Justice for Sale II

Half-Million From Five Trial Lawyers Flood Campaign Coffers

A Study Conducted By:

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Executive Summary

For years, Madison County has been known as a "plaintiff's paradise," a "judicial hellhole" and "the Lawsuit Capital of the World." Trial lawyers flock from across the nation to file cases there in the hopes of striking it rich with one 'jackpot' settlement or verdict. Meanwhile, the residents of Madison County have suffered a near-catastrophic erosion of quality medical care and lost jobs and economic opportunity.

Two years ago, Illinois Lawsuit Abuse Watch (I-LAW) and the Illinois Civil Justice League (ICJL) released a study which showed a small number of trial lawyers and their firms were influencing judicial campaigns by heavily funding the campaigns of selected judicial candidates.[1]

The study researched contributions to Madison County judicial candidates beginning in 1980 and ending in 2002. These judicial campaigns were shown to have received 90% of their contributions from trial lawyers. Further, judges were receiving tens of thousands of dollars in campaign contributions in years when they didn't even have opposition, and many were receiving contributions from plaintiff's lawyers appearing before them in their courtrooms. The title of the report begged the appropriate question, 'Is Justice For Sale?'

Two years later, we see this trend continuing, but on an even larger scale. I-LAW and the ICJL are issuing this report in response to contributions – unprecedented in their size and frequency - made by trial lawyers to the Democratic Party of Illinois (DPI). These contributions were made public on July 21, 2004,[2] and total $688,500 in just the last six months.

The focus of the report is the virtual tidal wave of five $100,000 checks from individual personal injury lawyers and firms to the Democratic Party of Illinois. But perhaps even more startling is the drowning of the DPI in contributions coming solely from trial lawyers – a stunning 99% of individual contributions to DPI - in this reporting period. Further, this report will show what is likely to be – based on past history – an organized effort to funnel hundreds of thousands – if not millions – in trial lawyer contributions above a particular candidate's self-imposed $2,000 limit.

Such a probable connection between nearly three quarters of a million dollars from a small group of personal injury lawyers and a candidate for the Illinois Supreme Court again gives reason to believe these trial lawyers are actually trying to buy this Supreme Court seat to protect their goldmine in the Madison County Courthouse. The report once again begs the dubious question "Is Justice for Sale?"

Plaintiffs Lawyer Contributions to Democratic Party of IL

An analysis of the contributions to the Democratic Party of Illinois (DPI) shows that a potential subversion of funds around Judge Gordon Maag's self-imposed $2,000 contribution limit may be occurring. With the lack of competitiveness with the Bush-Kerry campaigns in Illinois – as well as the lack of a Republican candidate in the United States Senate race – the 5th District Supreme Court election is undeniably the top concern of trial lawyer contributors.

With that concern at hand, an analysis of trial lawyer contributions to the Democratic Party of Illinois indicates that, in just six months, the amount of money apparently raised for Judge Gordon Maag's Supreme Court race falls just short of what has been raised for ALL judicial candidates from Madison County in the past 25 years.

Trial Lawyer Donors Dominate Democratic Party Contributions

Based on the characteristics of past contributors to the Democratic Party of Illinois from January to June 2004, it appears that DPI has become a defacto checking account for contributions over Judge Gordon Maag's self-imposed limit. The undeniable nature of where these contributions will be spent is further enhanced by studying the Democratic Party contributions to Justice Thomas Kilbride's campaign in 2000, a race into which the Democratic Party of Illinois also dumped more than $680,000.[3]

In the past six months, DPI has received $695,400 from 33 individual contributors. Grouped into traditional categories, more than 99 percent of these individual contributions were received from trial lawyers/firms, with less than one percent from businesses and unions.

Jan. – Jun. 2004 DPI Individual Contributions		
Unions/Associations	$900	0.13%
Businesses	$6,000	0.86%
Trial Lawyers	$688,500	99.01%

In contrast, the semi-annual report for DPI for the last six months of 2003 showed 206 individual contributors and contributions totaling $440,850. **In fact, while DPI received not one individual contribution from ANY individual contributor in the 5th Judicial District in Fall 2003, more than 55 percent of the DPI's individual contributions originated from the 5th Judicial District in this recent report.**

Jul. – Dec. 2003 DPI Individual Contributions		
Unions/Associations	$36,500	8.28%
Businesses	$238,050	54.00%
Trial Lawyers	$103,900	23.57%
Non-Trial Lawyers	$62,400	14.15%

While the average contribution in Fall 2003 to DPI was $2,140, the average contribution in Spring 2004 was ten times greater at $21,073. A study of DPI contributions from Fall 2003 indicates that an estimated 24 percent of DPI contributions came from trial lawyers with a majority of 54 percent coming from businesses and corporations.

The Major Plaintiffs Lawyer Contributors to Democratic Party

A half million dollars were contributed via five individual checks. Most might only see $500,000 over six months written in only five installments if they won the lottery. Unfortunately, this money will most likely be used to preserve the Madison County Lawsuit Lottery. The Democratic Party of Illinois (DPI) received five checks, each for $100,000, from prominent Metro-East and Chicago personal injury lawyers. Who are the people and firms that can afford to write a $100,000 check?

Contribution #1: $100,000 from Clifford Law Offices on March 26, 2004

According to Robert A. Clifford's biography at www.cliffordlaw.com, the Corporate Legal Times called Clifford "the best of the bad" and one of the "five most respected and feared plaintiffs' attorneys" in the country. The Chicago lawyer's firm "topped the Chicago Lawyer Magazine's Annual Settlement Survey of Illinois law firms in 2002 with the firm's settlements totaling more than $136 million." According to the firm's website, he has been involved in almost "every major commercial airline crash in the last 20 years," receiving "record awards."

Mr. Clifford is also a Past President of the Illinois Trial Lawyers Association (ITLA) and is a member of the Inner Circle of Advocates, "an invitation-only group of 100 trial lawyers from around the country." The Inner Circle of Advocates also includes Senator John Edwards within its membership, as well as local attorney legends Rex Carr, C.E. Heiligenstein, Thomas and James Hullverson, Morris B. Chapman, and now-deceased Paul Pratt.

Most recently, Robert A. Clifford emerged as a negotiator and spokesperson for the trial lawyers in the medical malpractice legislation in Springfield. The list of 'accomplishments' for the 22-lawyer firm lists $431 million worth of litigation awards and settlements.

Contribution #2: $100,000 from Power, Rogers & Smith on March 26, 2004

While the Clifford Law Offices finished number one overall in Chicago Lawyer Magazine's settlement rankings in 2002, they were bumped off their top spot in 2003 by Power, Rogers & Smith firm, which won $145 million last year in eleven cases resulting in settlements of more than $2 million.

Joseph A. Power, Jr., the lead partner in the firm, shares the distinction with Robert A. Clifford as being a member of the Inner Circle of Advocates. A quick survey of his case 'accomplishments' includes 28 cases resulting in more than $350 million in awards and settlements, many of which were medical malpractice cases. Power is also a Past President of the ITLA.

During the American Trial Lawyers Association (ATLA) convention in July 2004, Todd A. Smith, a partner in Power, Rogers & Smith, was named President of ATLA's 60,000-member organization.

Contribution #3: $100,000 from SimmonsCooper LLC on June 8, 2004

The SimmonsCooper Law Firm of Wood River, IL, handles a large portion of asbestos cases in Madison County, a jurisdiction that is estimated to maintain one-quarter of all US asbestos cases. SimmonsCooper gained national recognition in May 2004 by sending interrogatories to companies defending asbestos cases, asking if they belong or contribute to one or any of 33 different civil justice reform or chamber organizations.

More recently, SimmonsCooper has been recognized by numerous local media organizations for their creation of and support of the "Victims and Families United" group.

The two named partners, John Simmons and Jeffrey Cooper, gave Maag for Justice $1,000 individual contributions on September 24, 2003, and September 19, 2003, respectively, and in that same report, individual attorneys from the firm, including the above partners gave $1,000 individual contributions totaling $20,000, making SimmonsCooper LLC the largest single contribution source for the Maag Campaign at that time.

John Simmons, the founder of the firm, was a brief candidate for U.S. Senate in 2003, seeking the Democratic nomination for the seat being vacated by Peter Fitzgerald. He later dropped out. Jeffrey Cooper, the managing partner of the firm, was the Democratic candidate for U.S. Congress in 2000, but lost to incumbent Republican John Shimkus.

The firm has recently started advertising for individual clients in light cigarette tobacco cases.

Contribution #4: $100,000 from Randall A. Bono on June 8, 2004

If it isn't amazing enough that three law firms could each write a $100,000 check to DPI for the Illinois Supreme Court race, can you imagine personally writing a political check worth what many in the metro-east might spend on a house? Randall A. Bono, a retired judge who works for the SimmonsCooper law firm did just that on June 8, 2004. He gave Maag for Justice $1,000 on September 19, 2003, as well, putting him halfway to the campaign's self-imposed limit.

Bono set Madison County – and national – records with an asbestos judgment against U.S. Steel for $250 million for a Gary, IN, resident. Critics decried the judgment, wondering how a case involving a plaintiff from a neighboring state made it in the Madison County courthouse. The verdict is thought to be the largest asbestos verdict in the United States for a single plaintiff.

Bono then gained national recognition for challenging former Democratic US Attorney General Griffin Bell over his assertion that a federal investigation should be started over the Madison County judicial system, a battle that led several days later to a condemnation and ban of the Bell's firm, King & Spaulding of Atlanta, from the Madison County Courthouse by Judge Byron. Byron was the Circuit Judge who handled the immense asbestos docket in Madison County, until he handed it over to another judge last week.

Additionally, Bono is the primary agent of the mysterious Bon Eau Foundation. The previously unnoticed Bon Eau Foundation, which was founded on December 11, 2003, has been airing anti-Chamber of Commerce advertising on Metro-East cable stations.

One might ask, "Is not Randy Bono a regular major contributor in political elections?" A search on the Illinois State Board of Elections website found that from 1994-2004, Bono previously contributed only $17,250 to candidates or committees that report online.

Contribution #5: $100,000 from Carey & Danis on June 18, 2004

Carey & Danis, with an office in Godfrey, IL, represent the third Metro-East firm to write a $100,000 check to the Democratic Party of Illinois. A personal injury firm handling asbestos, pharmaceutical and Madison County class action cases, Carey & Danis advertise having secured $647 million for their clients, including a $90 million class action settlement.

In November 2002, attorneys Jack Carey and Joseph Danis were suspended by the Missouri Supreme Court for one year, for "prosecuting product liability class actions against their former client, Chrysler Corporation."[4] In 1995, after spending years defending Chrysler Corporation from class action lawsuits, Carey and Danis left a corporate defense firm, Thompson & Mitchell, to start their own personal injury firm. Later, they sued Chrysler, switching sides.

The Missouri Supreme Court found that Carey and Danis engaged in professional misconduct by switching sides in the case and for making false discovery responses. The Illinois Attorney Registration and Disciplinary Commission similarly suspended them for six months.[5]

Carey & Danis have moved on to initiate Madison County class action suits against Goodyear, Walgreens, GMAC, and LaSalle Bank.

'Smaller' Plaintiffs Lawyer Contributors to Democratic Party

The "smaller" contributions to the Democratic Party of Illinois from trial lawyers followed a similar pattern to the first five: trial firms, many heavily involved in Madison County. Among the highlights are additional contributions from previously mentioned firms, including $15,000 in donations from the Simmons Firm (which has become SimmonsCooper) and managing partner Jeffrey Cooper. Local class action attorneys from the Lakin Law Firm and Korein Tillery added another $15,000.

The South Carolina firm of Richardson, Patrick, Westbrook & Brickman, Tillery's co-counsel in the $10.1 billion Madison County tobacco verdict, also has a convenient and sudden interest in the Democratic Party of Illinois. Despite never having made an Illinois state political contribution, $25,000 made it all the way from South Carolina to Chicago apparently to help support the Supreme Court race. The six lawyers involved in the landmark class action case were nominated for Trial Lawyers of the Year by Trial Lawyers for Public Justice and cited for their "innovative legal strategy" that won "a precedent-setting" award.[6]

Smaller Contributions to DPI in the January-June 2004 Reporting Period

Barry Julian	Godfrey	62035	$45,000	06/08/04
Cooney & Conway	Chicago	60602	$40,000	04/22/04
Dorris Law Firm	Bloomington	61701	$25,000	06/29/04
Richardson, Patrick, Westbrook & Brickman	Mt Pleasant, SC	29465	$25,000	06/16/04
Lakin Law Firm	Wood River	62095	$10,000	03/05/04
Simmons Firm	East Alton	62024	$10,000	03/05/04
Pavalon, Gifford, Laatsch & Marino	Chicago	60602	$10,000	01/22/04
Stephen Tillery	Saint Louis	63101	$5,000	03/05/04
Jeffrey Cooper	Edwardsville	62025	$5,000	03/05/04
Walker & Wylder	Bloomington	61701	$5,000	06/28/04
Beavers, Graham & Fines	Taylorville	62568	$1,000	06/29/04
Becker & Galanti	Granite City	62040	$1,000	05/08/04
Lance Callis	Granite City	62040	$1,000	06/08/04
Carlson & Carlson	Edwardsville	62025	$1,000	06/08/04
Lucco & Brown Law Offices	Edwardsville	62025	$1,000	05/05/04
Pratt & Tobin	East Alton	62024	$1,000	06/08/04
Goldenberg, Miller, Heller & Antognoli	Edwardsville	62025	$750	03/04/04
Wise & Julian	Alton	62002	$600	03/04/04
Brown & Associates	Belleville	62226	$300	03/04/04
John J. Hopkins & Associates	Edwardsville	62025	$300	03/04/04
Lucco & Brown Law Offices	Edwardsville	62025	$300	03/04/04
Holley & Rosen	Springfield	62704	$250	06/28/04

Source: Illinois State Board of Elections

An even more interesting story than the well-publicized law firm divorce between Rex Carr and Stephen Tillery involves the Richardson firm battling former partners from Ness Motley over an $18 million private jet.[7] The Richardson firm is a split-off from Ness Motley, the giant class action firm who won $1 billion in fees from the Master Settlement Agreement with 46 states and the major tobacco companies. As Business Week explained, "The small law firm…Ness, Motley, Loadholt, Richardson & Poole…parlayed the asbestos millions it won in the early 1990s into tobacco billions a few years later--and then invested the cigarette money to take on drugmakers, lead paint manufacturers, and car companies."

Other major asbestos firm donations added another $85,600 to DPI, including local asbestos attorney Barry Julian, his firm Wise & Julian, and Chicago asbestos leader Cooney & Conway. Kevin Conway, one of the firms lead partners, is the new ITLA president. Other past presidents of ITLA to contribute to DPI this reporting period include David V. Dorris of the Dorris Law Firm in Bloomington, IL.

In addition, several 2003 contributors to Maag for Justice showed up on this Democratic Party list. Lance Callis, in addition to his $1,000 contribution to DPI on June 8, 2004, gave $2,000 to Maag for Justice by way of two $1,000 checks on October 30, 2003 and November 13, 2003, giving him a grand total of $3,000. Lucco & Brown, after having already given $2,000 to Maag

for Justice on October 27, 2003, gave an additional $1,000 to DPI on May 5, 2004, and $300 on March 4, 2004, bringing their total to $3,300.

The firm Pratt & Tobin followed up $2,000 in contributions to Maag for Justice by way of two $1,000 contributions on October 27, 2003 and October 30, 2003 with $1,000 to DPI on June 8, 2004, giving them a total of $3,000. Wise & Julian, after giving $4,000 to Maag for Justice on October 27, 2003 and having $2,000 of it refunded, gave $600 to DPI, giving them a total of $2,600.

Other firms not yet over the $2,000 limit but approaching it with contributions to both Maag and the DPI were Becker & Galanti with $2,000 ($1,000 to Maag for Justice on October 31, 2003, and $1,000 to DPI on May 8, 2004), Carlson & Carlson with $2,000 ($1000 to Maag for Justice on October 22, 2003, and $1,000 to DPI on June 8, 2004, Goldenberg, Miller, Heller & Antognoli with $1,900 ($1,150 to Maag for Justice in $1,000 and $150 contributions on October 30, 2003, and November 20, 2003, respectively and $750 to DPI), and Brown & Associates with $1,300 ($1,000 to Maag for Justice on October 30, 2003, and $300 to DPI on March 4, 2004).

2000 Kilbride Supreme Court Race a Blueprint for 2004 Maag Race?

A look back at the 2000 Third Judicial District Supreme Court race for Democrat Appellate Justice Thomas Kilbride shows an interesting similarity between Democratic Party for Illinois contributions and expenditures in that Supreme Court campaign and the apparent buildup for the 2004 Fifth Judicial District race. Both races were – and will be – important for future control of the Illinois Supreme Court.

In 2000, the Democratic Party of Illinois collected and contributed nearly $688,000 into Justice Kilbride's campaign, representing nearly 80 percent of all Kilbride contributions. Similarly, $688,500 has been collected this reporting period by local and national trial lawyer leaders who are eager to elect Justice Gordon Maag.

Kilbride for Supreme Court Judge Committee
D-2 Reports for Total Campaign 2000

Total Itemized Contributions (Individual, Transfer, In-Kind)	$871,611.83	
Total from DPI	$687,989.57	78.9%
Total from Other Democrats	$31,607.54	3.6%
Total from Unions	$134,623.63	15.4%
Total from Attorneys	$12,231.09	1.4%
Total from Business	$2,480.00	0.3%
Total from Unclassified	$2,680.00	0.3%

The commitment from DPI is already apparent in its first period expenditure reporting, with more than $26,000 being expended to Maag for Justice for staff payroll and software. Judge Maag has committed to a $2,000 per contributor limit, but already has accepted 13 times that amount from DPI in just this reporting period for in-kind donations.

Conclusion

The Democratic Party of Illinois has apparently become a second non-limited checking account for Maag for Justice, a campaign committed to accepting no more than $2,000 per contributor.

The intense and direct conduits between the Illinois Trial Lawyers Association leaders, the powerful Metro-East personal injury firms, and the Democratic Party of Illinois, brings into question the Maag for Justice campaign contribution pledge and whether a "higher standard of ethics and accountability"[8] has already been eroded.

Further, previously shocking connections between personal injury lawyers' contributions to judicial candidates and sitting judges, while still serious cause for alarm, pale in comparison to the potential manipulation unearthed in this report. With well-connected and influential personal injury firms already contributing a half-million-dollars through only five contributions with more than four months of campaigning still ahead, the frightening question, 'Is Justice for Sale?' rears its ugly head again.

For decades, as the first 'Justice for Sale' study showed, a small number of trial lawyers have all but decided judicial races in Madison County through their frequent and large campaign contributions. The current open seat on the Illinois Supreme Court from Southern Illinois' 5th District looks to be the prize they now covet most.

Now, with three months before Election Day, we expect these revelations to be just the tip of the iceberg. I-LAW and the ICJL will continue to study campaign finances and report our findings as we deem necessary to continue to inform the public about groups and individuals influencing our judicial elections. We believe strongly that an informed electorate will produce a more responsive and accountable judiciary. This report serves as another step toward that goal.

Footnotes

[1]Illinois Civil Justice League and Illinois Lawsuit Abuse Watch. "Justice For Sale." Oct. 22, 2002.

[2]Illinois State Board of Elections. Democratic Party of Illinois. Available at: http://www.elections.state.il.us/CDS/pages/CommitteeDetail.asp?ID=6239.

[3] Illinois State Board of Elections. Kilbride for Supreme Court Judge Committee. Available at: http://www.elections.state.il.us/CDS/pages/CommitteeDetail.asp?ID=15176.

[4]O'Melveny & Myers LLC website. Available at: http://www.omm.com/webdata/content/publications/client_alert_class_action_2002_11_27.htm.

[5]Illinois Attorney Registration and Disciplinary Commission website. 99 SH 67 & 68. Available at: http://www.iardc.org/99SH67&99SH68RB.html.

[6]Richardson, Patrick, Westbrook & Brickman website. Available at: http://www.rpwb.com/media/pdf/mbtly.pdf.

[7]Business Week. "Southern Discomfort: Lawyers suing lawyers." Feb. 17, 2003. Available at: http://yahoo.businessweek.com/magazine/content/03_07/b3820066.htm.

[8]Maag for Justice website. Available at: http://www.maagforjustice.com/.