

Judicial selection process needs reform

Friday, May 1, 2009

By James Harris

Recently, Skip Walther of the Missouri Bar and Missouri Association of Trial Attorneys penned a piece defending the current judicial selection process for our highest courts. I wanted to provide insight as to why Missouri is in desperate need of judicial selection reform.

Currently, judges at the highest levels are handpicked by an elite group of personal injury lawyers operating under the secrecy and lack of accountability that characterize the current version of the nonpartisan court plan. These attorneys, all members of the Missouri Association of Trial Attorneys, oppose tort reform, workers' compensation reform and unemployment insurance reform. These laws benefit Missourians by decreasing out-of-control litigation costs, but they also cut into the ability of lawyers to profit from frivolous lawsuits.

To combat the effects of these reforms on their profession, MATA turned its attention to controlling the judicial selection process. By controlling the majority of commission members who select judges, MATA can pack the courts with like-minded judges who will side with MATA on these important issues. While this is financially beneficial for personal injury lawyers, it comes at a high cost to all Missourians.

As long as MATA controls the judicial nomination process, intellectuals and conservatives need not apply. MATA cannot afford to have intellectuals and conservatives inhabiting seats within the judiciary, so it uses its majority on the selection commission to block such candidates from making a judicial nomination panel. The ideological test that MATA imposes in the name of nonpartisanship ensures that the judiciary is tilted strongly and is thereby a threat to overturn commonsense legislation passed by the Missouri Legislature. Consequently, it is unlikely that a judge of the caliber of Judge Stephen Limbaugh of Cape Girardeau would ever be appointed under the current MATA-controlled judicial selection process.

Even more disturbing, judges on Missouri's highest courts, as well as the taxpayer-funded bureaucrats who staff the rest of the judiciary branch, have been actively campaigning against any proposed judicial selection reforms. The chief clerk of the Missouri Supreme Court can routinely be seen in the Capitol conspiring with special-interest lobbyists. While it is perfectly acceptable for MATA to hire lobbyists, it is completely reprehensible for state employees and members of the judiciary to be lobbying against reforms to improve the judicial selection process as their salaries are funded by taxpayers.

The issue of judicial selection reform will likely be heard by our Missouri Supreme Court if it is put on the ballot. How can Missourians expect that the issue will be given a fair hearing when the very judges who will be presiding over the case have been actively coordinating efforts to defeat any reforms in the judicial selection process? The answer, of course, is that fairness is not likely in a system where judges engage in lobbying to protect the interests of groups who rely on the current system for their power.

These common-sense reforms would not do away with the Missouri Plan. These reforms would simply add more accountability and transparency to the process by which our judges are chosen, thereby allowing the Missouri Plan to function without the shackles of interest-group manipulation. It is this simple move toward accountability and transparency that MATA fears and labels as the "destruction" of our judiciary. Of course, trial lawyers fear reform, as they would no longer have free rein over the judiciary. Fortunately, nor would any other special-interest group wield such control in the future. The legislature is merely considering placing this item on the ballot for the people to decide.

Our reforms would make the selection process subject to Missouri's Sunshine Law, thus giving the public access to the list of applicants, the commission meetings and evaluations of the applicants and the final vote on which applicants will be placed on the final panel. Second, these reforms would add one citizen to the commission to ensure that citizens hold the majority and to reduce the ability of lawyers to control the commission. This is vital because the courts are here to serve all Missourians, not just lawyers. Next, it would increase the number of applicants presented to a governor to add diversity and to make it harder for any interest group to rig a panel. Lastly, it would restore the ability of a governor to return a panel he or she felt had been rigged or did not include the most qualified applicants.

If you believe that Missouri's judiciary is too important to be controlled by trial lawyers and should be more open and accountable to the people of Missouri, please contact state Sen. Jason Crowell, state Sen. Rob Mayer and Senate Majority Leader Kevin Engler and express your support for judicial selection reform. Together, we can ensure that we will have a fair and impartial judiciary that is not beholden to special interests.

For more information, please visit www.newmoplan.com.

James Harris is the executive director of Better Courts for Missouri and has been an aide to both former governor Matt Blunt and Lt. Gov. Peter Kinder.

© Copyright 2009, seMissourian.com

Story URL: <http://www.semissourian.com/story/1535572.html>