewer than

Table 2
State Supreme Court Campaign Performance of Key Tasks, 2006

	Campaign Management (N=30)	Media Advertising (N=29)	Press Relations (N=29)	Issue/ Opposition Research (N=29)	Polling (N=30)	Fund-raising (N=30)
Paid Staff	20.0%	10.3%	17.2%	13.8%	0.0%	13.3%
Consultant	16.7	51.7	27.6	6.9	30.0	23.3
Party/ Interest Group						
Volunteer	16.7	6.9	10.3	17.2	6.7	26.7
Candidate	36.7	10.3	27.6	20.7	0.0	10.0
Not Used	10.0	20.7	17.2	41.4	60.0	23.3
	Direct Mail (N=30)	Mass Phone Calls (N=28)	Internet & Web Sites (N=30)	Get Out the Vote (N=27)	Legal Advice (N=30)	Accounting (N=30)
Paid Staff	6.5%	7.1%	10.0%	7.4%	6.7%	20.0%
Consultant	29.0	17.9	43.3	3.7	0.0	13.3
Party/ Interest Group						
Volunteer	3.3	7.2	20.0	18.5	26.7	40.0
Candidate	0.0	0.0	6.7	3.7	23.3	6.7
Not Used	60.0	67.9	13.3	37.0	40.0	20.0

half of respondents indicated that they used several campaign tools common in sophisticated political campaigns today and regularly used by competitive congressional campaigns: polling, direct mail, and direct phone calls. (Of those who do use such tactical tools, however, virtually all employ professionals to do so.) The majority of candidates did rely on professionals—either paid campaign staff or paid consultants—to run their media campaigns and to create and maintain an online presence. This relatively low level of professionalization is in stark contrast to congressional campaigns, where the majority of candidates have paid staff or consultants to perform nearly all of these functions, even among “likely loser” challengers (see Herrnson, 2004:72-74). Notably, few candidates relied on parties or interest groups to perform these key campaign functions. Where they did, it was for help in getting out the vote. Nearly 30 percent of respondents—and nearly half of those who indicated that they partook in any get-out-the-vote (GOTV) activities—said that parties or interest groups were important in performing such tasks for the campaign.

Although no difference appears in professionalization between partisan and nonpartisan campaigns, partisan campaigns were considerably less likely to perform these key campaign tasks in the first place. On average, candidates in partisan elec-

Table 3
Professionalization of 2006 State Supreme Court Campaigns

Type of Campaign	N	Mean # of Tasks Performed by Paid Employees or Consultants	Mean # of Tasks Not Performed by Campaigns
Incumbents			
In Jeopardy	7	4.43	1.29
Shoo-ins	8	1.63	3.13
Challengers			
Hopefuls	3	2.00	1.50
Likely Losers	8	1.38	5.78
Open-Seat Candidates			
Prospects	7	4.14	2.71
Mismatched	1	5.00	1.00

Note: In-jeopardy incumbents are those who lost their election or won by 20 percent or less of the vote. Hopeful challengers are those who won or lost by 20 percent of the vote or less, while likely losers are challengers who lost by more than 20 percent of the vote. Open-seat prospects are candidates whose elections were decided by a margin of 20 percent or less. Mismatched candidates are those whose elections were decided by more than 20 percent (Herrnson, 2004).

tions reported not performing 3.7 of the tasks listed, while nonpartisan campaigns did not perform 2.6 tasks, a statistically significant difference. This difference may be due to the lack of competition in many partisan races in 2006, such as those in Texas mentioned earlier. This is also observable in the difference between in-jeopardy incumbents and shoo-in incumbents (see Table 3). As Herrnson (2004:72-74) has documented for congressional campaigns, shoo-in incumbents are more likely than incumbents in close races to have bare-bones campaigns that fail to perform some of these key functions. Not pushed by any competitors to construct large and expensive campaign organizations, they are less likely than incumbents in close races to engage in opposition research, conduct polls, have a Web presence, or conduct mass phone calls. On the other hand, we see that open-seat candidates, who are typically in tight races, rely heavily on professionals to perform key campaign activities. Given this finding, it is a surprise to find that hopeful challengers rely relatively sparingly on professionals, a result that may be due to the sample's underrepresentation of competitive challengers.

Influence of Parties and Interest Groups. Although parties and interest groups are not central to most state supreme court campaigns, 71 percent of candidates indicated that parties or interest groups attempted to influence their campaigns, and candidates were almost evenly divided regarding whether these efforts helped, harmed, or made no difference in the campaign. Roughly one-third of candidates or fewer found

Table 4
Candidates' Appraisal of Assistance Offered by Parties and Interest Groups

	Local Parties	State Parties	Labor Unions	Business Groups	Other IGs
Information About Voters	18.2% (28)	25.0% (28)	12.9% (29)	16.1% (29)	16.1% (29)
Advertising & Public Image	9.7 (27)	12.9 (28)	22.5 (29)	19.4 (29)	22.6 (30)
Fund-raising Help	6.9 (29)	13.8 (29)	13.8 (29)	31.0 (29)	26.7 (30)
Issue/Opposition Research	6.9 (29)	10.3 (29)	10.3 (29)	6.9 (29)	10.3 (29)
Voter Registration & GOTV	31.0 (29)	33.3 (30)	13.3 (30)	10.0 (30)	16.7 (30)
Volunteer Workers	17.2 (29)	17.2 (29)	16.7 (30)	6.7 (30)	16.7 (30)
Campaign Mgt.	0.0 (29)	0.0 (30)	3.3 (30)	3.3 (30)	3.3 (30)

Note: Figures represent percentage of candidates who found parties or interest groups at least moderately helpful in performing each task. Numbers in parentheses represent number of respondents to each item.

parties or interest groups to be at least moderately helpful in a variety of campaign activities (see Table 4). Particularly notable is the help that parties provide campaigns in mobilizing voters and other GOTV activities. Candidates received the most party assistance in providing information about voters, volunteer workers, and GOTV activities. Interest groups, on the other hand, provided the most help in the form of fund-raising and media advertising.

One can get a clearer picture of the limited but important supporting role of parties and interest groups by tallying up the number of vital campaign functions (of seven total) that respondents found them helpful in achieving (see Table 5). In every case, majorities of respondents indicated that their campaigns either did not perform the functions listed or, if they did perform them, parties or interest groups were unhelpful with every task. Among respondents who reported finding parties or interest groups helpful in performing at least one of these tasks, challengers received the most help from parties and from interest groups. While respondents in partisan elections found parties more helpful in accomplishing campaign activities than did nonpartisan candidates, this difference was not statistically significant. Similarly, nonpartisan candidates got more help from business or other interest groups than did partisan candidates, but, again, these differences were not statistically significant.

Parties and interest groups also participate in elections by indirectly supporting campaigns, as when interest groups have distributed questionnaires to candidates and published their results among their members or the broader public (see, e.g., Salokar 2005:155-59; 2007). As Justice at Stake puts it, these questionnaires are "the weapon of choice" (Sample, Jones, and Weiss, 2007:29) for interest groups trying to ascertain, publicize and criticize candidates' views on issues. Sample, Jones, and Weiss (2007)

Table 5
Party and Interest-Group Involvement in State Supreme Court Campaigns, 2006

	Number of Tasks Local Party Helpful in Achieving	Number of Tasks State Party Helpful in Achieving	Number of Tasks Labor Union Helpful in Achieving	Number of Tasks Business Groups Helpful in Achieving	Number of Tasks Other Interest Groups Helpful in Achieving
All candidates	3.38	3.57	3.55	3.25	3.00
Incumbents	3.17	4.33	3.50	3.00	3.00
Challengers	4.33	4.60	5.50	4.00	3.00
Open-seat Candidates	3.00	2.00	3.50	7.00	4.33
% not performing function or finding party/IG unhelpful for all functions	58.1	54.8	64.5	61.3	54.8

provide anecdotal evidence that many judicial candidates are not playing along with these groups; they cite groups' questionnaires in Iowa and Tennessee that received low levels of responses from judicial candidates.

Respondents were asked questions relating to how widespread these questionnaires are, how cooperative candidates are, and how candidates think they affect elections. The survey results indicate that candidate response to these surveys is fairly widespread, and candidates are significantly divided about their value (see Table 6). The average respondent reported receiving 17.9 questionnaires and returning 11.7 of them, a response rate of roughly 65 percent. One candidate estimated receiving 100 questionnaires and answering 20 of them; another reported returning all 75 questionnaires received. Both, clear outliers, were incumbents in hotly contested elections. The more typical respondent might be better understood, therefore, through the median number of questionnaires received (11) and answered (8), a response rate of nearly 80 percent, which suggests that the typical candidate responds to nearly all questionnaires. Candidates were about evenly split in assessing whether they or their opponents benefited from these questionnaires (see Table 6). Finally, candidates are not especially enthusiastic about the value of questionnaires in the election. Only a plurality of candidates agreed that such questionnaires helped their campaign reach out to voters and helped voters gather information about candidates, while the remainder of candidates were about evenly divided as to whether the questionnaires merely did not help voters or whether they actually harmed voters' levels of information. It should be no surprise that those candidates who believe the questionnaires are helpful returned them at higher rates than did other candidates, 73.4 compared to 50 percent, a statistically significant difference.

Attitudes toward these questionnaires differ quite a bit depending on the type of candidate (see Table 6). Incumbents are much less enthusiastic about the value of the questionnaires than are challengers or open-seat candidates—only two of the

Table 6
Frequency, Response Rate, and Candidate Assessment of
Interest-Group Questionnaires, 2006

	Average Number Questionnaires Received	Average Response Rate to Questionnaires	Own Campaign Benefited the Most	Helped Campaign Reach Out to Voters	Questionnaires Helpful to Voters
All	17.9	65.5%	32.3%	32.3%	32.3%
Incumbents	17.6	56.3	26.7	13.3	13.4
Challengers	13.7	80.2	44.4	44.4	33.3
Open Seat	23.3	56.4	28.6	57.2	71.5

thirteen incumbents who answered the question indicated that they believed the questionnaires were helpful to campaigns or voters. By contrast, challengers, while receiving fewer questionnaires than incumbents, reported that they returned 80 percent of those they got. Incumbents also see less value in these questionnaires than do other candidates. Whereas only 15 percent of incumbents believe that they help voters, 53 percent of other candidates do—a statistically significant difference—and assess the questionnaires as more useful than do incumbents.

It was noted earlier that there were no significant differences between candidates in partisan and nonpartisan systems in terms of how their campaigns incorporate aid from parties or interest groups. Nonpartisan candidates are, however, more willing than those in partisan races to reply to and try to gain advantage from interest-group questionnaires. Nonpartisan candidates replied to 75 percent, on average, while partisan candidates replied to only 55 percent of all questionnaires. Half of the nonpartisan candidate respondents replied that they believed that such questionnaires helped their campaigns reach out to voters, while only 25 percent of partisan candidates thought so. The same discrepancy occurred when candidates were asked about whether they thought such questionnaires were helpful to voters. This underscores the reality of nonpartisan elections: absent the help parties provide in campaigns and the information conveyed to voters by the party label, candidates must do what they can to communicate their preferences to voters. Many candidates in nonpartisan elections, therefore, take advantage of the opportunity offered by these questionnaires to communicate their views on issues to voters.

Campaign Communications. Using Abbe and Herrnson's (2002) distinction between modern communications techniques and traditional techniques, we now look at the frequency with which respondents engaged in a variety of specific modes of communication with the public. About half of all candidates used television ads, either broadcast or cable; over 60 percent reported running radio ads during the campaign. In terms of print communications, roughly half placed ads in newspapers, and just over half had some kind of direct-mail operation. Just under half of all campaigns

Table 7
Use of Various Forms of Modern and Traditional Campaign Communications, 2006

	Modern						N
	Broadcast TV	Cable TV	Radio	Direct Mail	Telephone	Web Sites	
All	53.3%	46.7%	60.0%	53.3%	43.3%	86.7%	30
Winners	72.2***	66.7***	66.7	66.7**	50.0	88.9	18
Losers	25.0	16.7	50.0	33.3	33.3	83.3	12
Partisan	35.7*	28.6*	50.0	42.9	50.0	85.7	14
Nonpartisan	68.8	62.5	68.8	62.5	37.5	87.5	16
Incumbents	71.4*	71.4***	64.3	71.4*	50.0	85.7	14
Challengers	22.2**	11.1***	44.4	33.3	22.2	77.8	9
Open Seat	57.1	42.9	71.4	42.9	57.1	100.0	7
	Traditional						N
	Newspaper	Signs	Debates/ Forums	Door-to-Door	Free Media	Direct Contact	
All	46.7%	63.3%	70.0%	40.0%	80.0%	86.7%	30
Winners	55.6	66.7	83.3*	44.4	88.9	94.4	18
Losers	33.3	58.3	50.0	33.3	66.7	75.0	12
Partisan	42.9	57.1	57.1	28.6	71.4	78.6	14
Nonpartisan	50.0	68.8	81.3	50.0	87.5	93.8	16
Incumbents	42.9	64.3	78.6	35.7	85.7	92.9	14
Challengers	33.3	55.6	33.3**	22.2	55.5*	66.7**	9
Open Seat	71.4	71.4	100.0***	71.4*	100.0**	100.0**	7

Asterisks indicate significant differences: * $p < .10$; ** $p < .05$; *** $p < .01$

Note: Figures represent percentage of campaigns that used each form of campaign communication.

(45 percent) used mass phone calls to get their message out.² Nearly all reported using Web sites as part of their overall communication strategy. Free media is important for 80 percent of candidates, and other low-cost forms of communication receive similarly high levels of use: billboard or yard signs, debates or forums, and direct contact with voters were all used by at least 70 percent of campaigns. Comparisons to Abbe and Herrson (1992) reveal that campaigns today are much more sophisticated in their communications techniques than they were in the late 1990s, when few appellate or

² Candidate responses reporting use of direct mail and phone calls in campaign communications differ from their own reports, summarized in Table 2, about performance of key tasks within their campaign organization.

supreme court candidates ran cable TV ads or used telephone calls. Even more interesting, candidates today use traditional communications methods at higher rates today than a decade ago, relying much more often on newspaper ads, signs, and candidate debates or forums. This may represent the higher overall rates of competitiveness, with even lower-echelon candidates better situated to engage in some form of campaign communication.

Are there differences in use of these particular communications techniques by different types of candidates? The differences between winners and losers provide insight into the value of television ads. While at least two-thirds of winning candidates ran TV ads of some kind, only one-fourth of losers did likewise. The only other statistically significant difference between winning and losing candidates is that winners rely more on forums or debates than do losers, which suggests that there is an electoral advantage today for those judicial candidates willing to speak publicly during the campaign.

Candidates in nonpartisan elections in 2006 relied more upon TV advertising than did partisan candidates. Nonpartisan candidates were more than twice as likely to run TV ads than were partisan candidates. Although this can partly be explained by fewer competitive partisan elections than normal, it may also be true that TV ads and other modern forms of communication are more vital in nonpartisan campaigns than they are in partisan campaigns, where the party label and the support of the party apparatus helps to give voters information that they lack in the nonpartisan context.

An online presence is very common today for state supreme court candidates. Eighty percent of candidates reported sponsoring their own web sites. Generally, candidates use the Internet to communicate with supporters (48 percent) and recruit volunteers (42 percent). Few candidates viewed their sites as a way to reach out to undecided voters (13 percent), and most did not use the internet to raise money (39 percent) or issue press releases (32 percent). There were no statistically significant differences in online campaigning among electoral systems or types of campaigns. As a point of comparison, Herrnson (2004) found a much more sophisticated approach to the Internet among House candidates, with over 70 percent using it to communicate with supporters, nearly 60 percent using it in fund-raising, and 38 percent using online tactics to reach out to undecided voters.

When candidates were asked to assess how important each mode of communication was as part of their overall strategy to convey their message, the most interesting results were the differences between incumbents and other candidates. Able to run on their record and, at least in 2006, often safe from stiff opposition, incumbents did not stress the importance of many of these communications stratagems. Incumbents' evaluation of the importance of cable-TV ads, newspaper ads, signs, and direct contact with voters were all lower than other candidates. With the large, built-in incumbency advantage, challengers and lesser-known open-seat candidates have a more desperate need to get their name out than do incumbents, and hence evaluate many forms of communication as more important.

Table 8
Importance of Advertising Themes (scale of 6)

	Candidate's Image & Qualifications	Candidate's Issue Positions	Candidate's Judicial Philosophy	Opponent's Image & Qualifications	Opponent's Issue Positions	Opponent's Judicial Philosophy
All	5.22	3.62	4.26	2.92	2.60	2.36
Winners	5.59*	2.94*	4.18	2.94	2.56	2.75*
Losers	4.60	4.70	4.40	2.89	2.67	1.67
Partisan	5.00	3.82	4.75	3.20	2.20	2.30
Nonpartisan	5.40	3.47	3.87	2.73	2.87	2.40
Incumbents	5.85**	2.83**	4.31	3.58*	2.83	2.67
Challengers	4.29**	4.43	4.71	2.86	2.29	2.14
Open Seat	5.00	4.14	3.71	1.67*	2.50	2.00

Asterisks indicate statistically significant differences: * $p < .10$; ** $p < .05$; *** $p < .01$

Candidates were asked about the theme of their campaign messages; in particular, they were asked to rank the importance of their own image and qualifications, issue positions, and judicial philosophy, and their opponent's image, qualifications, and judicial philosophy. Overall, with 6.0 indicating most important, candidates ranked their own image and qualifications as most important (5.2), followed by their own judicial philosophy, their own issue stances (3.6), and then their opponent's image, issues, and philosophy (see Table 8).

There were significant differences among candidates in the themes of their campaign communications. Incumbents are much more likely than other candidates to stress their own image and qualifications, and much less likely to stress issues. They do, however, place more importance than other candidates on their opponent's image and qualifications. Presumably, this reflects the age-old campaign tactic favored by incumbents: run on your record and criticize the other candidate's lack of experience. **Candidate Assessment of Election Outcomes.** Just as many observers have noted that campaigns are becoming considerably more expensive, the candidates themselves attribute much importance to the money spent in campaigns. Only 10 percent of candidates said that money spent by candidates was not a factor in their election and nearly 75 percent indicated that it was an important factor (see Table 9). Candidates in nonpartisan elections (81.3 percent) believed even more strongly that money played an important role than did partisan candidates (60 percent). Over 40 percent of candidates similarly indicated that money spent by parties or money spent by interest groups were important factors. On the other hand, one-third of candidates or less assessed issues as important, and even fewer indicated that scandal played a role in the election. Although Abbe and Herrnson (2002, 2003) did not report over-

Table 9
Candidate Appraisal of Importance of Issues and Money on Outcome of Election

	Local Issues	National Issues	Money Spent by Candidates	Money Spent by Parties	Money Spent by IGs	Scandal
% of candidates finding at least moderately important	33.3	28.6	73.3	41.4	44.8	11.1
% of candidates finding not relevant in their election	21.4	28.6	10.0	27.6	20.7	63.0

all candidate assessments of the importance of such factors in the election, and hence precise comparisons to the past are impossible, both articles make clear that the importance of money was rising at that time and that judicial candidates were concerned about its influence.

Evidence of the advantages of wealthier campaigns is seen in the relationship between money and advanced campaign tactics. It should come as little surprise that many of these features of advanced campaign tactics and strategies are related to one another. Correlations provide evidence to support the link between money, professionalization, and sophisticated communications techniques. A candidate's spending is positively and statistically significantly related to his or her campaign's level of professionalization, while professionalization is even more strongly related to use of modern communications techniques. Presumably, those candidates who are better funded will continue to have advantages over their opponents in their ability to pay for a stronger, more professional campaign organization and for more sophisticated and integrated communications strategies.

Candidates in partisan elections assessed party spending as more important than interest-group spending in determining the outcome of elections: 46.6 percent of candidates indicated that money spent by parties was important, while only 33.4 percent signaled such importance for interest-group spending. Meanwhile, 49.5 percent of nonpartisan candidates assessed interest-group spending as important, while only 31.4 percent did so for party spending. While these results appear to suggest that partisan and nonpartisan elections are influenced by fundamentally different forces, none of these differences is statistically significant. The only significant difference among candidates is that challengers were significantly more likely to find party spending important in influencing their elections than were any other candidates. In this way, state supreme court candidates differ markedly from those who run for Congress, whose assessments of the elections vary much more depending on their perspective. Losing candidates for the U.S. House are much more likely than winners to attribute the outcome of the election to the influence of money, whereas winners, typically incumbents, point to the incumbent's record to explain outcomes (Herrnson, 2004).

That the influence of money is not, in supreme court elections, in the eye of the beholder, that both winners and losers attribute their results to money at roughly equal rates, suggests widespread concern about the influence of spending on these elections.

CONCLUSION

The responses to this survey provide valuable insight into the inner workings of state supreme court campaigns. A mountain of evidence has accumulated from analysis of election outcomes that state supreme court candidates and voters behave rationally. These results highlight the strategic choices candidates make in organizing their campaigns, choices that are, in some ways, similar to those made by political candidates everywhere. Candidates who face close races rely more on professionals to run their campaigns. Incumbents who face a stiff challenge tend to stress their experience in their campaign communications, while challengers try to take on incumbents on the issues. Though most campaigns are not closely connected with parties or interest groups, when they seek help from such organizations they use them for the things in which those groups excel: they use parties to mobilize volunteers and voters and interest groups for help in raising funds and running TV ads.

The results also make clear that the changes in judicial elections initially described by Abbe and Herrnson (2002), especially those dealing with campaign communications and the prevalence of interest groups in the process, continue today. Television advertising and other modern forms of campaign communications are more central to state supreme court campaigns today than they were in appellate races in the late 1990s. Indeed, campaigns today even use traditional means of communicating with voters at a much higher rate than they did a decade ago. In virtually every measurable way, candidates today campaign more vigorously than they have in the past.

While, overall, parties and interest groups are no more integrated into candidates' campaigns today than they were in the late 1990s, interest groups have increased their influence on state supreme court elections through the use of candidate questionnaires. These questionnaires and their effects on judicial elections raise the concern of many candidates—only about one-third of candidates think that the questionnaires are helpful to voters—but, based on the high response rate, most candidates today perceive them to be a necessary part of a campaign's efforts to woo voters.

In spite of these pressures pushing supreme court campaigns more and more toward professionalized, strategically sophisticated affairs, it is important to stress that state supreme court campaigns still differ fairly significantly from campaigns for other offices. Compared to campaigns for the U.S. House of Representatives, those for state supreme court are less likely to rely on parties or interest groups in performing key campaign functions. Campaigns for state high courts are also not yet as professionalized as the average congressional campaign. Neither are they as sophisticated in their campaign communications, in terms of either methods or strategies. Congressional

campaigns perceive much more importance in direct contact with voters than did candidates surveyed here, which perhaps suggests that running for a legislative office, a representative position, pushes House candidates to put more emphasis on such retail politics, while the more detached judicial role compels candidates to be more cautious in such matters.

Another major difference remaining between state supreme court campaigns and congressional campaigns is their tone. In 2006, at least, candidates for state courts of last resort focused primarily on image and qualifications, the traditional form of communications for judicial campaigns, rather than on issues (see also Peters, 2007). By contrast, congressional candidates tend to focus much more on issues. Herrnson (2004), for example, reports that, overall, 47 percent of congressional candidates focused their campaign communications on their stances on issues, while only 39 percent did so on their image and qualifications.

Given the link between money and professionalized campaign techniques, one can expect that as money flows into these elections in greater amounts, campaigns will continue their progression toward fully politicized campaigns, in both their organization and their messages. This trend has concerned many observers in recent years, especially since the U.S. Supreme Court, in 2002, called into question the ability of states to regulate the content of judicial campaign speech (*Republican Party of Minnesota v. White*). Although state supreme court elections today are still based heavily on qualifications or image, the trend toward more competitive elections will likely lead to more issue-based campaigns, as challengers focus on issues to a greater extent than incumbents. Similarly, the recent rise of interest groups as powerful independent players in judicial elections is also likely to push them in more issue-based directions. The questionnaires to which candidates, especially challengers and open-seat candidates, reported responding to at a very high rate typically ask candidates for brief statements of their positions on particular issues, often forcing candidates to choose from a list of options as in a closed-ended survey. While this might serve the groups' purpose of nailing down candidates on their general positions on issues, it may not promote serious discussion of complicated issues and may also threaten the independence of judicial elections by making candidates feel beholden to the positions they staked out or to the groups whose allegiance was won over by those positions.

Many have argued that these trends will seriously undermine the legitimacy of courts, but recent research suggests that voters may be more willing to tolerate campaigns for judicial office than some scholars had assumed. In an experimental design, Gibson (2008) found respondents' evaluations of the legitimacy of courts were not affected even when they were informed that candidates had made promises about how they would decide once on the bench. If this reflects the wishes of the broader electorate, voters could very well respond positively to more-sophisticated issue-based campaigns, making them even more enticing to candidates.

At the moment, state supreme court elections are in a period of transition—gradually losing their special nature, but, on the whole, not yet fully “political.”

Candidates are engaging in more of the routine tools of contemporary political campaigns, but lack the high levels of organizational professionalism, issue-based campaigns, and support from parties and interest groups that characterize those elections. The task of scholars in the coming years is not only to continue to seek explanations of the outcomes of these elections, but also to explore how campaign organization, strategies, and tactics are changing in response to increased competition and spending and the effectiveness of such campaign features in contributing to electoral success. **jsj**

REFERENCES

- Abbe, O. G., and P. S. Herrnson (2003). "Public Financing for Judicial Elections? A Judicious Perspective on the ABA's Proposal for Campaign Finance Reform," 35 *Polity* 535.
- (2002). "How Judicial Election Campaigns Have Changed," 85 *Judicature* 286.
- Abramowitz, A. I. (1991). "Incumbency, Campaign Spending, and the Decline of Competition in U.S. House Elections," 53 *Journal of Politics* 34.
- Baum, L. (1987). "Explaining the Vote in Judicial Elections: The 1984 Ohio Supreme Court Elections," 40 *Western Political Quarterly* 361.
- (1983). "The Electoral Fates of Incumbent Judges in the Ohio Court of Common Pleas," 66 *Judicature* 24.
- Bond, J. R., C. Covington, and R. Fleischer (1985). "Explaining Challenger Quality in Congressional Elections," 47 *Journal of Politics* 510.
- Bonneau, C. W. (2007a). "Campaign Fundraising in State Supreme Court Elections," 88 *Social Science Quarterly* 68.
- (2007b). "The Effects of Campaign Spending in State Supreme Court Elections," 60 *Political Research Quarterly* 489.
- (2006). "Vacancies on the Bench: Open-Seat Elections for State Supreme Courts," 27 *Justice System Journal* 143.
- (2005a). "Electoral Verdicts: Incumbent Defeats in State Supreme Court Elections," 33 *American Politics Research* 818.
- (2005b). "What Price Justice(s)? Understanding Campaign Spending in State Supreme Court Elections," 5 *State Politics and Policy Quarterly* 107.
- (2004). "Patterns of Campaign Spending and Electoral Competition in State Supreme Court Elections," 25 *Justice System Journal* 21.
- Bonneau, C. W., and M. G. Hall. (2003). "Predicting Challengers in State Supreme Court Elections: Context and the Politics of Institutional Design," 56 *Political Research Quarterly* 337.
- Canon, D. T. (1990). *Actors, Athletes, and Astronauts: Political Amateurs in the United States Congress*. Chicago: University of Chicago Press.

- Dubois, P. L. (1980). *From Ballot to Bench: Judicial Elections and the Quest for Accountability*. Austin: University of Texas Press.
- Gibson, James L. (2008). "Challenges to the Impartiality of State Supreme Courts: Legitimacy Theory and 'New Style' Judicial Campaigns," *American Political Science Review*, forthcoming.
- Gierzynski, A., and D. Breaux (1996). "Legislative Elections and the Importance of Money," 21 *Legislative Studies Quarterly* 337.
- (1991). "Money and Votes in Legislative Elections," 16 *Legislative Studies Quarterly* 203.
- Goldberg, D., S. Samis, E. Bender, and R. Weiss (2005). "The New Politics of Judicial Elections 2004: How Special Interest Pressure on Our Courts Has Reached a 'Tipping Point'—and How to Keep Our Courts Fair and Impartial." Justice at Stake Campaign. <http://www.justiceatstake.org/files/NewPoliticsReport2004.pdf>
- Goldberg, D., and S. Sanchez (2003). "The New Politics of Judicial Elections 2002: How the Threat to Fair and Impartial Courts Spread to More States in 2002." Justice at Stake Campaign. <http://www.justiceatstake.org/files/NewPoliticsReport2002.pdf>.
- (2001). "The New Politics of Judicial Elections: How 2000 Was a Watershed Year for Big Money, Special Interest Pressure, and TV Advertising in State Supreme Court Campaigns." Justice at Stake Campaign. <http://www.justiceatstake.org/files/JASMoneyReport.pdf>
- Green, D. P., and J. S. Krasno (1990). "Rebuttal to Jacobson's 'New Evidence for Old Arguments,'" 34 *American Journal of Political Science* 363.
- (1988). "Salvation for the Spendthrift Incumbent: Reestimating the Effects of Campaign Spending in House Elections," 32 *American Journal of Political Science* 884.
- Hall, M. G. (2001). "State Supreme Courts in American Democracy: Probing the Myths of Judicial Reform," 95 *American Political Science Review* 315.
- Hall, M. G., and C. W. Bonneau (2006). "Does Quality Matter? Challengers in State Supreme Court Elections," 50 *American Journal of Political Science* 20.
- Herrnson, P. S., and R. Faucheux (1999a). "Campaign Assessment and Candidate Outreach Project, 1999." <http://www.bsos.umd.edu/gvpt/herrnson/cacop.html> (last accessed August 29, 2007)
- (1999b). "See How They Run: State Legislative Candidates," 20 *Campaigns and Elections* 21.
- Herrnson, P. S. (2008). *Congressional Elections: Campaigning at Home and in Washington*, 5th ed. Washington, DC: CQ Press.
- (2004). *Congressional Elections: Campaigning at Home and in Washington*, 4th ed. Washington, DC: CQ Press.
- Hojnacki, M., and L. Baum (1992a). "Choosing Judicial Candidates: How Voters Explain Their Decisions," 75 *Judicature* 300.
- (1992b). "'New-Style' Judicial Campaigns and the Voters: Economic Issues and Union Members in Ohio," 45 *Western Political Quarterly* 921.

- Jacobson, G. C. (2001). *The Politics of Congressional Elections*, 5th ed. New York: Longman.
- (1990). “The Effects of Campaign Spending in House Elections: New Evidence for Old Arguments,” 34 *American Journal of Political Science* 334.
- (1980). *Money in Congressional Elections*. New Haven, CT: Yale University Press.
- (1978). “The Effects of Campaign Spending in Congressional Elections,” 72 *American Political Science Review* 469.
- Lovrich, N. P., Jr. and C. H. Sheldon (1983). “Voters in Contested, Nonpartisan Judicial Elections: A Responsible Electorate or a Problematic Public?” 36 *Western Political Quarterly* 241.
- Peters, C. S. (2007). “Online Campaigning in 2006 State Supreme Court Elections,” 55 *Drake Law Review* 671.
- Salokar, R. M. (2007). “Endorsements in Judicial Campaigns: The Ethics of Messaging,” 28 *Justice System Journal* 342.
- (2005). “After White: An Insider’s Thoughts on Judicial Campaign Speech,” 26 *Justice System Journal* 149.
- Sample, J., L. Jones, and R. Weiss (2007). “The New Politics of Judicial Elections 2006: How 2006 Was the Most Threatening Year Yet to the Fairness and Impartiality of Our Courts—and How Americans are Fighting Back.” Justice at Stake Campaign. <http://www.justiceatstake.org/files/NewPoliticsofJudicialElections2006.pdf> (last accessed July 11, 2007)
- Van Dunk, E. (1997). “Challenger Quality in State Legislative Elections,” 50 *Political Research Quarterly* 793.