

# Judges are the Referees of our Legal System and Must Remain Impartial on the Bench

By **Seth Gladstein** and **H. Phillip Grossman**

*Originally published in the Courier Journal*

Imagine this scenario:

It's December 2022. People around the commonwealth are gearing up and making plans to watch the greatest annual rivalry in college basketball – the University of Kentucky Wildcats versus the University of Louisville Cardinals. This day, however, is unlike any other day leading up to the annual UK-UofL game. Today, the officiating team comprised of three referees calls a press conference, during which they all disclose their unwavering support for only one of the two universities.

What confidence would you have in the integrity of the game as a player or fan of the other team? “The whole game is slanted against us,” you might think. “The system's rigged!” You may even assume your team has lost even before the game has started. Every fan should be asking the most basic question: “Aren't referees supposed to be unbiased and fair?” The answer to that question is unequivocally yes.

Kentucky is one of 13 states where the public elects judges in nonpartisan elections. That means our judicial candidates do not affiliate with political parties or outwardly commit to support specific policy positions they may have to rule on later. That's why you don't generally see judicial candidates talking in the media or plastered on billboards extolling how they're “tough on crime” or taking sides on hot button social issues. Stated differently, Kentucky judicial candidates run on the premise that they will apply the law fairly and equitably based upon the law and their experience – not on their personal beliefs.

There has also been concern over big money in judicial elections, as well as the influence of “dark money” in judicial races. As the Brennan Center for Justice at the New York University School of Law recently pointed out, “Unlimited and secretive spending by special interest groups is especially out-of-place in elections for state judges, who are supposed to be impartial.”

The judiciary's independence requires that candidates remain clear of prior commitments or from creating the outward appearance of prejudice and bias. It is essential that judicial campaigns be nonpartisan, so Kentuckians can remain confident that the law is fairly and equitably applied to everyone.

Several years ago, the Louisville Bar Association formed its Judicial Integrity and Independence Committee to focus on and monitor judicial campaigns in Louisville. The LBA established that committee because, for nonpartisan judicial elections to function as envisioned by the Kentucky's Legislature and Constitution, it is essential that the campaigns be run fairly and independently.

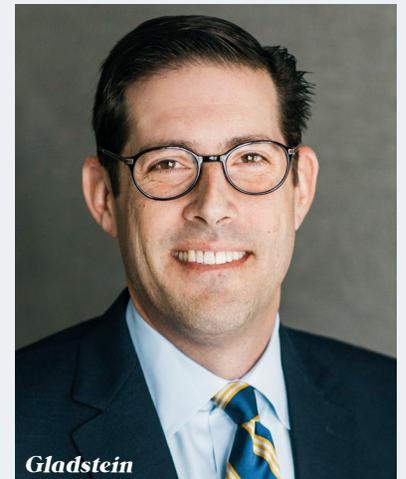
In order to promote fair and nonpartisan elections, the LBA asks candidates to sign a pledge that establishes “an appropriate standard of conduct in campaigns that reflects [candidates'] respect for the dignity, integrity and independence of the judiciary.” By signing the pledge, a judicial candidate promises, among other things, to “not intentionally or recklessly make a statement a reasonable person would perceive as a commitment to rule in a certain way on a case, controversy or issue likely to come before the court to which [they] seek election.” As of today, all but a handful of the candidates in Jefferson County judicial races that will be contested in the fall general election have signed the Pledge. This indicates that the overwhelming majority of our local judicial candidates recognize and agree with the need for nonpartisan campaigns to be run in an unbiased and independent fashion.

A current candidate running for judicial office in a neighboring jurisdiction is pushing the envelope on nonpartisan elections, and not in a good way. That candidate is holding events with elected political officials and is openly and repeatedly reaffirming his unwavering allegiance to a particular political party and its principles. These tactics, meant at getting the candidate elected, strike at the heart of our nonpartisan system of elections for judicial candidates and stand to undermine the confidence of Kentucky citizens in our court system.

The LBA and its Judicial Integrity Committee fully support and encourage the continued use of nonpartisan judicial elections throughout the commonwealth. If judges, the referees of our legal system, cannot be unbiased when donning their black robes, many Kentuckians' liberty and freedom may be at jeopardy. We simply cannot allow this to happen.

The hallmarks of our justice system – independence and fairness – require the public to have confidence in the integrity of judicial elections. We thank the judicial candidates running in Jefferson County for taking the higher ground. As we urge all eligible citizens to vote, we also urge all to be vigilant to support candidates who respect judicial independence and faithfulness to the rule of law.

*Seth Gladstein is LBA President. H. Phillip Grossman is Chair of the LBA Judicial Integrity and Independence Committee.*



**Gladstein**



**Grossman**



***It is essential that judicial campaigns be nonpartisan, so Kentuckians can remain confident that the law is fairly and equitably applied to everyone.***