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Date: February 14, 2002

To: Geri Palast, Executive Director, Justice at Stake Campaign

From: Stan Greenberg, Chairman and CEO, Greenberg Quinlan Rosner Research
Linda A. DiVall, President, American Viewpoint

**RE: Justice At Stake
National Surveys of American Voters and State Judges**

In two national surveys conducted by Greenberg Quinlan Rosner Research and American Viewpoint, American voters and state judges express deep concern about what is happening to the way we select judges and the impact of politics on fair and impartial courts. Voters and state judges are particularly concerned about the role money and special interests play in judicial campaigns and court rulings, as well as the low levels of public involvement and awareness of judicial elections and the courts. Fearing that the justice system is increasingly divided into two-tiers based on money and power, voters and state judges are ready to support a variety of reforms that would provide disclosure of special interest activities; increase voter education about judicial candidates and the courts; and improve the tone and conduct of judicial campaigns.¹

American voters and state judges express deep concern about the role of money and special interests in judicial campaigns and court rulings.

- Seventy-six percent (76%) of voters, and 26 percent of state judges, believe that campaign contributions made to judges have at least some influence on their decisions.
- More than two-thirds of American voters (67 percent) – including strong majorities of Democrats (69 percent) and Republicans (64 percent) – feel that “individuals or groups who give money to judicial candidates often get favorable treatment.”

¹ A national survey of 1000 registered voters was conducted October 30 through November 7, 2001, and is subject to a margin of error of +/- 3.1 percent. Half sample responses are subject to a margin of error of +/- 4.4 percent. A separate, national survey of 2428 state judges was conducted by mail from November 5, 2001 to January 2, 2002, including 188 state Supreme Court justices, 527 appellate court judges, and 1713 lower court judges. The total sample is subject to a margin of error of +/- 2 percent, and each separate sample to a higher margin of error (Supreme Court sample, MOE = +/- 7.2 percent; appellate sample, MOE = +/- 4.3 percent; lower court sample, MOE = +/- 2.4 percent). Judges from the state of New Jersey were advised not to participate in the survey by their state board, and are therefore excluded from the total sample. Four focus groups were also conducted prior to the surveys in Milwaukee, WI and Tampa, FL.

- Sixty-two percent (62%) of voters – including nearly 90 percent of African American voters – feel that “there are two systems of justice in the U.S. – one for the rich and powerful and one for everyone else.”
- Judges are also very concerned about inequality in the judicial system – more than 80 percent of judges are concerned with the idea of two-systems of justice in the U.S.

➤ ***American voters and state judges worry that special interests are trying to shape judicial elections and court rulings to their own advantage.***

- Nine in 10 voters, and 8 in 10 state judges say they are quite concerned about special interests trying to use the courts to shape policy on a range of economic and social issues.
- Eighty-four percent (84%) of judges and 79 percent of voters express concern about special interest groups buying advertising to influence the outcomes of judicial elections.
- Eighty-one percent (81%) of voters, and 74 percent of judges, are concerned that in some states, nearly half of all state Supreme Court cases involve someone who has given money to one or more of the judges hearing the case.

➤ ***Many state judges are concerned about the declining state of judicial campaigns.***

- A majority of state judges (55 percent) says that the tone and conduct of judicial campaigns has gotten worse over the past 5 years.
- Forty-six percent (46%) of state judges report being under pressure to raise money for their campaigns, with many upper level judges saying that they are under *a great deal* of pressure to raise campaign funds during election years.

Lack of public participation and information regarding judicial candidates and the courts only heightens the influence of special interests in the judicial system.

- Only 13 percent of American voters report having a great deal of information about candidates in judicial elections and only 22 percent claim to know a great deal about what courts and judges do in their states.

- The primary reason voters give for not voting in judicial elections is that they do not know enough about candidates.²
- Consequently, 90 percent of voters and 87 percent of judges say they are concerned that “because voters have little information about judicial candidates, judges are often selected for reasons other than their qualifications.”

American voters and state judges broadly support a range of reforms to change the way we select and treat our judges.

➤ ***Proposals to monitor and disclose the role of money and special interests in judicial campaigns and plans to increase public education efforts resonate particularly well with these respondents.***

- Ninety-four percent (94%) of state judges, and 88 percent of American voters, support a requirement “that all political advertisements in judicial elections clearly state who is paying for the ad.”
- About 9 in 10 judges and voters believe “states should require that all judicial candidates disclose the individuals, parties, or organizations who donate money to their campaigns.”
- Notably, support for disclosure requirements crosses both party and ideological lines – Democrats (84 percent) and Republicans (89 percent), liberals (90 percent) and conservatives (86 percent) report strong support for each of these reform proposals.
- Eighty-six percent (86%) of voters and 70 percent of judges support the idea of establishing independent citizen boards “to inform the public about misleading or inaccurate advertising in judicial campaigns.”
- Support tops 90 percent among voters, and 75 percent among judges, for new state efforts to provide voter guides prior to judicial elections.

² Eighteen percent of voters stated they “don’t know enough about the candidates” to an unprompted question, “What is the primary reason you do not vote in judicial elections.” Eleven percent say they “don’t have time” and 38 percent claim that they “always vote.”

➤ ***Voluntary efforts to change the tone and conduct of judicial elections are broadly supported by American voters and state judges.***

- Ninety-three percent (93%) of state judges and 82 percent of voters support a voluntary proposal for judicial candidates “to condemn negative advertising done on their behalf.”
- Ninety-six percent (96%) of judges and 88 percent of voters want judicial candidates to “commit to not making misleading or unfair accusations about opponents during elections.”
- Ninety-seven percent (97%) of judges believe “judicial candidates should never make promises during elections about how they will rule in cases that may come before them.”

➤ ***Both voters and state judges offer general support for campaign finance reform proposals for judicial elections.***

- Seventy-eight percent (78%) of voters, and 71 percent of state judges, support limiting campaign contributions to judicial candidates.
- Eighty percent (80%) of voters, and 61 percent of judges, support a general proposal to provide public financing of judicial elections. Majorities of Democrats (63 percent) and Republicans (51 percent), and liberals (65 percent) and conservatives (53 percent) *strongly* favor the general proposal.³
- For voters, spending restrictions in judicial elections is the most popular element of a public financing proposal – 67 percent of voters strongly support spending restrictions or limiting spending to amounts provided in public election funds.⁴

³ Respondents were asked whether they support or oppose the following summary of a proposal that would change the way state elections for judges are financed: “*Under this proposal, judicial candidates would no longer raise money from private sources. Instead, each candidate would receive a set amount of money from a publicly financed election fund. Spending by candidates would be limited to the amount they receive from the fund.*”

⁴ There may be limits, however, to general support for public financing of judicial campaigns. Participants in the focus groups expressed some concern about the total costs to taxpayers as well as with wealthy candidates opting out of the system.

➤ ***The basic concept of merit selection and retention is supported by voters and state Supreme Court justices, but less so by lower level state judges.***

- Seventy percent (70%) of voters, and 59 percent of state Supreme Court justices, support a general merit selection and retention proposal.⁵
- However, lower level judges are less supportive of merit selection, except in Pennsylvania, which has been considering a proposal to institute merit selection of appellate judges.⁶

⁵ Respondents were asked whether they support or oppose the following summary of a proposal that deals with the way judges are selected: *“Under this proposal, a non-partisan panel of citizens, legal professionals, and civic leaders evaluates and recommends potential judges to the governor. The governor then chooses a nominee from the list who must then be confirmed by the state legislature. After each term, the public then votes on whether a judge should keep the seat or be removed from office. If a judge is removed, the selection process starts again.”*

⁶ More appellate judges oppose the general merit selection proposal than support it (43 percent support vs. 52 percent oppose), as do a plurality of lower court judges (45 percent support vs. 50 percent oppose). However, 59 percent of state judges in Pennsylvania support the merit proposal – the only state to show majority support for the measure.