

STATEMENT OF CHIEF JUSTICE PASCAL F. CALOGERO, JR.
LOUISIANA SUPREME COURT
June 12, 2008

As Chief Justice of the Louisiana Supreme Court, I offer this response to the baseless and unsupported attack on the Louisiana Supreme Court contained in an article recently published and released earlier this week in the *Tulane Law Review* entitled *The Louisiana Supreme Court in Question: An Empirical and Statistical Study of the Effects of Campaign Money on the Judicial Function*. This article, written by Professors Vernon Valentine Palmer and John Levendis, is replete with numerous errors in data (including such basic mistakes as if, and how, a Justice voted in a particular matter), flawed and outdated statistical analysis and methodology, and substandard scholarship, all of which invalidate the article's conclusion.

In an interview with a *New York Times* reporter several months ago, Palmer publicly expressed his bias before he began his so-called study. This Court has been handicapped in responding because Palmer began an unfair media assault without sharing the article or the underlying data. After finally receiving a draft of the article, we found numerous errors which were brought to the attention of the *Law Review*. Publication was delayed and the final version was substantially rewritten, but many errors remained. We respond now, not because the Palmer/Levendis article has any validity; it does not. We respond to reassure the citizens of Louisiana, the litigants, and the attorneys that the Louisiana Supreme Court Justices decide cases in an unbiased manner.

The authors' inept research resulted in a data table with mistakes in over 20% of the 186 cases included in the study. No less than 40 significant errors were found in the study's notations of whether a Justice voted on a particular case, how a Justice voted on a particular case, or the amount of contributions to his or her campaign committee by one or more parties or attorneys. The authors also base their conclusion, reached after an analysis of the faulty data, on a review of only 186 opinions, rather than the approximately 24,000 civil decisions, including writ applications, that were decided by the Louisiana Supreme Court over the period of the study (from 1992 to 2006)¹ Further, at no point do the authors address or

¹ During the 14 year period of the authors' study, I participated in almost 24,000 civil decisions; Justice Kimball participated in almost 22,000 civil decisions; Justice Johnson and Justice Victory participated in almost 19,000 civil decisions; Justice Traylor and Justice Knoll

show that any of these 186 cases were decided incorrectly by the Court, or that the decisions were not based on the facts and the governing law. And as explained fully in a critique written by three eminent economics professors, the methodology used to analyze the data was outdated and flawed.

I have served as a Justice on the Louisiana Supreme Court for almost 36 years and will soon retire. During that time, I have served with Justices of the utmost integrity, including the Justices who are presently on the Court. My colleagues and I have taken a solemn oath to decide cases based on the law and the facts before us and we have remained faithful to that oath. Who did or did not contribute to a justice's campaign committee is not a consideration in resolving cases before the Court. This Law Review article does a great disservice to this Court and to the Justices who have dedicated themselves to careers of public service on our state's highest court. However, my greater concern is the disservice that has been done to the public by publication of this study's incompetent research, flawed methodology, and unsupported and invalid conclusions, which were apparently presented to promote a political agenda at the expense of the truth.

The Louisiana Supreme Court's position on this matter is thoroughly set forth in a paper entitled [*Rebuttal of "The Louisiana Supreme Court In Question: An Empirical and Statistical Study of the Effects of Campaign Money on the Judicial Function, June 12, 2008"*](#) by attorneys E. Phelps Gay and Kevin R. Tully; and in [*A Critique of "The Louisiana Supreme Court Question: An Empirical and Statistical Study of the Effects of Campaign Money on the Judicial Function,"*](#) by LSU Economics Professors Dr. Robert J. Newman and Dr. Dekalb Terrell and UNO Economics Professor Dr. Janet Speyrer. These critiques can be found on the Louisiana Supreme Court website at www.lasc.org. I urge you to review these papers.

Thank you.

participated in almost 16,000 civil decisions; and Justice Weimer participated in approximately 8,000 civil decisions.