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# DUI attorneys form PAC to vet municipal, district judges

In recent years, a political group founded, financed and led by local DUI defense attorneys has become a muscular force in typically low-profile elections for municipal- and district-court judges.

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Ken Lambert / The Seattle Times  
Citizens for Judicial Excellence is a political-action committee



Ken Lambert / The Seattle Times  
Stephen Hayne is co-founder and one of the top contributors of Citizens for Judicial Excellence, a political-action committee established by DUI defense attorneys

## Top funders of CJE

The major backers of Citizens for Judicial Excellence are DUI defense attorneys.

Rank	Contributor	Profession	Total contributions (2007-June 11, 2013)
1	Cowan Kirk Gaston	DUI defense firm	\$31,650
2	Geoffrey Burg	DUI attorney	25,100
3	Ted C. Barr	DUI attorney	24,630
4	Timothy C. Milios	DUI attorney	24,300
5	Fox Bowman Duarte	DUI defense firm	23,000
6	Mark W. Garka	DUI attorney	22,050
7	Steve Uhrich	Alcohol treatment	15,625
8	Lacey OMalley Bail Bonds	Bail bonds	14,015
9	Stephen W. Hayne	DUI attorney	12,400
10	Garth L. Dano	DUI and personal-injury attorney	12,000

Source: Washington state Public Disclosure Commission

K. SHEA / THE SEATTLE TIMES

When DUI defense lawyer Ted Barr appears in court, he wears a small lapel pin intended to send a message to judges.

The pin bears the circular logo of the Citizens for Judicial Excellence (CJE), a political-action committee founded, financed and led by Barr and other local criminal-defense attorneys who specialize in drunken-driving cases.

In a CJE newsletter last fall, Barr explained he wears the pin every day to remind judges that the group is tracking their performance and will “do something about it if that judge regularly falls short of the highest standards.”

“This is not about intimidation,” wrote Barr, CJE’s president, adding that “good judges welcome our attention to what they are doing, and only bad judges fear it.”

CJE has shown it can back up such talk. Over the past several years, the group has emerged as a muscular — and some say unprecedented — force in typically low-profile elections for municipal- and district-court judges in King and Snohomish counties.

As state lawmakers once again debate tougher laws following a spate of alcohol-related fatal crashes, CJE is maneuvering to influence the elections for judges who preside over most drunken-driving cases.

National experts say it is one of the only groups in the United States raising money to affect the outcomes of such low-level judicial races.

CJE won four of five races it targeted in 2010, including ousting two incumbent judges with independent-expenditure campaigns that dwarfed spending by the targeted candidates.

Now, it’s gearing up for 2014.

While Barr declined to be interviewed, other CJE leaders said they’re interested only in electing the best qualified candidates, not those who will go soft on DUI defendants.

“We’re extraordinarily proud of our work in improving the judiciary,” said Stephen Hayne, a longtime Bellevue attorney and CJE co-founder, noting the group has backed ex-prosecutors and targeted judges widely criticized for poor behavior.

But some critics worry the interest group may give DUI lawyers too much sway in elections that pick the judges they appear before regularly.

State Sen. Adam Kline, D-Seattle, a lawyer who serves as the ranking Democrat on the Senate Law and Justice Committee, said defense attorneys have every right to organize politically.

But he worries the PAC’s reputation as a powerful election-year force will get inside judges’ heads.

“If this goes around the courthouse ... this group is going to make judges have to take into account political considerations, and it’s going to alter the way justice is actually

administered in the courtroom. Not good,” said Kline, who favors moving to a system of appointed judges.

## **Successful fundraising**

To Kline and other critics, CJE is concerning because it operates in a world of downballot court races, where relatively small independent expenditures can be decisive.

Since 2007, the group has raised \$565,000 and spent \$381,000, according to the state Public Disclosure Commission (PDC). It ranks as the state’s fifth-wealthiest continuing political-action committee for 2013 — ahead of PACs representing doctors, hospitals and gun owners.

The district and municipal courts handle the lowest levels of criminal offenses — misdemeanors, traffic infractions as well as most drunken-driving cases.

Spending on judicial races has jumped nationally in the past decade, but most has flowed to state Supreme Court races, said Adam Skaggs of the Brennan Center for Justice at New York University’s law school.

“To the extent that it now is trickling down to the trial-court judges is very troubling,” Skaggs said. “The groups that spend this kind of real money in judicial elections are not doing so for altruistic reasons. They’re doing so because they think that they can elect judges that will issue judicial decisions of the sort that they want.”

In some ways CJE is transparent about its efforts. The group’s polished website boasts it has become “the most effective and influential political force in the legal community.” The site is testing a “rate the judges” app and advertises a coming “Meet the Judges” patio party at a Newcastle golf club.

But left unmentioned is that the group’s funding and leadership derives almost entirely from DUI attorneys and allies, including high-risk insurers and ignition-interlock manufacturers. The board of directors consists of eight DUI defense attorneys and the co-owner of a local bail bonds company.

Hayne, the co-founder, acknowledged the group’s name makes CJE sound like it has a more broadly based leadership.

“It sounds phony — I’m kind of embarrassed about that,” Hayne said. “One of the things we should probably do is change the name.”

However, Hayne said CJE is open to anyone with an interest in quality judges and the group has even included a couple of prosecutors in the past.

It currently has 116 members who pay annual dues of \$1,200, with that fee halved for attorneys with less than five years experience and government lawyers such as public defenders.

## Balance of power

Some of the Seattle area's top DUI defense lawyers formed CJE in 2007 after deciding they'd had enough of certain judges treating attorneys and clients disrespectfully — with no apparent consequences come election time, founders of the group recalled.

DUI defendants in particular sometimes suffered from rude and sarcastic treatment, Hayne said.

The defense attorneys also believed the balance of power was tilted in favor of law enforcement in the courtroom and during elections.

"The prosecutors had a voice, and the police had a voice, and so we wanted a voice — and it worked well," said Geoffrey Burg, a 19-year DUI lawyer and a CJE co-founder.

As those who work in the local courtrooms daily — more than 5,000 DUI cases funnel through the King County and Seattle courts each year — the DUI attorneys felt they were in a prime position to judge the judges.

CJE's activities fired up for the 2010 election, when the group hired former judge Mary Ann Ottinger to interview dozens of potential candidates and identify which incumbent judges were generally held in low esteem.

"Our criteria was excellence. We weren't looking for people to be excellent defense judges or excellent prosecutor judges. We were looking for people to be excellent judges," Burg said.

CJE backed candidates in five races, three in King County District Court and two in Seattle Municipal Court.

They went after two incumbents who made easy targets: Seattle's Edsonya Charles, who had scored poorly in a King County Bar Association survey; and King County's Judith Eiler, who had been [censured](#) for rude conduct.

In the Charles race, CJE supported the challenger Ed McKenna and spent nearly \$70,000 on an independent campaign that included mailers slamming Charles as "the worst judge in King County."

Charles mustered \$47,000 for her re-election effort.

Charles made CJE's participation [a central issue](#) in the campaign, accusing the group of illegally coordinating with McKenna. (Those charges were dismissed by the PDC.)

McKenna won easily.

In an interview, McKenna said he had "mixed emotions" about CJE's influence, which he said might linger in the back of other judge's minds as elections approach.

But McKenna, who was a prosecutor for 20 years, said he's had no problem ruling against CJE leaders in DUI cases since he became a judge.

"I like to think judges are able to separate their legal reasoning from any political influence," he said.

Charles did not return messages seeking comment. Some of her supporters remain angry at CJE, arguing defense lawyers orchestrated an unfair smear campaign based on anonymous bar ratings.

"It's not a citizens group," said attorney James Tupper. "It represents a very narrow section of the bar ... and they really have an outsized ability to influence those races."

Eiler too lost overwhelmingly to a CJE-supported challenger, Susan Mahoney.

CJE candidate Matt Williams won a District Court seat with 51 percent of the vote, while CJE candidate Steve Rosen was unopposed for Municipal Court.

The lone CJE-backed candidate who lost in 2010, John O'Brien, fell to an incumbent who had just been appointed to the King County bench, Michael Finkle.

Finkle said in an interview that he tries not to "pay attention to whether someone is with a particular constituency when they come before me."

King County Prosecutor Dan Satterberg's office declined to comment on CJE's activities.

Seattle City Attorney Pete Holmes said he takes the group at its word that it is interested in quality judges: "I would doubt they have the ability to promote DUI-soft attorneys to the bench anyway," he said.

But Seattle DUI prosecutor Rachel Cormier Anderson said "this group is very particular and has a very common goal. I do have concerns about that."

## **Planning ahead**

Buoyed by its successes, CJE has been organizing for the next round of judicial elections in 2014 — and it even has landed a role in local judicial appointments.

In March, the Metropolitan King County Council appointed Bellevue attorney Ketu Shah as a King County District Court judge to fill a court vacancy.

Shah had been on CJE's shortlist of favored candidates submitted to the council, putting the group on par with the King County Prosecutor's Office, which has long weighed in on such appointments.

Without help, Shah might be "unelectable" due to voter bias against his foreign-sounding name, Hayne said. In 2010, Shah placed third in a judicial primary for District Court despite outspending the second-place finisher nearly 5 to 1. (CJE was not involved in that race.)

"We are a very powerful ally for Ketu," Hayne said. "We think he is a good judge."

As CJE gears up for next year's judicial races, the group has been organizing poker-night fundraisers and looking to identify and train the next round of attorneys deemed ready to step up to the bench.

CJE has an extensive vetting process and will not endorse except in races where there is an objectively superior candidate, Hayne said.

The judges CJE has backed so far have not proven overly pro-defense, Hayne said, noting he's fielded complaints from fellow defense lawyers and that some of those judges have ruled against him on motions where he thought he had good arguments.

But Hayne said he believes that everyone who appears in the municipal and district courts is being treated "more fairly" than they were four years ago.

And CJE stands ready to back a challenger if any judge falls short of its standards.

"I want a judge to understand there is a sense of accountability — that this is not a lifetime appointment," he said.

*Seattle Times reporter Justin Mayo contributed to this report.*

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