State Court Judges and Justices Under Attack: How the Informed Voters Project Can Help
Meet the Panelists

Justice Barbara Pariente
Florida Supreme Court Co-Chair, NAWJ Judicial Independence Committee

Justice Robin Hudson
North Carolina Supreme Court Co-Chair, NAWJ Judicial Independence Committee

Annette Boyd Pitts
National Education Chair, Informed Voters, Fair Judges Project
Leadership

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Florida Supreme Court
Justice
Co-chair, NAWJ
Judicial
Independence
Committee

Robin Hudson
N.C. Supreme Court
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Co-chair, NAWJ
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Independence
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National Co-Chair,
NAWJ Informed
Voters Project

Linda Leali
National Co-Chair,
NAWJ Informed
Voters Project

Annette Boyd Pitts
National Education
Chair, NAWJ
Informed Voters
Project
Write down three positive and three negative labels you have heard used to describe judges or judicial decisions.
# Labeling of Judges: the Dangers of Labels

<table>
<thead>
<tr>
<th>Judicial decision making</th>
<th>OR</th>
<th>Judicial Activism</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fair and impartial</td>
<td>OR</td>
<td>Conservative/Liberal</td>
</tr>
<tr>
<td>Interpreting the law (determining what a statute means or says)</td>
<td>OR</td>
<td>Legislating from the Bench/Judge – made law</td>
</tr>
</tbody>
</table>
What Labels Did You Hear in the Ads?

- Activist Judge
- Become Political
- Ignoring will of the voters
- Imposing (same sex marriage on Iowa/their own values)
- Liberal

- Out of Control
- Legislating from the bench
- Usurping will of the voters
- Redefining marriage
- Unelected
- Unrepentant
“Judges are not politicians, even when they come to the bench by way of the ballot. And a State’s decision to elect its judiciary does not compel it to treat judicial candidates like campaigns for political office. A State may assure its people that judges will apply the law without fear or favor.”

Experiences with Merit Retention
The Merit Retention Campaign in Iowa (2010)
2010

Iowa Merit Retention Campaign

Translation: for punishment does not take place primarily and per se for the correction and good of the person(s) punished, but for the public good in order that others may become terrified and...
2012 Florida Merit Retention Election

Justices Pariente, Lewis and Quince targeted for removal by various groups
## 2012 Merit Retention Report Card
### Florida Supreme Court Justices

On November 6th Floridians will decide YES or NO to retain three of the most liberal Justices on the Florida Supreme Court. Here's how they scored on issues important to Florida families and tax payers (grades based on constitutional restraint and level of judicial activism).

<table>
<thead>
<tr>
<th>Issues</th>
<th>Barbara Pariente</th>
<th>Peggy Quince</th>
<th>R. Fred Lewis</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>HOMEOWNERS’ RIGHTS</strong></td>
<td>F</td>
<td>F</td>
<td>F</td>
</tr>
<tr>
<td>Expanded government’s power to seize landowners’ property without fair compensation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>PATIENTS’ RIGHTS</strong></td>
<td>F</td>
<td>F</td>
<td>F</td>
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<tr>
<td>Prevented challenge to the Obamacare individual mandate</td>
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<td></td>
<td></td>
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<tr>
<td><strong>EDUCATION</strong></td>
<td>F, F</td>
<td>F, F</td>
<td>F, F</td>
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<tr>
<td>Struck down school choice program that allows students to transfer out of chronically failing public schools</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>RIGHT TO VOTE</strong></td>
<td>F, F, F</td>
<td>F, 1.5, 1.6</td>
<td>F, 1.8</td>
</tr>
<tr>
<td>Violated 14th Amendment, struck ballot initiative before and after vote, rewrite election laws and disavowed votes cast</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CRIMINAL JUSTICE</strong></td>
<td>F, 3.4, 9</td>
<td>F, 5.9</td>
<td>F, 5.9</td>
</tr>
<tr>
<td>Reversed guilty conviction of confessed murderer, made it harder to prosecute crimes, struck amendment to protect death penalty</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>JUNK LAWSUITS</strong></td>
<td>F, 6.7, 6.7</td>
<td>F, 6.7</td>
<td>D, 6</td>
</tr>
<tr>
<td>Changed the rules to make it harder for businesses to avoid junk and frivolous lawsuits</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>APPOINTMENT</td>
<td>Chiles (D) 1997</td>
<td>Chiles (D) 1999</td>
<td>Chiles (D) 1998</td>
</tr>
<tr>
<td>Government party/term year</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Sources:**
1) Mora v. Marger, et. al. v. Florida Department of State
2) Bush v. Holmes
3) Armstrong v. Harris
4) Delgado v. State
5) Scott v. State
6) Aguilera v. Inferences, Inc.
7) Owens v. Publix
8) Bush v. Gore
9) Nixon v. State
10) SPMDD v. Koontz

Paid Electioneering Communication paid for by Restore Justice, Inc.
2640-A Mitcham Drive, Tallahassee, FL 32308
Florida Supreme Court retention race unusually stressful, costly this election
PalmBeachPost.com

G.O.P. Aims to Remake Florida Supreme Court
Republican Party Aims to Remake Florida Supreme Court
The New York Times

Fla. Supreme Court justices fight back to retain seats
Miami Herald

Florida Bar Poll Shows Overwhelming Support for Supreme Court Justices, Appellate Judges in Merit Retention Elections
WCTV.tv
North Carolina Attack Ads 2014
North Carolina Attack Ads 2014
2016 North Carolina Ad

NORTH CAROLINA CONGRESSIONAL DISTRICTS

SEGREGATE AFRICAN AMERICAN VOTERS

NORTH CAROLINA SUPREME COURT
VOTE AGAINST ROBERT EDMUNDS
2016 North Carolina Attack Ad
Kansas 2016
Kansas 2016
Kansas 2016

...Justice Caleb Stegall
STOOD WITH THE VICTIMS.

Dissenting from liberal opinions, Justice Stegall stands and defends our constitutional principles, regardless of other justices' politics.

An impeccable record of integrity, scholarship, impartiality, and respect.

"measured and fair... his power of intellect and legal facility model the attributes that are so important to all judges."

- Hon. Darrrell D. Tarka, Dean of Pepperdine Law & President Reagan appointed as Chief Judge of the 10th Circuit United States Court of Appeals.

The Kansas Bar Association recognized Justice Stegall with a 2010 Pro Bono Award for work defending the freedom of four missionaries wrongfully arrested in Haiti.

"Stegall’s prosecution experience... further strengthen[s] the Court and... benefit[s] the administration of criminal justice in Kansas."

- Derek Schmidt, Kansas Attorney General

VOTE YES TO RETAIN JUSTICE CALEB STEGALL ON NOV. 8th!

www.BetterJudgesforKansas.org
“Setting the Record Straight”
Other Issues Impacting the Judicial Branch
“I am anxious about the state of the judiciary in America. What worries me is the manner in which politically motivated interest groups are attempting to interfere with justice.”

-- Justice Sandra Day O’Connor
NATIONAL CENTER FOR STATE COURTS: THE STATE OF STATE COURTS

Voters continue to remain wary that politics undermines the impartiality of the court system.

Q: "Which statement comes closer to your own view: Judges in (STATE) courts are selected based on their qualifications and experience OR Many judges are there because of personal connections or political influences rather than qualifications."

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Judges are selected based on...</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Qualifications/Experience</td>
<td>43%</td>
<td>43%</td>
</tr>
<tr>
<td>Connections/Political Influence</td>
<td>51%</td>
<td>53%</td>
</tr>
</tbody>
</table>

Q: "Which statement comes closer to your own view: Judges in (STATE) courts make decisions based on an objective review of the facts and the law OR Judges in (STATE) courts make decisions based more on their own beliefs and political pressure."

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Judges make decisions based on...</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Facts &amp; the Law</td>
<td>48%</td>
<td>50%</td>
</tr>
<tr>
<td>Beliefs/Political Pressure</td>
<td>46%</td>
<td>47%</td>
</tr>
</tbody>
</table>

THE STATE OF STATE COURTS

A 2017 NCSC Public Opinion Survey
• 2015-2016 Election cycle identified:
  • Surge in dark money
  • Record-breaking outside spending
  • Attacks on judicial decisions in television ads
  • More million-dollar races
Legislative Actions to Impact the Role or Independence of the Courts

- In 2018, as of January 31, legislatures in at least 14 states are considering legislation that would diminish the role or independence of the courts:
  - Twenty-three bills in eight states would inject greater politics into how judges are selected
  - Four bills in four states would increase the likelihood of judges facing discipline or retribution for unpopular decisions or would politicize court rules or processes
  - Four bills in three states would manipulate judicial terms, either immediately removing sitting judges or subjecting judges to more frequent political pressures
  - Four bills in four states would restrict courts’ power to find state legislative acts unconstitutional
Pennsylvania lawmaker calls for impeachment of state Supreme Court
judges who struck down congressional
map

Attack On Pennsylvania Supreme Court Is An
Attack On The Rule Of Law Itself

Fight to keep N.C. courts independent
of General Assembly politics

NC justice system overhaul injects
politics into state's court system,
critics say

The Charlotte Observer
Educating the Public
• Only 32 percent of Americans can name all three branches of government.

• But that is an increase from 26 percent last year!!
What we know......

• Knowledge of the courts drives support for a strong judiciary. As found in prior research on the courts, building long-term public support for a strong judiciary will require the public to become better informed about the courts.

• Surveys show that those Americans with the most knowledge of the ways the courts function tend to be among the most likely to reject attempts to reduce the courts’ powers.

• Judges are the most trusted messengers.
Who Needs Civics?

Schools

The public
Knowing what is out there.....
**The Good News: Civics and Government in Florida’s Schools**

<table>
<thead>
<tr>
<th>Elementary</th>
<th>Middle School</th>
<th>High School</th>
<th>Post-Secondary</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sunshine State Standards for civics and government - benchmarks at each grade level K-5;</strong></td>
<td><strong>Required civics course in middle school. Students must successfully complete at least a one semester civics education course in middle school.</strong> Beginning with students entering grade 6 in 2012-2013. Amended s. 1003.4256, F. S. <strong>End of course exam in civics. 30% of grade.</strong></td>
<td><strong>A student must earn one credit in United States History; one credit in World History; one-half credit in economics, which must include financial literacy; and one-half credit in United States Government.</strong> 1003.4282, F.S.</td>
<td><strong>Section 1007.25, Florida Statutes requires students initially entering a Florida College System institution or state university in 2018-19 and thereafter to demonstrate competency in civic literacy (course or test)</strong></td>
</tr>
</tbody>
</table>
## Trend: Increase in performance on Civics EOC from 2014 - 2018

<table>
<thead>
<tr>
<th>Year</th>
<th>Grade</th>
<th>Passing (Level 3+)</th>
<th>Percentage of Students in Each Achievement Level</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>2014</td>
<td>7</td>
<td>61</td>
<td>19</td>
</tr>
<tr>
<td>2015</td>
<td>7</td>
<td>65</td>
<td>16</td>
</tr>
<tr>
<td>2016</td>
<td>7</td>
<td>67</td>
<td>15</td>
</tr>
<tr>
<td>2017</td>
<td>7</td>
<td>70</td>
<td>13</td>
</tr>
<tr>
<td>2018</td>
<td>7</td>
<td>71</td>
<td>12</td>
</tr>
</tbody>
</table>
Sample High School Standards

- Analyze the structures, functions, and processes of the judicial branch as described in Article III of the Constitution.
- Compare the role of judges on the state and federal level with other elected officials.
- Simulate the judicial decision-making process in interpreting law at the state and federal level.
Students Experiencing the Courts

High School and Middle School Mock Trial

High School Moot Court
Justice Teaching Institute

• One week professional development for Florida’s teachers hosted by the Florida Supreme Court
• Case study approach
• Each Justice of the Court serves as faculty
• Simulated appellate hearing as culminating event followed by observation of actual case in the Supreme Court of Florida
State and National Adult Education Initiatives
Accessing the Courts

Watch Oral Arguments live on Facebook
Accessing the Courts
@flcourts on Instagram and Twitter
Informed Voters, Fair Judges Project
www.ivp.nawj.org
Informative Handouts for Community Outreach

What We Do

IVP provides resources for educating the community and juries about the role of the judicial branch including:

- Educational nonpartisan materials for use with community presentations
- Jury assembly educational resources included an Emmy Award-Winning video
- Services for customizing materials and presentations on the judicial branch and judicial selection for your state

www.ivp.nawj.org
**Educational Handouts**

The Informed Voters Project has developed a variety of one page informational handouts designed for use with public presentations. Each document is one page (front and back) and can be printed in advance for distribution during your presentations. Not all handouts may be appropriate for your specific audience or program, so please review and select the ones most applicable to your planned presentation. The information card provided is another resource for distribution.

- Courts are not for sale!
- Politics & Special Interests
- Defending Justice, Protecting Citizens
- Fair and Impartial Courts – Whose Business is it Anyway?
- Evaluation Tips: How should I judge a judicial candidate?
- Palm Card
- Bookmark
- Judicial Bingo Q’s & A’s
- Evaluating Judicial Candidates: Trial Judges
- Coming Soon! Evaluating Judicial Candidates: Appellate Judges
Presentations for Community Outreach and Education

Law Day 2018
Separation of Powers: The Essential Ingredient in Our Democracy

Constitution Day 2018
More Than Words
IVP Fair and Free Emmy Award-Winning Video For Use in Jury Assembly Rooms and Community Outreach
What can you do?

• Come out from behind the bench and engage with the public
• Contact the Informed Voters, Fair Judges Project for information and resources (ivp.nawj@gmail.com)
• Contact local court administration about captioned jury room Fair and Free video
• Reach out to local non-partisan community organizations and schedule public education programs
• Establish and maintain court social media platforms
• Court tour and education programs
IVP Fair and Free Emmy Award-Winning Video For Use in Jury Assembly Rooms and Community Outreach