

**Comment to the Michigan Supreme Court on  
Proposals Regarding Procedure For Disqualification of Supreme Court Justices  
July 2009**

The undersigned organizations support the Michigan Supreme Court's adoption of procedures for disqualification of justices, to avoid impropriety or the appearance of impropriety in the conduct of the Court's business.

In view of the recent U.S. Supreme Court decision in *Caperton v. Massey Coal Company*, we further urge the Michigan Supreme Court to adopt court rules that provide for recusal of a justice in a case that involves a significant financial supporter of his or her election campaign. In *Caperton*, the U.S. Supreme Court ruled that the due process rights of a party to a case are violated when the opposing party has made extraordinary campaign expenditures to support the election of the judge deciding the case.

We believe that Michigan disqualification standards should address campaign spending in all its forms, whether contributed directly to a justice's campaign committee or spent for communications that characterize a candidate's record or suitability for office. Over the past decade, spending for candidate-focused "issue" advertisements has exceeded direct contributions to the Supreme Court candidates' campaigns, as illustrated most recently by the \$7.5 million campaign in 2008. If recusal standards do not address all forms of campaign spending, their value will be greatly diminished.

Following the *Caperton* ruling, the American Bar Association stated, "Courts rely on public confidence in the fairness of our legal system to foster willing compliance with their rulings. When confidence succumbs to cynicism, our government is at risk. The pervasive influence of money on judicial election campaigns threatens to create a crisis of confidence in our state court system." We agree. Recent public opinion research clearly shows that Michigan voters believe a judge's impartiality is compromised when he or she is hearing a case involving a major campaign contributor. We believe that disqualification standards are essential to maintaining public trust and confidence in the integrity of the Michigan Supreme Court.

**Endorsing Organizations**

League of Women Voters of Michigan  
AAUW of Michigan  
Common Cause of Michigan  
Michigan Campaign Finance Network  
Michigan Environmental Council  
Michigan League of Conservation Voters  
Michigan NOW  
Michigan State Conference NAACP