

In a letter to the TLAW Newsletter Editor, dated July 27, 2006, Kathryn Barnett, a Nashville attorney and former LAW president, wrote:

Please Vote August 3! It is Important.

In December, 2005, LAW presented a CLE on “Attacks on the Judiciary.” We were fortunate enough to have Judge Martha Craig Daughtrey and Justice Cornelia Clark share their thoughts and wisdom with us. A point that stuck with me was the importance of the Bar in supporting good judges because the judges cannot effectively defend themselves from attacks. At the time, I did not realize how timely the topic was for Tennessee.

As you know, our appellate judges face a retention vote on August 3. A political action committee, IMPACT -- which supports legislative and executive branch candidates who favor its agenda -- is attempting to exert influence over the judiciary in this election. Apparently unhappy with the outcome of certain cases, and with a lack of success on its agenda in the legislature, IMPACT has targeted Justice Janice Holder and is urging people to vote “no” in her retention vote.

The IMPACT fax asking for “no” votes takes no issue with any specific case authored by Justice Holder, nor with Justice Holder’s legal reasoning, skills, character, dedication or qualifications. Instead, the letter states, “By ousting her in this yes/no vote, we can send a strong message to the Governor, members of the General Assembly and future justices that medical liability reform is not going to disappear from the radar screen...”

Whatever your opinion of Justice Holder’s service on the Supreme Court, all lawyers should be able to agree that the judiciary must remain independent.

The real danger is that -- as we saw with the similar, successful effort against Justice Penny White in 1996 -- a small number of voters can tip the balance between retaining or ousting an accomplished jurist. Fewer voters may participate in a retention vote election, which is unopposed, and of those participating, a certain percent (often estimated at as much as 25 percent) vote “no” regardless of the candidate. Thus, the outcome can well be determined by a small minority, and worse, by a minority that may not fully understand the judge’s record, the legal decisions at issue, or the critical importance of independence of the judiciary.

I urge everyone to take the time to consider the individual merits of the judges and, most importantly, to vote. It is our duty as attorneys and as citizens.

Kathryn Barnett

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If you are interested in addressing a topic of concern or commentary, please contact tlaw@tlaw.org. Please note that TLAW cannot promote or endorse any particular candidate for office.

