

The Washington State Supreme Court Elections of 2006: Factors at Work and Lessons Learned

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Washington is one of 30 states that elect some or all of their judges.¹ In 2006, three incumbent Supreme Court justices were challenged. In very different races with very different factors at work, all three incumbents prevailed. Even with strong campaign finance laws and the availability of substantial information about the candidates, random factors unrelated to judicial qualifications played an important role in the 2006 judicial elections.²

Some Background on Washington State's Judicial Elections

Washington has a strong tradition of electing all of its judges, dating back to statehood in 1889. For 36 years of territorial status, Washington's judges were appointed by the President and confirmed by the Senate. Territorial judgeships were a handy form of patronage, and many judges were appointed as a reward for faithful political service and sent to the far reaches of the northwest frontier to assume judicial office without the slightest experience or knowledge of local conditions and laws.³ Upon statehood, the delegates to the constitutional convention of 1889 were determined that Washington should elect its judges.⁴

Washington is one of 12 states electing its judges on a nonpartisan basis. A majority of these states lie in the northern tier, the states bordering Canada from Wisconsin to Washington and Oregon.

Washington's nine Supreme Court justices serve staggered six year terms, with three justices up for election in every even-numbered year. In the event of a mid-term vacancy, the governor appoints a successor, who must stand for election at the next general election, held every year in November. For many years these elections were sleepy affairs, with most judges reaching office by appointment, and many never facing a contested election.

¹ American Judicature Society, *Judicial Selection in the States: Appellate and General Jurisdiction Courts*, "Summary of Initial Selection Methods", at <http://www.ajs.org/js/SummaryInitialSelection.pdf>.

² In the spirit of full disclosure, the author confesses satisfaction with the outcome of the elections. But neither satisfaction nor dissatisfaction substitutes for critical analysis of the elections, with an eye to how these factors might influence future elections.

³ C. Wiggins, *George Turner and the Judiciary Article*, *Wash. St. Bar News* (1990), copy at <http://www.appeal-law.com/constitution/turner.html>

⁴ *Id.*

Things began to change in 1990 when a lawyer named Charles Johnson, from the town of Gig Harbor, challenged Justice Keith Callow, who had served many years on the Court of Appeals and then on the Supreme Court. Johnson was not widely known and did little or no campaigning, but defeated Callow. In the ensuing 16 years, contested elections have become more and more frequent, often with “stealth” candidates who file at the last minute and then do little or no campaigning, hoping for lightning to strike.

But even with more contested elections, judicial elections remained the stepchildren of the election season, with little attention and little money. The total funds spent by all Supreme Court candidates in one election cycle did not even top one million dollars until 2004, when the candidates spent \$1.2 million. Moreover, even spending more money than one’s opponent was no guarantee of success. From 1990 through 2004, only five candidates raised and spent over \$200,000. Only two of the five were elected, Justice Tom Chambers in 2000 and Justice Jim Johnson in 2004.

Even as Washington’s elections continued as low-key, limited budget affairs, a tidal wave of money was rising and engulfing other state judicial elections. In state after state, judicial campaign spending broke prior records.⁵ In 2006, the tidal wave reached the far northwest and swept across Washington State--the total funds raised by the candidates, special interests and political action committees exceeded \$5 million, a four-fold increase over 2004.⁶

Three very different elections

Very different dynamics controlled each of the three 2006 Supreme Court elections.

The Alexander/Groen contest

Chief Justice Gerry Alexander is one of Washington’s longest-serving judges, with 33 years judicial experience, 11 on the superior court (Washington’s court of general trial court jurisdiction), 10 on the Court of Appeals, and 12 years on the Supreme Court. Justice Alexander is widely respected and well known as a moderate on the court. Attorney John Groen announced in the spring that he would run against Alexander. Groen is a private practice attorney with 18 years

⁵ Goldberg, Samis, Bender, Weiss and Rutledge, *The New Politics of Judicial Elections 2004* page vi.

⁶ Financial information taken from the Washington Public Disclosure Commission, www.pdc.wa.gov, and from www.votingforjudges.org, which drew upon and analyzed the information available from the PDC.

of experience, a substantial amount of which has been defending private property rights. Groen has no prior judicial experience.

Early in the campaign, Groen articulated two criticisms of Alexander. First, at 70 years of age, Alexander would be unable to complete a six year term, as he would be forced to retire at age 75. Second, Groen accused Alexander of judicial activism, pointing to several cases as evidence.

Against Alexander's extensive judicial experience, Groen could call on the financial support of one of the most active PACs in Washington State, the Building Industry Association of Washington, or BIAW. The BIAW had proven its financial clout in the Supreme Court elections of 2002 and 2004, heavily supporting attorney Jim Johnson in his campaigns for the Supreme Court, succeeding in 2004. The BIAW had also supported the Republican candidate for governor in 2004, Dino Rossi, both in his election campaign and in the court case contesting the election results, in which Democrat Christine Gregoire had finally outpolled Rossi on the second recount, winning by a mere 129 votes, a margin of five thousandths of one percent. Groen had represented the BIAW and property rights causes in general.

The support of the BIAW and other property rights advocates escalated the Alexander-Groen race into the most expensive Supreme Court race in Washington history. Groen's campaign raised \$434,040, but PACs and independent expenditures supporting his campaign totaled \$1,838,210, for total funds of \$2,272,251. By contrast, Alexander's campaign raised \$264,547, while PACs and independent expenditures in his favor were \$358,129, a total of \$622,676. In short, Groen outspent Alexander almost fourfold.

Despite this tremendous financial advantage, Alexander won the election by a margin of 54% to 46%. In this nonpartisan election, when Alexander won the primary, he won the election.

The Owens/Johnson Contest

Justice Susan Owens was first elected to the Court in 2000 and 2006 was her first campaign for reelection. Owens had served almost 20 years as a judge of a court of limited jurisdiction and of tribal courts in Clallam County, the northwesternmost county in Washington State, and thus the northwesternmost point of the 48 contiguous states. This is a rural area including huge national forests, the Olympic mountain range, and the Olympic National Park. Owens could rightly campaign as an experienced judge, but also as an outsider to the power centers of the I-5 corridor through western Washington.

Owens was challenged by Steve Johnson, an attorney of 40 years private practice experience who had served for 12 years as a Republican Senator in the

State Legislature. Johnson, like Groen, was supported by the BIAW, although not nearly as heavily as Groen. Johnson has proven to be a popular name for Washington Supreme Court candidates. In addition to Justice Charles Johnson, elected in an upset in 1990, Justice James Johnson was elected in 2004 with substantial support from the BIAW.

During filing week, three additional candidates joined the fray. The story is told that Owens called another justice to express her distress over the fact that an attorney named Richard Smith had filed against her. The other justice comforted her, "it could be worse; after all, he isn't another Johnson." The next day Michael Johnson joined the Owens/Johnson race, followed by Norman Erickson. None of the three newcomers raised any money for the election.

Owens denied rumors that she had recruited one or more of the three newcomers to file as a spoiler, to prevent Steve Johnson from prevailing in the primary and to force the race into the general election. It would have been a mistake if Owens had recruited the additional candidates. As it turned out, Owens won 46% of the primary votes, with Steve Johnson receiving 35%. Without the three additional challengers, Owens would undoubtedly have prevailed in the primary.

Like Groen, Johnson had a clear financial advantage over Owens. Johnson raised \$322,252, while PAC and independent expenditures on his behalf were \$785,253, a total of \$1,107,505. Owens raised \$286,669, and PAC and independent expenditures on her behalf were \$360,540, a total of \$647,209. Despite Johnson's money advantage, Owens won decisively, 60% to 40%.

The Chambers/Burrage Race

Justice Tom Chambers, like Owens, was elected to the Court in 2000 and faced his first contest for reelection in 2006. Although Chambers had no prior judicial experience, he had enjoyed a successful career as a plaintiff's trial lawyer and had been president of the plaintiff's bar association, the Washington State Trial Lawyers Association, and of the integrated state bar, the Washington State Bar Association. His successes in private practice had allowed him to amass a sufficient private fund to ward off most challengers and he likely would have avoided any challenge had it not been for his dissent in ***Andersen v. King County***, 158 Wn.2d 1, 138 P.3d 963 (2006).

The ***Anderson*** case affected all of the three election campaigns, but each in a different way. ***Anderson*** was a challenge to the Defense of Marriage Act ("DOMA"), Rev. Code Wash. 26.04.010, brought by same sex couples seeking to marry. The Court issued a decision during candidate filing week. Chief Justice Alexander joined in the five-justice majority upholding DOMA. Chambers wrote a dissent, joining a four-justice dissent, which was also joined by Owens.

Chambers' dissent was probably the lightning rod that drew a challenge by attorney Jeanette Burrage. Burrage had served one term as a superior court judge in King County (largest county in the State, site of Seattle), and had been defeated for reelection in 2000. Burrage was supported by PACs reacting against Chambers' dissent. Between the candidates' own campaign, PACs and independent expenditures, Chambers raised and spent a total of \$344,195 while Burrage's support totaled \$169,832.

Chambers prevailed in the primary by 60% to 40%.

Factors Influencing Washington's 2006 Elections

What factors controlled these three elections? Is the power of incumbency so great that no amount of money can overcome the incumbent's advantage? And what lessons can be learned from these races?

Money talks, but doesn't always control.

Money is undoubtedly extremely important in judicial elections, as in any elections. But in two of the three elections, the incumbent was substantially outspent by the challenger. How are we to factor money into the election equation?

Without a doubt, money played a major role. Washington voters could not turn on their televisions for any protracted time without seeing an advertisement for or against some judicial candidate. Most of these ads were run by Groen and his supporters, but ads for Alexander had plenty of air time as well. In the weeks before the primary, independent PACs ran television ads criticizing Groen costing \$172,102, while ads criticizing Alexander (or supporting Groen) cost \$666,815.⁷

The equalizing factor in Washington's 2006 elections was the power of the press, which probably played as important a role as it ever had in recent Washington judicial elections. A number of newspapers picked up on the special interest money flooding the Supreme Court elections and focused on the special interests. This focus even led the BIAW to complain shortly after the election that several newspapers made the BIAW spending the centerpiece of their election reporting.⁸ Indeed, of 150 newspaper articles about the Groen/Alexander race published throughout the state in the months before the primary, 86, or 57%, mentioned the substantial amount of money going into the race, especially in

⁷ http://www.brennancenter.org/programs/buyingtime_2006/buyingtime_2006.html

⁸ Haley, *Money May Have Bugged Voters*, Everett Herald (9/21/06).

support of Groen.⁹ Further, with one exception, Alexander won in every county in which at least half of the newspaper articles on the election discussed money.¹⁰ The one exception was Spokane County, in which PACs ran television ads attacking Alexander, who did not have the funds to respond.

The press was instrumental in the Groen/Alexander race in another way—every newspaper in the state to endorse in the race endorsed Alexander. Money cannot buy that kind of publicity.

It is more difficult to analyze the role of campaign spending in the Owens/Johnson race. Johnson benefited from 58% of the campaign spending, but Owens got 60% of the vote. The newspaper endorsements did not make this difference, since, if anything, Johnson was endorsed by more newspapers than Owens.¹¹ We must look elsewhere to explain the Owens/Johnson race.

Money probably played some role in the Chambers/Burrage race. Chambers raised and spent roughly twice the money spent by and for Burrage and won the election handily. Chambers was also overwhelmingly endorsed by newspapers throughout the state.

The press interest in the election also called public attention to the evaluations of judicial candidates by bar and good government groups. This publicity gave these evaluations much better exposure to the public.

Partisan politics and non-partisan judicial elections

Although Washington judicial elections are non-partisan, it isn't difficult to ferret out any partisan background of most judicial candidates. Reviewing the endorsements of most candidates will disclose partisan connections. If an incumbent was initially appointed by a governor to fill a vacancy, as Alexander was initially appointed by Gov. Dan Evans (34 years ago), the chances are good that the incumbent shares the governor's political affiliation. If the candidate has held political office, as had Johnson, widely identified as a former Republican state senator, the political affiliation is apparent.

The candidate's policy positions may also suggest a party affiliation. Groen, for example, campaigned widely on property rights issues, more typically a Republican than a Democratic issue, at least in Washington. Owens' and Chambers' dissents in ***Andersen***, the DOMA/gay marriage case, linked them more with the Democratic agenda.

⁹ Study conducted by author, based on searching 19 newspaper data bases throughout the state for the name "Groen."

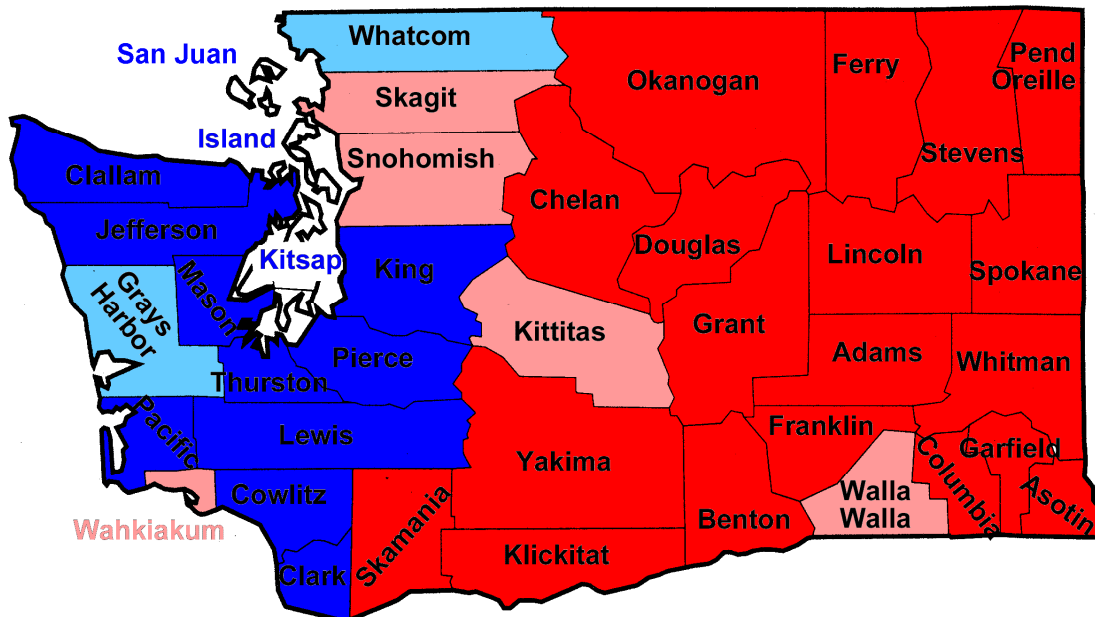
¹⁰ Clark, Cowlitz, King, Kitsap, Pierce and Thurston. King and Pierce are the most populous counties in the state.

¹¹ <http://www.votingforjudges.org/sup/p-sj.html>

Washington has in recent years leaned Democratic, currently having a Democratic governor, two Democratic U.S. Senators, and a Democratic legislature. But there are two political Washingtons—western Washington voting more Democratic and eastern Washington more Republican.

The Alexander/Groen race reflects this east/west split almost perfectly. The following map of Washington counties are highlighted in red if they voted for Groen and blue for Alexander. A lighter shade indicates that no more than 1% of the vote separated the two.

MAP 1: COUNTIES CARRIED BY ALEXANDER (BLUE) AND GROEN (RED)



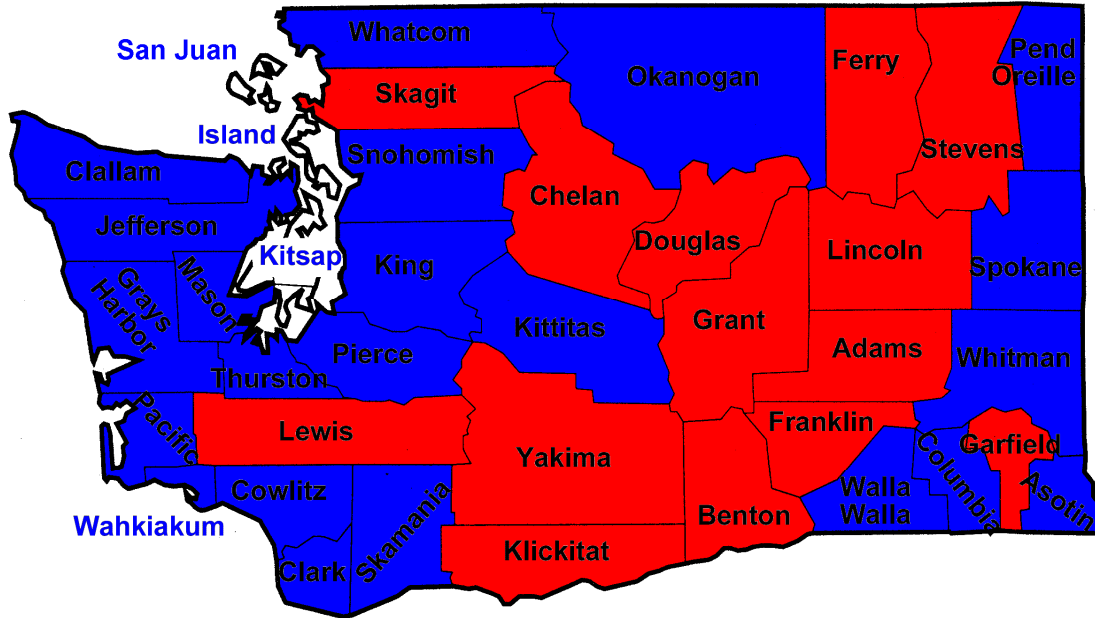
Groen carried all eastern counties and three western counties by 1% or less, while Alexander took all other western counties. Fortunately for Alexander, the large population centers are in western Washington, the largest being King (Seattle) and Pierce (Tacoma) counties.

In the primary, the eastern counties almost without exception returned more Republican votes than Democratic, and the opposite in the west. Thus, the Counties that voted Republican almost all voted for Groen and the Democratic for Alexander.¹² In other words, in the nonpartisan Alexander/Groen race, the vote was almost entirely along party lines.

¹² Of Washington's 39 counties, only 6 deviated from this trend, the three western counties that went for Groen, two western counties that voted for Alexander despite otherwise voting

By contrast, the Owens/Johnson race did not follow party lines. In the primary, Owens carried many eastern counties that had voted Republican, as well as two of the western counties that had not voted for Alexander, as the following map shows.

MAP 2: PRIMARY VOTE , COUNTIES CARRIED BY OWENS (BLUE) AND JOHNSON(RED)



Unlike the Alexander/Groen election, which was decided in the primary, the Owens/Johnson contest went into the general election. Between the primary and the general, the entire country, Washington included, was sliding towards the Democrats. Although no congressional seats changed hands, in the state legislature the Democrats increased their majority in the House to 63 to 35, and their Senate majority to 32 to 17, the largest in 40 years.

The Democratic tide apparently lifted Owens to an even greater margin over Johnson. Owens enjoyed a 11% advantage over Johnson in the primary, but by the general her advantage had widened to 20 points, with 60% of the vote to Johnson's 40%. Owens also chipped away at the counties that Johnson had carried in the primary. By the time of the general election, Johnson carried only four counties.¹³

Republican (Lewis and Island), and tiny Asotin county in the southeast corner of the State, which voted Democratic but also for Groen.

¹³ Adams, Franklin, Douglas and Lewis.

Although not so evident in the primary, the influence of party politics in the general election is probably one important factor in Owens' victory despite Johnson's substantial financial advantage.

Judicial activism, crime, property rights, and gay marriage

A typical campaign against an incumbent complains about "judicial activism", and 2006 was no exception. The challengers' poster children were the **Andress**¹⁴ case in which the Court held that assault could not be a predicate felony for felony murder, several property rights cases, and **Andersen, supra**, in which the Court upheld the Defense of Marriage Act ("DOMA") against constitutional challenges. The three incumbents had voted differently in these cases and thus the three campaigns focused on different cases.

Criminal defendants are the perennial favorite whipping boys of judicial elections. Alexander had joined in the majority in **Andress**, which was decided against the state and in favor of the criminal defendant. The **Andress** decision led to hundreds of petitions for post-conviction relief by defendants who had been convicted of felony murder. Groen and the BIAW were highly critical of Alexander for joining the majority.¹⁵ This criticism could not be made of Owens, who had dissented in **Andress**, nor of Chambers, who was not on the Court when **Andress** was argued and was not on the case. The attack on Alexander was probably fairly effective.

Both Alexander and Owens were attacked for deferring too frequently to the government in property rights cases. We have an interesting cross-check on the voters' response to property rights in Initiative 933. I-933 would have required government to compensate property owners for any decline in their property values resulting from regulation. I-933 failed of passage. The following map,¹⁶ shows how the counties voted:

¹⁴ In re Personal Restraint of Andress, 147 Wn.2d 602, 56 P.3d 981 (2002).

¹⁵ The BIAW criticism of Alexander was hypocritical, since only two years earlier, in the election of 2004, the BIAW had supported Justice Madsen, the author of the **Andress** decision, as well as Justice Sanders, who also joined in the majority decision.

¹⁶ From link at <http://vote.wa.gov/Elections/general/Measures.aspx>.

MAP 3: VOTE FOR INIATIVE 933, YES (GREEN) NO (BLUE)



Map Legend: ■ Yes ■ No

These county results do not correlate very well with the Alexander vote, but they may help to explain some of the results in the Owens/Johnson primary. Owens carried Spokane, Whitman and Asotin counties in eastern Washington, which also rejected I-933. Owens lost Lewis County, which voted in favor of I-933. The vote in these counties might have been influenced by the property rights focus of Johnson's campaign, rejecting the focus just as they rejected I-933.

The third "activist judge" issue was the DOMA/gay marriage case, **Andersen**. Alexander concurred in the majority opinion upholding DOMA, while Owens and Chambers dissented. Chambers' dissent prompted challenger Burrage to file against him and prompted a small number of donors to contribute to Burrage's campaign. But the special interests supporting Groen and Johnson failed to support Burrage and Chambers defeated her decisively. As for the Owens/Johnson race, a motion for reconsideration was still pending at the time of the election and both candidates rightly declined to make an issue of the case. If the **Andersen** case were going to have much of an impact in the election, one would have expected that impact in King County, where there is a greater percentage and acceptance of a gay lifestyle than in most other counties. But in fact, the percentage of votes for Alexander and Chambers in King County was

fairly close, 63% for Alexander and 66% for Chambers, despite their opposing votes in the case. So the **Andersen** decision, which might have played heavily in the election, probably had very little effect on the outcome.

A rose by any other name

Two factors that played heavily in the Owens/Johnson race were name and gender. Johnson has proven to be a very popular name in Washington state judicial elections. Three Johnsons have run for the Supreme Court since 1990 and the first two, Charles and James, were elected. The Charles Johnson election in 1990, as discussed above, took many by surprise, since Johnson was little known, had no prior judicial experience, and did little or no campaigning. Jim Johnson lost in 2002 but was successful in 2004. So in 2006, Steve Johnson could expect at least some votes by virtue of his name alone.

But the Johnson name faced an opposing, formidable factor—Susan Owens' gender. Women have been very successful in winning judicial elections and appointments for the Washington Supreme Court. Indeed, from 2002 to 2004, five of the nine Supreme Court Justices were women. A woman, Mary Fairhurst, had defeated Jim Johnson in his 2002 run for the Court, but Johnson had then defeated another woman, Court of Appeals Judge Mary Kay Becker, in 2004. Looking beyond the Supreme Court, Washington's governor and both U.S. Senators are women, as are the majority party leaders in both houses of the Legislature.

Shortly after the primary, in which Owens outpolled Johnson, the BIAW commissioned and conducted a poll of 400 voters in which voters were asked, "If you knew nothing else about two candidates besides the fact that one was a man and one was a woman, for whom would you vote?"¹⁷ The poll revealed that without more, the woman enjoys a 13 point advantage.

The gender advantage may well have worked to Owens advantage, at least to the extent of outweighing and perhaps overshadowing the "Johnson" name advantage. On the other hand, the gender advantage does not seem to have helped Jeanette Burrage in her challenge to Tom Chambers, since Chambers drew 60% of the vote.

www.Votingforjudges.org

In 2006, the Judicial Selection Coalition, a collection of bar groups and good government groups, collaborated to mount a web site devoted to providing

¹⁷ <http://blog.seattletimes.nwsources.com/davidpostman/archives/2006/09/> (9/26/2006 posting).

neutral information about the judicial candidates to the voting public.¹⁸ The resulting site, www.votingforjudges.org, proved to be a treasure trove of information about the Supreme Court candidates. Despite a very modest budget, webmaster/attorney Paul Fjelstad did a superb job of providing information about the elections.

It is difficult to gauge the effect of the website on the election. The budget for the site was devoted primarily to paying the webmaster, with paid publicity limited to short ads on three NPR radio stations in Seattle, Tacoma and Spokane. The site received wonderful free publicity from the newspapers, which praised and highly recommended it. Average daily visits in September, the primary month, were about 1000, and in the two days before the general election close to 4000.¹⁹ But the impact of the site was probably felt more broadly because it was heavily visited by the media themselves and undoubtedly influenced their reporting. One article questioned why [votingforjudges.org](http://www.votingforjudges.org) was so much more informative and more easily used than the web site for the State Public Disclosure Commission.²⁰

Lessons from Washington's 2006 Elections

Better information equals better voter participation

The 2006 Supreme Court elections received more attention than any other judicial election in recent memory. A number of newspapers, radio stations and even television stations covered the election more extensively than in the past and the substantial advertising on television, radio, yard signs and direct mail garnered public attention. [Votingforjudges.org](http://www.votingforjudges.org) provided substantial information to the public that had previously been available only with difficulty and perseverance.

Several factors help to account for the increased media attention to the race. Most obviously, the money drew the attention of the press. The press had followed legislative efforts earlier in the year to extend to judges the same campaign contribution limits applying to other state elected officials, and had been somewhat sensitized to judicial races. The Judicial Selection Coalition had held a conference on judicial selection in November, 2005, and a number of press representatives had participated, also raising consciousness of the importance of judicial races. [Votingforjudges.org](http://www.votingforjudges.org) also drew attention and made it easier to report on these races.

¹⁸ For information about the Coalition, see <http://www.kcba.org/ScriptContent/KCBA/judicial/selection/coalition.cfm>.

¹⁹ Another measure is page views, which in September averaged over 4000, and in the two days before the general election over 5000. Statistics from webmaster, Paul Fjelstad.

²⁰ <http://www.tri-cityherald.com/tch/local/blogs/mulick/story/8196517p-8090155c.html>

The result of greater attention and more information was higher voter participation in the judicial elections. Voter falloff in judicial races—the number of voters who vote the top of the ticket but do not vote on judges—is historically quite high, in Washington and elsewhere. But in Washington’s 2006 election voter falloff was remarkably low and voter participation correspondingly high. In the primary, of those who voted at the top of the ticket for U.S. Senator, 92-93% voted in for the judges on the primary ballot. In the general election, the percentage was 85.

Another factor contributing to higher voter participation was the fact that Washington has shifted from in-person voting at the polls to mail balloting. In 34 of Washington’s 39 counties, voting is almost entirely by mail.²¹ In the primary, 93% of the voters cast their ballots by mail.²² Before the general election, the Secretary of State sends all voters a Voters’ Pamphlet, printed at State expense, with information about every candidate and issue on the ballot. The combined effect is that voters can sit at their kitchen or dining room table and study the candidates one by one and vote at their leisure.

The Importance of Campaign Disclosure Statutes

Washington’s 2006 Supreme Court elections made good press in part because of the incredible increase of money going into the campaigns, into PACs and into independent expenditures. The media could trace that money because of the strength of Washington’s Fair Practices Campaign Act,²³ adopted by citizen initiative in 1992. The Act not only imposed contribution limits, it also enacted an extensive reporting system and created the Public Disclosure Commission to administer the reports. Campaign disclosure reports are placed on the internet soon after they are filed, giving citizens and campaign watchers up to date information.²⁴ The ready availability of this information was one of the keys to the reporting on the elections.

The Campaign Disclosure Project, a collaboration of the UCLA School of Law, the Center for Governmental Studies, and the California Voter Foundation, supported by The Pew Charitable Trusts, ranks the states’ campaign disclosure laws.²⁵ The Project gives Washington State’s Act an “A-”, the highest grade in the nation.

²¹ <http://www.spokesmanreview.com/blogs/olympia/>.

²² *Id.*

²³ Rev. Code Wash. Ch. 42.17.

²⁴ www.pdc.wa.gov

²⁵ <http://www.campaigndisclosure.org/gradingstate/index.html>

Working for better campaign disclosure may seem an unexciting, even pedestrian, project, but it is obviously a matter of great concern to anyone interested in improving public access to information about the candidates.

Random effects

Notwithstanding candidate qualifications, the availability of better information, and money injected into the campaigns in very unequal amounts, the fact remains that judicial elections, like all other elections, are strongly influenced by random factors. Few candidates could have foreseen at the beginning of the year that the Iraq war and the discontent with the national government would have such an influence on Washington's judicial elections. It is also unlikely that very many would have predicted the huge increase in money going into these elections. Some factors—candidate name and gender—were eminently foreseeable and seem to play a major role in most judicial elections.

Conclusion

The lesson of Washington's 2006 Supreme Court elections is that diligent efforts to improve the election system can pay off in the long run. Concerned legislators, bar groups, and good government groups collaborated to change the law to subject judicial candidates to campaign finance limits. Special interests were able to circumvent the limits by spending money independently or through PACs, but the legislative reform effort educated and galvanized the press, which focused more attention on the elections than ever before.

Despite these improvements, the 2006 elections renew the perennial question whether judicial elections are the best way to select our judges. The war in Iraq and dissatisfaction with the national government have little or nothing to do with who should be elected to the Washington Supreme Court. Nor does the familiarity of the candidate's name. Nor does a candidate's gender guarantee that she or he is the better candidate. The 2006 elections should again cause us to reevaluate whether judges should be selected through popular election.