



Dirty Money, Dirty Water

Keeping Polluters and Other Campaign Donors from Influencing
North Carolina Judicial Elections

By Billy Corriher and Sean Wright November 2014

Center for American Progress



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Cover photo: The Allen Steam Station,
operated by Duke Energy, sits on Lake
Wylie in Charlotte, North Carolina.

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Introduction and summary

North Carolina Gov. Pat McCrory (R) signed a bill on August 12, 2013, that created a voter ID requirement, cut early voting, ended same-day voter registration, and eliminated the state's innovative public financing program for judicial candidates.¹ The public financing program—which gave appellate court candidates several hundred thousand dollars for their campaigns if they qualified by raising a certain number of small donations—was popular with voters,² and the vast majority of candidates participated.³ The program muted the influence of deep-pocketed donors and was in effect for more than a decade, but Gov. McCrory's budget director targeted it for elimination.⁴

As a result, the recent election was the first in a decade in which North Carolina Supreme Court candidates had to raise large amounts of campaign cash—much of it in large donations from attorneys and corporations with a financial interest in the court's rulings. The eight general election candidates raised nearly \$4 million from private donors.⁵ The two 2012 candidates, in contrast, each raised \$80,000 in small donations and received nearly \$250,000 in public funds for their campaigns.

When independent spending is added, the November 4 high court election saw nearly \$3 million in spending, all funded by contributions from attorneys, corporations, and other special interests.⁶

Justice for All NC, a political action committee, or PAC, spent well over \$800,000—more than any other organization or candidate.⁷ The vast majority of its money came from the Republican State Leadership Committee, or RSLC,⁸ a group in Washington, D.C., that helps elect Republican legislators across the United States.⁹ One of the biggest donors to the RSLC in North Carolina is Duke Energy, the country's largest electric utility. The company has given \$337,000 to the RSLC since 2006, but its biggest contributions have come in recent years, including \$100,000 in the weeks before the November 2012 election.¹⁰ The company recently donated \$100,000 to an organization created by the North Carolina Chamber of Commerce that spent hundreds of thousands of dollars in this year's supreme court race.¹¹

Duke Energy's power plants "produce approximately 49,600 megawatts ... to serve approximately 7.2 million customers in the Carolinas, Florida, Indiana, Kentucky and Ohio."¹² The plants also produced \$24 billion in revenue in 2013.¹³ The North Carolina-based company wields enormous influence in the state.¹⁴ Gov. McCrory, a Duke Energy executive for 28 years, held on to Duke Energy stock after he took office in 2013, while failing to report the assets as required by law.¹⁵ Facing possible criminal penalties, he filed an amended disclosure.¹⁶ Federal prosecutors are investigating the McCrory administration's failure to enforce environmental regulations.¹⁷

The links between Duke Energy and Gov. McCrory's administration have been scrutinized since February, when a ruptured pipe at one of Duke Energy's power plants released 39,000 tons of toxic coal ash slurry into the Dan River.¹⁸ The river serves as a source of drinking water for more than 42,000 people in North Carolina and Virginia.¹⁹

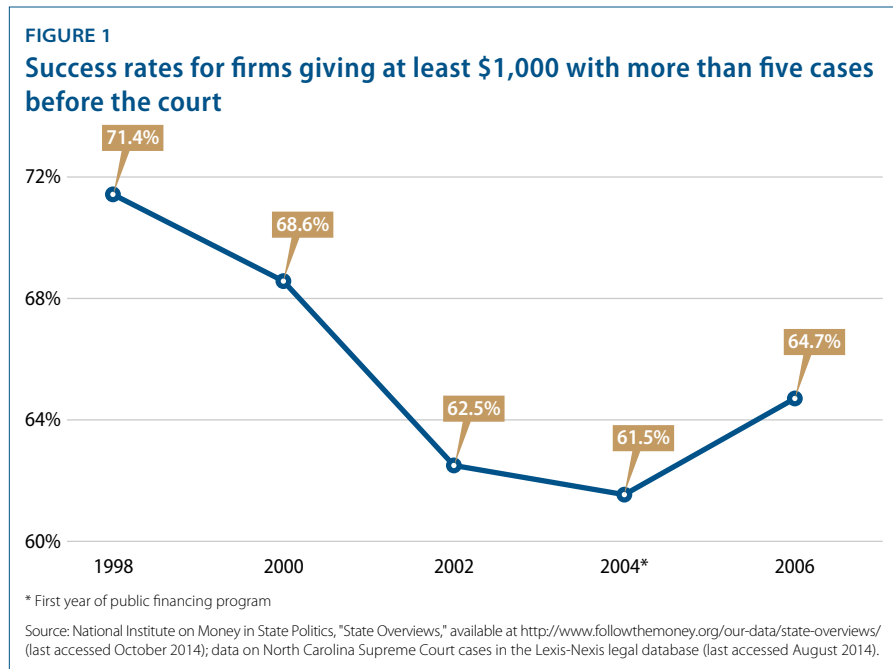
In 2010, the Catawba Riverkeeper Foundation, a group that monitors water quality, found toxins in Mountain Island Lake, a source of drinking water for 800,000 people around Charlotte, North Carolina.²⁰ Toxins have also been found in groundwater near all 14 of Duke Energy's coal-fired plants in North Carolina.²¹ More research is being done to confirm the source of the contamination. One young resident near Mountain Island Lake, 11-year-old Anna Behnke, reportedly told Duke Energy's former CEO, "I go to bed every night scared that I could get cancer from that [power] plant."²²

Duke Energy has stated that it is "developing a comprehensive long-term ash basin strategy to close basins and safely manage ash. We're using a fact-based and scientific approach to identify options that protect groundwater and the environment, are good for the communities around our sites and meet regulatory requirements."²³ The state legislature recently passed a bill to more stringently regulate coal ash ponds, but the Southern Environmental Law Center said the bill does not go far enough.²⁴ The bill creates a commission to determine how Duke Energy must clean up the coal ash ponds, but Gov. McCrory said he will challenge this provision in court because it overrides his authority to appoint administrative officials.²⁵

Some North Carolinians have already taken Duke Energy to court, asking judges to order the company to mitigate the risks to their drinking water. At the same time, Duke Energy has contributed hundreds of thousands of dollars to the biggest spender in the two most recent North Carolina Supreme Court elections. Without public financing for candidates, campaign contributors such as Duke Energy will have more opportunities to try to buy influence in the state courts.

This report examines the success rates of law firms that appeared before the North Carolina Supreme Court from 1998 to 2010 and also made contributions to the justices' campaigns. The analysis began with a list of attorney donors culled from campaign finance databases. The authors then searched LexisNexis for all cases involving these lawyers or law firms in that election year and the following year. Among the "repeat-player" law firms—those with several cases before the court each year—the firms that gave more campaign cash had higher success rates than those that gave smaller donations. In 1998, the first year of the analysis, law firms donating \$400 or more won 53 percent of their cases, compared to 48 percent for firms giving less than \$400. The firms that had more than five cases before the court and donated \$400 or more won an astonishing 70 percent of their appeals, compared to 33 percent for firms with at least five cases giving less than \$400 in donations.

The analysis showed a very high success rate for attorney donors with more than five cases before the bench who gave at least \$1,000, but this rate dropped from 71 percent in 1998 to 62 percent in 2004, the first year that the public financing system was in place.



North Carolina citizens must demand that legislators create another public financing system to keep corporations and attorneys from trying to curry favor through judicial campaign cash. Former North Carolina Chief Justice Sarah Parker recently warned, “If people perceive that our courts are for sale, they will lose confidence in the ability of courts to be fair and impartial. ... We must have judges committed to the rule of law ... without regard to politics, special interests or personal agenda.”²⁶

Legislators must restore reforms that ensure judicial legitimacy. Given the U.S. Supreme Court’s approach to campaign finance laws in cases such as *Citizens United v. Federal Election Commission*, North Carolina legislators will have to craft a system that is constitutional and effective in this era of unlimited independent spending. A small-donor matching system could revolutionize judicial elections and mitigate the appearance of bias or impropriety in the courts.

1998 to 2002: Dirty money

Prior to the implementation of North Carolina's public financing system in 2004, another polluting industry wielded enormous influence in state government: the pork industry.²⁷ State legislators and judges did little to protect North Carolina's drinking water from the industry's toxic waste until public outcry forced their hands.

North Carolina witnessed a hog farming revolution in the 1970s, when the concentrated animal feeding operation, or CAFO, model—which allows farmers to raise thousands of animals in tight quarters—was first applied to swine farming.²⁸ Farmers began to raise thousands of hogs in areas that would have previously held a few dozen. Wendell Murphy, hog farmer and state legislator, was at the center of this revolution. The legislation he championed, also known as “Murphy's laws,” cut state taxes on hog farms and limited environmental regulations.²⁹

Some in the North Carolina media dubbed the industry “Boss Hog.”³⁰ According to a 2000 blog post on Grist, the online environmental magazine, “Eighty percent of North Carolina's legislators have received campaign contributions from the hog industry.”³¹ An industry-backed organization also spent millions of dollars in 1996 to defeat legislators who dared to advocate for stronger regulation of the hog industry.³² Bob Hall of the nonprofit organization Democracy South said, “The influence and access this money buys—to the Governor's office, to both parties, to legislative leaders—poisons the environment for discussing meaningful regulation of the hog industry.”³³

Legislators were pressured to act in the mid-1990s, after the farms became a danger to public health. Hog waste stored in an eight-acre lagoon in eastern North Carolina exploded past a collapsed dike and released approximately 22 million gallons of waste in 1995. This knee-deep flood coated roads and flooded tobacco and soybean fields.³⁴ The spill killed virtually all aquatic life in a 17-mile radius and temporarily shut down local tourism.³⁵ The U.S. Environmental Protection Agency, or EPA, said the “spill was twice the size of the Exxon Valdez oil spill.”³⁶

There were six spills from hog-waste lagoons in 1995, releasing nearly 30 million gallons of waste into neighboring ecosystems.³⁷ The spills continued throughout the late 1990s, increasing during Hurricane Floyd in 1999, when hog waste leached into water supplies across eastern North Carolina.³⁸

The North Carolina General Assembly passed a bill in 1995 that set tougher state standards for hog farms and required a permit for waste management systems.³⁹ A 1997 bill amended county zoning authority to permit counties to regulate large hog farms to protect public health.⁴⁰ The Chatham County Board of Commissioners passed a law in 1998 that required hog farmers to bear financial responsibility for future contaminations and included a zoning ordinance that limited swine farming to industrial areas.⁴¹ The county Board of Health passed new rules to implement these laws.⁴² The county noted that these hog lagoons contain “pathogens such as *Salmonella*, insecticides, antimicrobial agents and other pharmaceuticals, and nutrients that cause widespread pollution and impairment of watersheds across the coastal plain.”⁴³ Even without a spill, ammonia and nitrates can still seep into groundwater.⁴⁴

A local agribusiness council challenged the county regulations in court, arguing that the rules usurped the state legislature’s authority to regulate agriculture.⁴⁵ The North Carolina Court of Appeals held that although the “county enacted the zoning ordinance pursuant to the express statement of power given by the state,”⁴⁶ the other laws were unconstitutional because they were preempted by state law.⁴⁷ In other words, a lower governmental body’s regulations cannot conflict with a higher body’s laws, unless the higher body has consented to the stricter rules.

The North Carolina Supreme Court went further and ruled that all of Chatham County’s attempts to regulate hog farms were preempted, including the zoning law upheld by the appeals court.⁴⁸ Although the legislature specifically conferred the power to “adopt a more stringent rule ... where, in the opinion of the local board of health, a more stringent rule is required to protect the public health” on local health boards in 1997,⁴⁹ the high court held that the legislature’s 1995 reforms showed “an intent to cover the entire field of swine farm regulation in North Carolina.”⁵⁰

The court ignored legislative intent and concluded that the legislature’s grant of explicit authority to counties was subsumed by the legislature’s implied grant of authority to the state to regulate hog farming.⁵¹ The court said that the legislature intended to avoid “dual regulation” and to “balance two very important interests—the economy of North Carolina and the right of a landowner to enjoy his

land with minimal interference,” while failing to mention the legislature’s desire to “protect the public health.”⁵² The court flippantly discussed the county regulation as superimposing “additional regulations without specific reasons clearly applicable to a local health need.”⁵³

An apt legal commentary referred to the North Carolina decision as “preemption hogwash.”⁵⁴ The court’s reading of legislative history is akin, as the metaphor goes, to “entering a crowded cocktail party and looking over the heads of the guests for one’s friends.”⁵⁵ The justices struck down the Chatham County ordinance even though state law specifically provided local health boards the authority to impose more stringent rules to protect public health.

As its legal challenge to the Chatham County regulations was pending in the state supreme court, the hog industry gave \$8,000 to the two justices who were up for re-election in 2000.⁵⁶ Although that may not seem to be a large contribution, very little money was spent in North Carolina judicial elections in the decade before 2000. The firm that represented the hog industry’s interests in the case donated thousands to the incumbent justices as well.⁵⁷ Although there are other possible explanations for the court’s legally indefensible decision to strike down Chatham County’s regulations, the hog industry’s political power certainly raises the question of whether the justices felt pressured to rule in its favor.

To be fair, the ruling was perhaps not surprising, given the North Carolina Supreme Court’s record in environmental cases. The court has repeatedly ruled against litigants seeking to protect the state from polluters in recent years. North Carolina has limited liability for violations of air-pollution rules,⁵⁸ and it has kept environmental advocates from fighting for tougher penalties to protect marine life.⁵⁹ In a per curiam ruling in favor of Murphy Family Farms in 2004, the court ruled that a hog-waste spill, which contaminated nearby water for eight days, constituted just one violation of state water-quality standards, rather than eight separate violations, for the purpose of civil penalties.⁶⁰ The state had fined Murphy Family Farms for eight violations of a clean water law after it contaminated water for eight days. The state supreme court ruled that because the spill occurred in a single day, Murphy Family Farms should only be fined for a single violation.⁶¹

2004 to 2012: Clean money

The 2000 North Carolina Supreme Court election saw a record \$2 million raised from private sources at a time when judicial campaign spending exploded nationwide. The state legislature then began debating a public financing system for judicial elections. Judge James A. Wynn Jr. of the North Carolina Court of Appeals said in 2002 that a system in which judges rely solely on private campaign contributions was “like letting Major League Baseball players contribute money to influence the selection of umpires who call their games.”⁶² A recent poll found that public financing led voters to trust that campaign cash does not influence court rulings.⁶³ The state legislature passed a bill in 2002 creating a public financing program and moving the state from partisan to nonpartisan judicial elections.⁶⁴

When North Carolina’s public financing program began in 2004, the correlation between success rates at the state supreme court for repeat-player attorneys and campaign contribution levels diminished significantly. As mentioned above, the success rate for firms giving more than \$1,000 and arguing more than five appeals fell from 71 percent in 1998 to 62 percent in 2004. That figure rose slightly in 2006, the final year of our study. In 2008, only one law firm had more than five appeals and gave \$1,000, and that firm won 80 percent of its cases. Only one donor gave \$1,000 or more in 2010, and that firm lost its only case.⁶⁵

The public financing program continued through 2012, but because independent spending dominated the 2012 election, the donors who gave contributions directly to campaigns—limited to \$1,000—may not have had the same influence as those giving unlimited donations to groups unaffiliated with the campaigns.

This study showed a strong correlation between larger campaign contributions and success rates for repeat-player law firms. The results for 1998, the first year of the analysis, and 2002, the final year without public financing, exhibit this correlation. See the “Appendix and methodology” section of this report for more details.

TABLE 1
Success rate for donors in 1998

	Giving \$400 or less	Giving more than \$400	Giving \$1,000 or more
Average	48.04%	53.42%	60.53%
Average success rate for three to five cases	46.15%	50.00%	55.56%
Average success rate for more than five cases	33.33%	69.70%	71.43%

Source: North Carolina State Board of Elections, "NC Campaign Report Search By Entity," available at http://app.ncsbe.gov/webapps/cf_rpt_search_org/ (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

TABLE 2
Success rate for donors in 2002

	Giving \$400 or less	Giving more than \$400	Giving \$1,000 or more
Average	53.03%	59.09%	63.04%
Average success rate for three to five cases	50.00%	64.29%	61.54%
Average success rate for more than five cases	No data	53.57%	62.50%

Source: National Institute on Money in State Politics, "State Overviews," available at <http://www.followthemoney.org/our-data/state-overviews/> (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

The correlation between larger campaign contributions and success rates for repeat-player law firms could certainly be explained by other factors. It is possible that the best firms with the most persuasive lawyers also have the most money to spend on campaigns. Scholars and others studying correlations between judicial rulings and campaign cash—or between rulings and elections—cannot read judges’ minds. If judges are biased, they are unlikely to mention that in an opinion.

These kinds of correlations—whether they reflect causation or not—raise doubts about the impartiality of judges. The U.S. Supreme Court ruled in 2009 that recusal was constitutionally required when “extreme” amounts of campaign cash created “a serious, objective risk of actual bias.”⁶⁶ In *Caperton v. A.T. Massey Coal Company*, the defendant spent more than \$3 million to elect a West Virginia Supreme Court justice, who then voted to overturn a \$50 million verdict against Massey Coal.⁶⁷ The high court stated, “Although there is no allegation of a quid pro quo agreement, the fact remains that Blankenship’s extraordinary contributions were made at a time when he had a vested stake in the outcome.”⁶⁸ While the analysis in this report cannot prove actual bias, it does say something about the “objective risk of actual bias” that accompanies judicial campaign cash.

This risk can be mitigated by public financing. The success rates for the attorneys with the largest donations and the most cases dipped in 2004, when public financing went into effect.⁶⁹ The program radically changed the nature of North Carolina's judicial campaigns. Most candidates participated, and "no privately financed supreme court candidate in North Carolina defeated a publicly financed candidate."⁷⁰ The number and amount of attorney donors dropped precipitously. A report from the National Institute on Money in State Politics found that although lawyers and lobbyists continued donating while public financing was in place, "The percent of private contributions declined considerably when the program was in effect, from 77 percent during the 2000 and 2002 elections to 40 percent during races held between 2004 and 2012."⁷¹

2012: Dirty money finds a way in

Both candidates for North Carolina Supreme Court in 2012 accepted public financing, but a pair of U.S. Supreme Court rulings rendered the program less effective. The U.S. Supreme Court's 2010 ruling in *Citizens United v. Federal Election Commission*, along with a subsequent ruling by an appeals court, opened the door to unlimited campaign spending by independent groups.⁷²

In the 2012 North Carolina Supreme Court race, spending by groups independent of the candidates far exceeded the public funds.⁷³ The Institute for Southern Studies reported that outside spending amounted to more than \$2.8 million, and 90 percent of that sum went toward campaign efforts for the incumbent Justice Paul Newby, who enjoyed strong Republican support.⁷⁴ The RSLC gave more than \$1 million to groups running ads for Justice Newby.⁷⁵ The candidates themselves only raised nearly \$650,000 in total, the vast majority of which was public funds.⁷⁶



An outfall dumps contaminated water from a Duke Energy coal ash pond into Lake Wylie in Charlotte, North Carolina; this practice is permitted under state law.

LAUREN MALKANI

Independent spending first tested the public financing program in 2006, when groups spent money to help elect Justice Robin Hudson.⁷⁷ But the North Carolina State Board of Elections ruled that the amount spent in that race was not enough to trigger additional “rescue” funds for other candidates.⁷⁸ The rescue funds were additional public funds offered to candidates whose opponents or groups supporting their opponents spent more than the maximum amount that publicly financed candidates could raise.

The 2012 candidates likely would have been given access to public rescue funds, but the U.S. Supreme Court ruled that such funds were unconstitutional in 2011.⁷⁹ In *Arizona Free Enterprise Club v. Bennett*, the U.S. Supreme Court reasoned that giving publicly financed candidates more money in response to opposition spending was an unconstitutional “penalty” on the opponent’s speech.⁸⁰

Bennett and rulings such as *Citizens United* left the door open to some “dirty money”—campaign cash from private contributors, not public funds—in 2012. While contributions from private donors exploded, former Chief Justice Sarah Parker commented that “public financing for nonpartisan judicial races helped relieve the pressure of reliance on outside money.”⁸¹ The aftermath of these recent court rulings has left some judicial candidates struggling to raise funds from private donors.⁸²

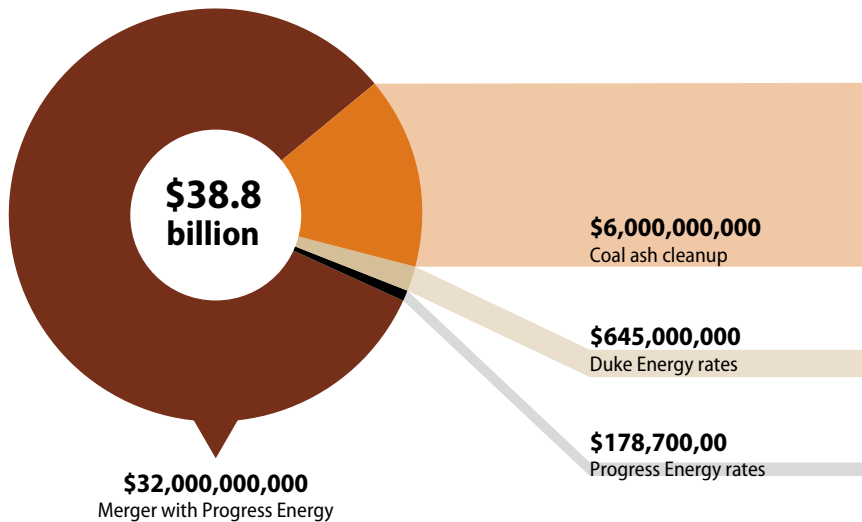
The RSLC gave more than \$1 million to groups running ads for Justice Newby in 2012.⁸³ That year, the RSLC also received millions of dollars from tobacco companies and donations from groups linked to Art Pope, a millionaire who played a huge role in electing the GOP legislature and governor.⁸⁴

Duke Energy gave \$175,000 to the RSLC in 2012.⁸⁵ At the time, the company was facing two lawsuits in North Carolina courts to force it to clean up its coal ash ponds—a multibillion-dollar effort.⁸⁶ The company was also facing lawsuits from consumers over their power bills and the state supreme court has since approved a 7.5 percent increase in energy rates for customers in eastern North Carolina and Asheville.⁸⁷ Duke Energy’s \$32 billion merger with Progress Energy, which made it the country’s largest power utility, is also potentially up for review by the high court.⁸⁸

FIGURE 2

Donating big with billions at stake

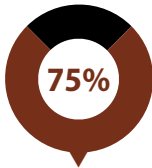
Duke Energy's stake in rulings by North Carolina courts since 2011



Duke Energy's contributions to the biggest spender in North Carolina judicial races



Duke Energy has given **\$235,000** to the RSLC since 2011, making it one of the group's most generous donors in North Carolina.



The RSLC has provided 75 percent of the funding, **\$2 million**, for Justice for All NC, a PAC that runs ads in North Carolina Supreme Court races.



Spending by Justice for All NC accounted for **more than half** of the money spent in the May 5 North Carolina Supreme Court primary.

Source: John Downey, "N.C. Supreme Court upholds Duke Energy's 5.5% rate increase," *Charlotte Business Journal*, August 20, 2014, available at <http://m.bizjournals.com/charlotte/blog/energy/2014/08/n-c-supreme-court-upholds-duke-energys-7-2-rate.html?r=full>; Bruce Henderson, "Court upholds Duke-Progress merger approval," *The Charlotte Observer*, March 4, 2014, available at <http://www.charlotteobserver.com/2014/03/04/4740317/court-upholds-duke-progress-merger.html>; Craig Jarvis, "Duke appeals judge's order in coal-ash pollution case," *The Raleigh News & Observer*, April 3, 2014, available at <http://www.newsobserver.com/2014/04/03/3755516/duke-appeals-judges-order-in-coal.html>; Duke Energy, "North Carolina coal ash plan cost estimate comparisons"; Duke Energy, "Phased-in rates approved for Duke Energy Carolinas' North Carolina customers support new, more efficient power generation and continued high reliability"; Duke Energy, "North Carolina Utilities Commission approves rate increase for Duke Energy Progress' North Carolina customers"; Duke Energy, "Duke Energy, Progress Energy Complete Merger."

Dirty water: Coal ash threatens public health

In February, a storm-water pipe ruptured at one of Duke Energy’s coal-fired power plants and 39,000 tons of toxic coal ash slurry poured into the Dan River, which serves a source of drinking water for more than 42,000 people in North Carolina and Virginia.⁸⁹ The noxious mixture of contaminated water and coal ash—the byproduct of burning coal—flooded the river for 70 miles downstream.⁹⁰

An article in *Scientific American* stated that coal ash can be “more radioactive than nuclear waste.”⁹¹ According to the EPA, living near an unlined coal ash pond can result in a 1-in-50 chance of developing cancer.⁹² And a Sierra Club report noted that coal ash contains “arsenic, lead, mercury, [and] hexavalent chromium” and can cause “cancer, heart damage, lung disease, respiratory distress, kidney disease, reproductive problems, gastrointestinal illness, [and] birth defects.”⁹³

The Dan River spill was the third-largest coal ash spill in history.⁹⁴ In 2008, a dike failed at the Kingston Fossil Plant in Tennessee, spilling 1.1 billion gallons of coal ash sludge throughout 300 acres of land and destroying 40 homes.⁹⁵ The Tennessee Department of Environment and Conservation imposed an \$11.5 million fine, and the Tennessee Valley Authority has spent more than \$1 billion in cleanup costs. Even in the wake of the Kingston spill, no federal standards exist for the storage and disposal of coal ash. Rather, there is a collection of “disjoined and ineffective” state-based regulations.⁹⁶ After being sued by a group of environmental advocates, the EPA is required to publish regulations on the disposal of coal ash by December 19, 2014.⁹⁷



Bryant Gobble, left, hugs his wife, Sherry Gobble, right, as they look from their yard across an ash pond full of dead trees toward Duke Energy's Buck Steam Station in Dukeville, North Carolina.

AP PHOTO/CHUCK BURTON

Without federal guidelines for storing and disposing of coal ash, North Carolina's regulations were lax. For example, "ash ponds constructed before 1994 (at least 21 of North Carolina's 37 ash ponds) are not required to have caps, liners, or conduct groundwater monitoring."⁹⁸ In 2010, sampling results from Mountain Island Lake near a coal ash pond showed that toxins had crept into the lake—a source of drinking water for more than 800,000 people in the Charlotte area.⁹⁹ In a residential neighborhood outside Asheville, a well near a coal ash pond was contaminated with thallium, a chemical formerly used in rat poisons that has been banned since the 1970s.¹⁰⁰ As a result, the state ordered Duke Energy to deliver bottled water to the families.¹⁰¹ But pollution monitoring has discovered excessive levels of toxins in groundwater near all 14 of Duke Energy's coal-fired power plants in North Carolina.¹⁰²

At the time of the Dan River spill, two lawsuits were pending against Duke Energy in state courts aimed at requiring the company to clean up its coal ash ponds. The first, filed in 2012 by a coalition of environmental groups, was successful in trial court, where a North Carolina judge ordered Duke Energy to take "immediate action" to address groundwater contamination.¹⁰³ This ruling is being appealed.¹⁰⁴

Mission accomplished?

Six months after the Dan River spill, with an incredible 92 percent of the released toxic coal ash still coating the bottom of the Dan River, Duke Energy declared the cleanup complete.¹⁰⁵

On the last day of the legislative session, lawmakers passed a coal ash bill that allows Duke Energy to leave coal ash in “unlined, leaking pits at 10 of the 14 sites” and gives the company 15 years to clean up coal ash at the four riskiest sites.¹⁰⁶ The legislature also did not address toxic groundwater migration. It required Duke Energy “to study the problem,” without demanding a timetable for cleanup.¹⁰⁷

The law also creates a new commission to decide if and how Duke Energy must clean up the coal ash ponds, which could simply mean capping the ash ponds and leaving them in place.¹⁰⁸ Gov. McCrory has said he plans to challenge this provision in court because he feels that it overrides his executive authority to choose the members of the commission.¹⁰⁹ A state trial judge had ruled that North Carolina state law required Duke Energy to take immediate action to remedy contamination at its coal ash ponds, but the bill amends this law.¹¹⁰

Environmental activists balked at the bill’s weak approach. One advocate said, “instead of strengthening and furthering protections from coal ash, this bill attempts to weaken cleanup requirements.”¹¹¹

The second lawsuit was an enforcement action filed by the North Carolina Department of Environment and Natural Resources, or DENR, after being prompted by environmental advocates to get involved.¹¹² Under Gov. McCrory’s administration, DENR has been criticized as being “a weak sentry that plays down science, has abandoned its regulatory role and suffers from politicized decision-making.”¹¹³ DENR intervened in a federal lawsuit brought by an environmental organization because it wanted “to use its authority to issue violations over the pollution and to take the case to state court.”¹¹⁴ But DENR “quickly negotiated [a] proposed settlement that included no requirement that Duke [Energy] actually clean up its past pollution or prevent further contamination.”¹¹⁵ The draft settlement merely required Duke Energy to pay \$99,111 in fines.¹¹⁶

After the Dan River spill, DENR withdrew its settlement offer, which was criticized as a “smoky back-room deal with a nominal fine”¹¹⁷ meant to protect the powerful utility instead of the public. Federal prosecutors are now investigating DENR’s handling of Duke Energy and its coal ash pollution.¹¹⁸

After Duke Energy helped elect its former executive as governor of North Carolina, the new administration essentially gave the company free rein to pollute.¹¹⁹ *The New York Times* ran a story on the McCrory administration’s approach to environmental regulations, and it quoted a DENR official telling his employees that “they must focus on customer service, meaning issuing environmental permits for businesses as quickly as possible.”¹²⁰ *The New York Times* also reported, “Environmental regulators in North Carolina consulted Duke Energy last year before seeking to exclude citizen activists from talks to settle charges that the utility’s coal ash ponds had polluted the state’s groundwater.”¹²¹

Gov. McCrory, the current governor of North Carolina, was a Duke Energy employee for 28 years, and he continued to own stock in the company after he took office—without reporting the assets, as required by law.¹²² A month after the Dan River spill, he sold his stock.¹²³ Gov. McCrory claimed that omitting his investments in Duke Energy on an ethics disclosure form was an oversight,¹²⁴ but the scandal only reinforced the perception that the administration had a conflict of interest.¹²⁵

The EPA and Duke Energy agreed to a cleanup plan for the Dan River in May, with the EPA supervising the process and the company reimbursing the agency for its oversight costs.¹²⁶ The agreement was authorized under the Superfund law—the federal statute for cleaning up hazardous waste sites. While Duke Energy has apologized publicly for the Dan River spill,¹²⁷ the company refuses to clean up its remaining coal ash ponds. Duke Energy’s current CEO stated earlier this year that the company expected consumers to cover the cost of closing its coal ash ponds.¹²⁸

The McCrory administration recently announced that, given the recent coal ash bill, it would not sue Duke Energy over the remaining coal ash ponds. The Southern Environmental Law Center, however, is still suing in state court to require a cleanup of all the ponds.¹²⁹

2014: No more clean money

After millionaire Art Pope helped fund the election of the GOP legislature in North Carolina, Gov. McCrory selected Pope as his budget director. Pope had created and funded conservative organizations that opposed the public financing program,¹³⁰ and as budget director, he played a singularly important role in eliminating the program. A blog post by the Institute for Southern Studies detailed the death of the public financing program:

in his first budget proposal, [Pope] zeroed out funding for the program. Pope-funded groups rallied to the cause. And when Republican Rep. Jonathan Jordan—who had received backing from Pope—floated a compromise to partially save judicial public financing, Pope visited the General Assembly, pulled Jordan aside, and the amendment vanished.¹³¹

The legislature also changed the manner in which ethics complaints against justices are handled, altering a process that was unanimously approved by the state supreme court in 2006.¹³² Under the old policy, a panel of senior North Carolina Court of Appeals judges adjudicated ethics complaints against justices.¹³³ The progressive blog NC Policy Watch noted that the new system gives “the justices of the state Supreme Court the sole authority to discipline judges—including themselves—and allow[s] them to decide if, when and who to discipline in secret.”¹³⁴ Justices Newby and Mark Martin actively lobbied legislators to pass the bill.¹³⁵

Justice Newby has faced several requests to recuse himself from a lawsuit filed by voting rights advocates over the legislature’s 2011 redistricting map.¹³⁶ A recent report from the Center for American Progress noted the conflict of interest stemming from the RSLC’s spending:

Having helped elect a conservative legislature in North Carolina, the RSLC then helped these lawmakers draw legislative districts that favored Republicans, at the expense of African American voters. The North Carolina Supreme Court, with Justice Newby returned to the bench, is expected to have the final say on whether the state legislature’s redistricting maps are constitutional.¹³⁷

The RSLC contributed the most money to independent spenders in the last two state supreme court elections, and Pope’s company gave to the RSLC in 2012 and before the May 5 primary.¹³⁸ Pope hosted a fundraiser for one North Carolina judicial candidate in February.¹³⁹ The invitation asked attendees to join Pope in “making the maximum contribution” to the campaign, according to NC Policy Watch.¹⁴⁰

The candidates for North Carolina’s nonpartisan judicial elections are chosen in primary elections in which the top two candidates, regardless of political affiliation, advance. In the May 5 primary, only one out of four seats drew more than two candidates.¹⁴¹ With only days left to register, attorney Jeanette Doran filed to run against incumbent Justice Robin Hudson, considered a Democrat, and another conservative candidate.¹⁴² Although she had no judicial experience, Doran had worked as the executive director of the North Carolina Institute for Constitutional Law, an organization funded by Pope that opposes public financing for judicial candidates.¹⁴³ The primary election saw more than \$1 million in spending—a record sum.¹⁴⁴ The Institute of Southern Studies’ Facing South blog reported that 71 percent of this spending benefitted Doran.¹⁴⁵ Despite this financial support, Doran failed to advance to the general election.¹⁴⁶

Given the donations from polluters to the RSLC, an academic recently commented that, “An undisclosed subtext of the attacks on Justice Hudson is that she is the single justice on the Court on the present Court who has distinguished herself by voting in favor of environmental protections in the cases that have come before her.”¹⁴⁷

Eight candidates for the state supreme court raised nearly \$4 million—all without public financing. But Justice for All NC, a political action committee, or PAC, was by far the biggest spender in 2012 and 2014.¹⁴⁸ As in 2012, most of the group’s funding for 2014 came from the RSLC.¹⁴⁹

The RSLC spent tens of millions of dollars on state-level elections in 2010 and 2012.¹⁵⁰ A recent Center for American Progress report noted the group’s potential to unleash its enormous resources in judicial elections:

*With access to the national GOP fundraising network, the RSLC could potentially dominate judicial elections in several states. The RSLC spent more on state-level legislative races than was spent in all state supreme court races in 2011 and 2012. ... So far, the RSLC has targeted states that have not seen much campaign cash in judicial elections.*¹⁵¹

Duke Energy has been one of the biggest donors to the RSLC in recent years. If the RSLC's preferred candidates end up on the bench, the plaintiffs suing Duke Energy in North Carolina courts may doubt the impartiality of those judges.

Recommendation: Reinstitute voter-funded elections

In North Carolina, the courts are the only potential speed bump to the deregulatory agenda of the governor and legislature. Duke Energy and its corporate allies are not content with holding influence over these political branches of government. The repeal of the public financing program in judicial elections, along with the unlimited spending unleashed by *Citizens United*, will give Duke Energy and other interests the chance to elect their preferred judges.

North Carolina voters must rob them of this opportunity by demanding that legislators reinstate a public financing program for judicial candidates. The program was very popular with voters and judges, who, for the most part, do not want to spend their time fundraising.¹⁵² Citizens would certainly prefer voter-funded elections to campaigns funded by corporations and attorneys with a financial stake in the high court's rulings. Reinstating a public financing program would result in judges who are responsive to voters, not corporate campaign contributors.

As the 2012 election demonstrated, a traditional public financing program would not be as viable in today's era of unlimited independent spending. Any new program must find some way to remain flexible without traditional matching funds. For example, a public financing system that matches small donations with public funds would grant candidates the necessary flexibility without running afoul of the U.S. Supreme Court's *Bennett* decision. Small-donor matching would also result in judges whose re-elections depend on ordinary citizens making small donations, rather than judges who must rely on attorneys and corporate litigants to fund their campaigns.

In New York City's small-donor matching program, donations to municipal candidates that are less than \$175 are matched with \$6 of public funds for each \$1 donated.¹⁵³ Thus, a \$100 donation becomes a \$700 donation.¹⁵⁴ Similar to other public financing programs, the participating candidates must agree to spending limits and other conditions.¹⁵⁵ The New York City Campaign Finance Board stated, "The most common individual contribution size for candidates

participating in the Campaign Finance Program for the 2009 election was \$100,” while more than half of the contributions were \$5,000 or more in statewide campaigns.¹⁵⁶ The city’s 2009 election saw political action committees, or PACS; corporations; or unions contributing only 6.8 percent of campaign cash, compared to nearly two-thirds in state-level elections.¹⁵⁷

The Campaign Finance Institute, a reform group, found that the system made the pool of campaign donors more diverse and more representative of New York City’s population. Nearly all of the city’s “census block groups,” or city blocks, were home to at least one small donor, and the blocks where citizens made small contributions had “higher levels of poverty, higher percentages of non-whites, higher percentages of adult residents who did not complete high school,” and so forth.¹⁵⁸

Critics of North Carolina’s former system often pointed to the cost of the program, which was funded by a voluntary \$3 donation on state income tax forms—similar to the checkoff for presidential campaign public financing—as well as fees paid by attorneys who use the court system. Supporters of the program tried to save it from repeal by shifting all of the costs to attorneys’ fees.¹⁵⁹

A small-donor matching system can be adequately funded through voluntary taxpayer contributions and fees for attorneys. Moreover, the costs of any small-donor matching system would be far outweighed by its benefits. Citizens looking to the courts for redress would not question the judiciary’s impartiality.

Conclusion

Although this study concentrated on campaign cash from attorneys, this report also focuses on polluters for two reasons. First, the nature of judicial campaign cash nationwide has changed since the creation of North Carolina’s public financing program. Corporate campaign cash is playing a much more important role relative to attorneys’ campaign cash. Examining judicial elections from 2000 to 2009, a report from Justice at Stake, the Brennan Center for Justice, and the National Institute on Money in State Politics concluded:

For more than a decade, players on the political right have raised more money and won more court races. ... It has been an asymmetrical battle, with conservatives channeling money through national and sometimes state-based groups, while the left largely has organized at the state level.¹⁶⁰

The same groups also found that “Business and conservative groups proved the dominant force overall ... accounting for seven of the top 10 spenders in 2011–12,” although a few groups on the left also spent big on elections in the same election cycle.¹⁶¹

Secondly, polluting corporations, more than most other businesses, are repeat players in state courts. Other corporations may occasionally find themselves at the high court for contract disputes, and the health care industry often has a financial stake in tort disputes, but polluters are frequently sued by their neighbors and by environmental regulators.

So, why do corporations and attorneys spend money on judicial elections?

This study’s results clearly indicate that repeat-player attorneys who donate to judges also had more favorable rulings. If the same holds true for corporate repeat players, then one has to ask: Which branch of government is looking out for the majority of North Carolinians, who are not contributors? It is already clear from their recent actions that North Carolina’s families cannot look to their governor and legislators for protection. Will the judiciary let them down as well?

North Carolina citizens must demand that their legislators reinstitute a public financing program to keep campaign cash out of courtrooms. The now-repealed program led voters to trust that courts were impartial. A new public financing program that amplifies the donations of ordinary citizens could restore this trust.

Residents injured by pollution from the hog industry or Duke Energy could seek justice in the courts without worrying that the judges have received campaign cash from the defendants. A patient injured by a hospital's negligence could file suit without worrying about bias. Likewise, a hospital would not have to worry that the plaintiff's attorney made large contributions to the judge. Employees seeking a fair workplace, voters who want uninhibited access to the polls, and consumers seeking redress for fraud could vindicate their rights before judges whose campaigns are funded by small donations, instead of cash from attorneys and corporations.

Appendix and methodology

This study was intended to explore any correlations between law firms and success rates before the North Carolina Supreme Court. The authors wanted to explore the impact of the public financing program on any such correlations. The study does not and cannot suggest that campaign contributions sought to influence any judge's decisions in any case.

The data on campaign contributions, with the exception of the data for 1998, came from the National Institute on Money in State Politics website.¹⁶² The website allows searches for contributions by "Lawyers and Lobbyists" for each year. The authors collected information on these donations for each winning or incumbent candidate, as contributions to losing candidates likely did not influence any decision-making. The data for 1998 spending came from the North Carolina State Board of Elections' website.¹⁶³

The authors then added up donations for each attorney and each law firm. To find cases involving these attorneys, they searched the LexisNexis database of North Carolina Supreme Court cases for the names of the attorneys and their firms. This often proved challenging, due to changing names of law firms, the use of ampersands in the firm's name, and other factors. To overcome these problems, the authors searched by only the first two names of the firm when the full name produced no results.

The analysis includes information, such as the case names, citations, and the attorney donor's win or loss, for each case. It does not include rulings on motions to file amicus briefs, motions to withdraw appeals, or cases dismissed as moot. If the case had several opinions in a given year, only the most recent ruling was recorded. But if the opinions came in different years, all were recorded. The authors also noted any cases involving multiple attorney donors and determined whether the higher donors won.

TABLE A1.1
Attorneys who contributed money with cases before the court (1998)

Total donated	Number of firms	Number of cases won	Number of cases	Percent of cases won
\$0–\$99	4	5	8	63%
\$100–\$199	14	12	28	43%
\$200–\$299	28	25	50	50%
\$300–\$399	2	3	7	43%
\$400–\$499	2	4	7	57%
\$500–\$599	8	6	14	43%
\$600–\$699	1	0	2	0%
\$700–\$799	4	6	11	55%
\$800–\$899	1	4	6	67%
\$900–\$999	1	0	2	0%
\$1000–\$1,099	4	3	7	43%
\$1,100–\$1,199	1	3	6	50%
\$1,200–\$1,299	1	1	1	100%
\$1,300–\$1,399	1	2	3	67%
\$1,700–\$1,799	1	1	3	33%
\$2,000–\$2,099	1	0	1	0%
\$2,100–\$2,199	1	1	2	50%
\$5,200–\$5,299	1	12	15	80%

Source: North Carolina State Board of Elections, "NC Campaign Report Search By Entity," available at http://app.ncsbe.gov/webapps/cf_rpt_search_org/ (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

TABLE A1.2
Success rate for donors in 1998

	Giving \$400 or less	Giving more than \$400	Giving \$1,000 or more
Average	48.04%	53.42%	60.53%
Average success rate for three to five cases	46.15%	50.00%	55.56%
Average success rate for more than five cases	33.33%	69.70%	71.43%

Source: North Carolina State Board of Elections, "NC Campaign Report Search By Entity," available at http://app.ncsbe.gov/webapps/cf_rpt_search_org/ (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

TABLE A2.1
Attorneys who contributed money with cases before the court (2000)

Total donated	Number of firms	Number of cases won	Number of cases	Percent of cases won
\$0–\$99	3	3	4	75%
\$100–\$199	21	17	23	74%
\$200–\$299	24	16	42	38%
\$300–\$399	7	3	11	27%
\$400–\$499	5	7	11	64%
\$500–\$599	13	11	16	69%
\$600–\$699	1	4	6	67%
\$700–\$799	6	6	10	60%
\$800–\$899	2	1	3	33%
\$1000–\$1,099	9	14	21	67%
\$1,100–\$1,199	2	3	5	60%
\$1,200–\$1,299	5	1	7	14%
\$1,500–\$1,599	1	0	1	0%
\$1,600–\$1,699	1	0	1	0%
\$1,700–\$1,799	1	2	2	100%
\$1,800–\$1,899	1	0	4	0%
\$2,000–\$2,099	1	0	1	0%
\$2,100–\$2,199	1	0	2	0%
\$2,400–\$2,499	1	0	4	0%
\$2,600–\$2,699	1	1	2	50%
\$2,800–\$2,899	1	1	1	100%
\$3,200–\$3,299	2	8	10	80%
\$3,500–\$3,599	1	2	3	67%
\$3,700–\$3,799	1	3	5	60%
\$3,800–\$3,899	1	0	1	0%
\$5,300–\$5,399	1	1	4	25%
\$6,000–\$6,099	1	6	10	60%
\$12,800–\$12,899	1	0	1	0%
\$20,000–\$20,099	1	8	13	62%

Source: National Institute on Money in State Politics, "State Overviews," available at <http://www.followthemoney.org/our-data/state-overviews/> (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

TABLE A2.2
Success rate for donors in 2000

	Giving \$550 or less	Giving more than \$550	Giving \$1,000 or more
Average	53.27%	52.14%	51.02%
Average success rate for three to five cases	35.48%	44.19%	40.54%
Average success rate for more than five cases	No data	68.29%	68.57%

Source: National Institute on Money in State Politics, "State Overviews," available at <http://www.followthemoney.org/our-data/state-overviews/> (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

TABLE A3.1
Attorneys who contributed money with cases before the court (2002)

Total donated	Number of firms	Number of cases won	Number of cases	Percent of cases won
\$0–\$99	8	5	13	38%
\$100–\$199	17	15	26	58%
\$200–\$299	17	11	20	55%
\$300–\$399	4	4	6	67%
\$400–\$499	2	1	2	50%
\$500–\$599	8	10	18	56%
\$600–\$699	4	7	10	70%
\$700–\$799	1	3	5	60%
\$800–\$899	2	1	7	14%
\$900–\$999	1	1	1	100%
\$1,000–\$1,099	1	1	1	100%
\$1,100–\$1,199	3	5	7	71%
\$1,200–\$1,299	1	3	3	100%
\$1,300–\$1,399	1	0	1	0%
\$1,400–\$1,499	1	2	2	100%
\$1,500–\$1,599	1	1	4	25%
\$1,600–\$1,699	1	1	2	50%
\$2,100–\$2,199	1	2	2	100%
\$2,200–\$2,299	1	1	1	100%
\$2,300–\$2,399	1	1	2	50%
\$2,400–\$2,499	1	1	2	50%
\$3,000–\$3,099	1	1	1	100%
\$3,100–\$3,199	1	0	2	0%
\$4,000–\$4,099	1	4	7	57%
\$6,300–\$6,399	1	6	9	67%

Source: National Institute on Money in State Politics, "State Overviews," available at <http://www.followthemoney.org/our-data/state-overviews/> (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

TABLE A3.2
Success rate for donors in 2002

	Giving \$400 or less	Giving more than \$400	Giving \$1,000 or more
Average	53.03%	59.09%	63.04%
Average success rate for three to five cases	50.00%	64.29%	61.54%
Average success rate for more than five cases	No data	53.57%	62.50%

Source: National Institute on Money in State Politics, "State Overviews," available at <http://www.followthemoney.org/our-data/state-overviews/> (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

TABLE A4.1
Attorneys who contributed money with cases before the court (2004)

Total donated	Number of firms	Number of cases won	Number of cases	Percent of cases won
\$0–\$99	3	3	5	60%
\$100–\$199	5	5	9	56%
\$200–\$299	5	5	9	56%
\$300–\$399	4	6	10	60%
\$400–\$499	4	5	12	42%
\$600–\$699	2	3	5	60%
\$700–\$799	3	3	13	23%
\$900–\$999	1	4	4	100%
\$1,100–\$1,199	1	2	6	33%
\$1,200–\$1,299	1	2	2	100%
\$1,300–\$1,399	1	2	2	100%
\$2,400–\$2,499	2	8	12	67%
\$2,800–\$2,899	1	3	3	100%
\$3,400–\$3,499	1	1	2	50%
\$10,400–\$10,499	1	6	8	75%

Source: National Institute on Money in State Politics, "State Overviews," available at <http://www.followthemoney.org/our-data/state-overviews/> (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

TABLE A4.2
Success rate for donors in 2004

	Giving \$450 or less	Giving more than \$450	Giving \$1,000 or more
Average	52.27%	60.34%	68.57%
Average success rate for three to five cases	64.71%	90.91%	100.00%
Average success rate for more than five cases	42.86%	51.35%	61.54%

Source: National Institute on Money in State Politics, "State Overviews," available at <http://www.followthemoney.org/our-data/state-overviews/> (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

TABLE A5.1
Attorneys who contributed money with cases before the court (2006)

Total donated	Number of firms	Number of cases won	Number of cases	Percent of cases won
\$0–\$99	3	0	3	0%
\$100–\$199	3	2	3	67%
\$200–\$299	5	10	28	36%
\$300–\$399	2	2	3	67%
\$500–\$599	10	9	14	64%
\$600–\$699	2	2	6	33%
\$700–\$799	6	5	8	63%
\$800–\$899	5	4	8	50%
\$900–\$999	1	1	1	100%
\$1,000–\$1,099	3	2	4	50%
\$1,400–\$1,499	1	5	9	56%
\$1,500–\$1,599	2	2	4	50%
\$1,700–\$1,799	1	1	3	33%
\$1,800–\$1,899	1	1	2	50%
\$2,000–\$2,099	2	4	5	80%
\$2,200–\$2,299	1	0	1	0%
\$2,500–\$2,599	1	3	4	75%
\$2,700–\$2,799	1	1	2	50%
\$3,000–\$3,099	2	2	3	67%
\$3,300–\$3,399	1	3	5	60%
\$3,700–\$3,799	1	0	1	0%
\$4,300–\$4,399	1	0	2	0%
\$4,800–\$4,899	1	1	1	100%
\$5,400–\$5,499	1	1	2	50%
\$6,200–\$6,299	2	1	6	17%
\$6,500–\$6,599	1	1	3	33%
\$7,900–\$7,999	1	4	4	100%
\$24,200–\$24,299	1	6	8	75%

Source: National Institute on Money in State Politics, "State Overviews," available at <http://www.followthemoney.org/our-data/state-overviews/> (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

TABLE A5.2
Success rate for donors in 2006

	Giving \$750 or less	Giving more than \$750	Giving \$1,000 or more
Average	46.15%	55.13%	55.07%
Average success rate for three to five cases	36.36%	54.29%	56.25%
Average success rate for more than five cases	No data	64.71%	64.71%

Source: National Institute on Money in State Politics, "State Overviews," available at <http://www.followthemoney.org/our-data/state-overviews/> (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

TABLE A6.1
Attorneys who contributed money with cases before the court (2008)

Total donated	Number of firms	Number of cases won	Number of cases	Percent of cases won
\$0–\$99	10	9	14	64%
\$100–\$199	9	7	14	50%
\$200–\$299	1	0	1	0%
\$300–\$399	2	2	3	67%
\$600–\$699	1	1	2	50%
\$700–\$799	2	3	6	50%
\$800–\$899	1	0	1	0%
\$1,100–\$1,199	2	3	5	60%
\$1,400–\$1,499	2	9	11	82%
\$2,100–\$2,199	1	2	3	67%

Source: National Institute on Money in State Politics, "State Overviews," available at <http://www.followthemoney.org/our-data/state-overviews/> (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

TABLE A6.2
Success rate for donors in 2008

	Giving \$200 or less	Giving more than \$200	Giving \$1,000 or more
Average	57%	63%	74%
Average success rate for three to five cases	66.67%	50.00%	50.00%
Average success rate for more than five cases*	No data	67%	80%

*Only one firm had more than 5 cases with \$1,000 or more in donations.

Source: National Institute on Money in State Politics, "State Overviews," available at <http://www.followthemoney.org/our-data/state-overviews/> (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

TABLE A7.1
Attorneys who contributed money with cases before the court (2010)

Total donated	Number of firms	Number of cases won	Number of cases	Percent of cases won
\$100–\$199	7	5	7	71%
\$200–\$299	3	0	3	0%
\$500–\$599	3	2	3	67%
\$600–\$699	1	2	3	67%
\$700–\$799	1	3	4	75%
\$1,100–\$1,199	1	0	1	0%

Source: National Institute on Money in State Politics, "State Overviews," available at <http://www.followthemoney.org/our-data/state-overviews/> (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

TABLE A7.2
Success rate for donors in 2010

	Giving \$200 or less	Giving more than \$200	Giving \$1,000 or more
Average	60.00%	63.64%	0.00%
Average success rate for three to five cases*	50.00%	71.43%	No data
Average success rate for more than five cases	No data	No data	No data

*Only one firm had more 3-5 cases and gave \$200 or less

Source: National Institute on Money in State Politics, "State Overviews," available at <http://www.followthemoney.org/our-data/state-overviews/> (last accessed October 2014); data on North Carolina Supreme Court cases in the Lexis-Nexis legal database (last accessed August 2014).

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Endnotes

- 1 Tasnim Shamma, "Governor McCrory Signs Voter Photo ID Bill Into Law," WFAE, August 12, 2013, available at <http://wfae.org/post/governor-mccrory-signs-voter-photo-id-bill-law>.
- 2 Rob Christensen, "Public financing for judges popular according to poll by GOP firm," Under the Dome, June 3, 2013, available at http://projects.newsobserver.com/under_the_dome/public_financing_for_judges_popular_according_to_poll_by_gop_firm.
- 3 Democracy North Carolina, "A Profile of the Judicial Public Campaign Program, 2004–10," available at <http://www.democracy-nc.org/downloads/JudicialPubFinSuccess2004-2010.pdf> (last accessed August 2014).
- 4 Chris Kromm, "After tumultuous reign, Art Pope steps down as NC budget chief," Facing South, August 7, 2014, available at <http://www.southernstudies.org/2014/08/after-tumultuous-reign-art-pope-steps-down-as-nc-b.html>.
- 5 Chris Kromm, "Cost of NC Supreme Court race tops \$5 million," The Institute for Southern Studies Facing South blog, October 31, 2014, available at <http://www.southernstudies.org/2014/10/cost-of-nc-supreme-court-races-tops-5-million.html>.
- 6 This figure is based on Legal Progress's analysis of Kantar Media's CMAG data, provided by The Atlas Project.
- 7 Ibid. As of November 3, 2014, Justice for All NC had spent \$838,690 in the state supreme court election.
- 8 FollowNCMoney, "Republican State Leadership Committee Sends \$400,000 more to Justice for All NC just over a week before the election," October 28, 2014, available at <http://followncmoney.org/news/republican-state-leadership-committee-sends-400000-more-justice-all-nc-just-over-week-election>.
- 9 Republican State Leadership Committee, "About RSLC," available at <http://www.rslc.gop/about> (last accessed October 2014).
- 10 The company also donated \$10,000 to the RSLC before the May 5 primary election for the North Carolina Supreme Court. These figures are based on the RSLC's reported contributions as of August 2014. See Center for Responsive Politics, "Republican State Leadership Comte.," available at http://www.opensecrets.org/527s/527cmtdetail_donors.php?url=527cmtdetail_donors.php%3Fcycle%3D2014%26in%3D050532524&cname=Duke&in=050532524&cycle=2014 (last accessed October 2014).
- 11 Sue Sturgis, "Big Energy's outside spending in North Carolina: Who benefits?" The Institute for Southern Studies Facing South blog, October 31, 2014, available at <http://www.southernstudies.org/2014/10/big-energies-outside-spending-in-north-carolina-who.html>.
- 12 Duke Energy, "Power Plants," available at <http://www.duke-energy.com/about-us/power-plants.asp> (last accessed September 2014).
- 13 Duke Energy, "Fast Facts: Duke Energy Corporation" (2014), available at <http://www.duke-energy.com/pdfs/de-factsheet.pdf>.
- 14 David Pomerantz, "Don't Trust North Carolina Politicians Responding to the Coal Ash Spill – Duke Energy Owns Them Too," Greenpeace, February 8, 2014, available at <http://greenpeaceblogs.org/2014/02/08/dont-trust-north-carolina-politicians-responding-to-the-coal-ash-spill-duke-energy-owns-them-too/>.
- 15 J. Andrew Curliss and Craig Jarvis, "McCrory misstated Duke Energy holdings, sold stock after coal-ash spill," *The Raleigh News & Observer*, August 13, 2014, available at http://www.newsobserver.com/2014/08/13/4070158_mccrory-changes-financial-disclosure.html?rh=1.
- 16 J. Andrew Curliss and Lynn Bonner, "McCrory says no rules were broken in ethics filings on Duke Energy stock sale," *The Raleigh News & Observer*, August 14, 2014, available at <http://www.newsobserver.com/2014/08/14/4071494/gov-mccrory-says-no-rules-were.html>.
- 17 Michael Biesecker, "North Carolina Regulators Side With Duke Energy In Coal Ash Appeal," Associated Press, April 8, 2014, available at http://www.huffingtonpost.com/2014/04/08/north-carolina-regulators-dukeenergy_n_5111745.html.
- 18 Jeff Spross, "EPA And Duke Energy Strike A Deal To Clean Up Dan River Coal Ash Spill," ThinkProgress, May 23, 2014, available at <http://thinkprogress.org/climate/2014/05/23/3441138/epa-duke-energy-deal-coal-ash-spill/>.
- 19 Ibid.
- 20 Catawaba Riverkeeper, "Mountain Island Lake Sampling Results," available at <http://www.catawbariverkeeper.org/our-work/covekeepers/mountain-island-lake/mountain-island-lake-sampling-results> (last accessed October 2014).
- 21 Sierra Club, "Dangerous Waters: America's Coal Ash Crisis" (2014), available at http://www.eenews.net/assets/2014/05/15/document_gw_02.pdf; Order on Petition for Judicial Review at 2-3, *Cape Fear River Watch v. N.C. Envtl. Mgmt. Comm.*, No. 13-CVS-93 (N.C. Sup. Ct. Mar. 6, 2014), available at <http://pulse.ncpolicywatch.org/wp-content/uploads/2014/03/Duke-Energy-3-6-14-Order-on-Petition-for-Judicial-Review.pdf>.
- 22 Lisa Rab, "Jim Rogers's Closing Act," *Charlotte Magazine*, May 2013, available at <http://www.charlottemagazine.com/Charlotte-Magazine/May-2013/Jim-Rogers-Duke-Energy-Closing-Act?cparticle=1&siarticle=0#artanc>.
- 23 Duke Energy, "Ash Management," available at <http://www.duke-energy.com/ash-management/> (last accessed November 2014).
- 24 Southern Environmental Law Center, "S729 Fails to Protect People from Duke Energy's Coal Ash Pollution," Press release, August 19, 2014, available at <https://www.southernenvironment.org/news-and-press/press-releases/joint-press-statement-on-n.c.-coal-ash-bill-s729-s729-fails-to-protect-people-from-duke-energies-co>.
- 25 Craig Jarvis, "McCrory likely to sign coal ash bill despite concerns," *The Raleigh News & Observer*, August 25, 2014, available at <http://www.newsobserver.com/2014/08/25/4096100/mccrory-likely-to-sign-coal-ash.html>.
- 26 Jim Morrill, "Sarah Parker leaves legacy on Supreme Court," *The Charlotte Observer*, August 27, 2014, available at <http://www.charlotteobserver.com/2014/08/27/5133385/sarah-parker-leaves-legacy-on.html#storylink=cpy>.
- 27 Ronald Smothers, "Spill Puts a Spotlight On a Powerful Industry," *The New York Times*, June 30, 1995, available at <http://www.nytimes.com/1995/06/30/us/spill-puts-a-spotlight-on-a-powerful-industry.html>.
- 28 Wendee Nicole, "CAFOs and Environmental Justice: The Case of North Carolina," *Environmental Health Perspectives* 121 (2013): A182–A189, available at <http://ehp.niehs.nih.gov/121-a182/>.

- 29 Ibid.; Pat Stith and Joby Warrick, "Murphy's Law: For Murphy, good government means good business," *The Raleigh News & Observer*, February 22, 1995, available at <http://www.pulitzer.org/archives/5897>. See also Smothers, "Spill Puts a Spotlight On a Powerful Industry."
- 30 Pat Stith, Joby Warrick, and Melanie Sill, "Boss Hog: The power of pork," *The Raleigh News & Observer*, February 19, 1995, available at <http://www.pulitzer.org/archives/5892>.
- 31 Donella Meadows, "Pork Politics," *Grist*, January 24, 2000, available at <http://grist.org/article/politics/>.
- 32 Ibid.
- 33 Ibid.
- 34 *The New York Times*, "Huge Spill of Hog Waste Fuels an Old Debate in North Carolina," June 24, 1995, available at <http://www.nytimes.com/1995/06/25/us/huge-spill-of-hog-waste-fuels-an-old-debate-in-north-carolina.html>.
- 35 John D. Burns, Comment, *The Eight Million Little Pigs—A Cautionary Tale: Statutory and Regulatory Responses to Concentrated Hog Farming*, 31 Wake Forest L. Rev. 851 (1996).
- 36 U.S. Environmental Protection Agency, "Animal Waste Disposal Issues: Executive Summary" (1997), available at <http://www.epa.gov/oig/reports/1997/hogexsm.pdf>.
- 37 U.S. Environmental Protection Agency, "Animal Waste Disposal Issues Ch. 2" (1997), available at <http://www.epa.gov/oig/reports/1997/hogexsm.pdf>.
- 38 Peter T. Kilborn, "Hurricane Reveals Flaw in Farm Law as Animal Waste Threatens N. Carolina Water," *The New York Times*, October 17, 1999, available at <http://www.nytimes.com/1999/10/17/us/hurricane-reveals-flaws-in-farm-law-as-animal-waste-threatens-n-carolina-water.html>; U.S. Environmental Protection Agency, "North Carolina Hog Farm Agrees to Comply with Emergency Administrative Order Issued by the EPA," Press release, July 21, 2000, available at <http://yosemite.epa.gov/opa/admpress.nsf/905a0f1800315fd385257359003d4808/840fe980d584b99385257361006b227a!OpenDocument>.
- 39 For information on N.C. Gen. Stat. §§ 106-800 *et seq.*, see David W. Owens, "Agricultural Uses and Zoning," The University of North Carolina at Chapel Hill School of Government, January 2012, available at <http://www.sog.unc.edu/node/934>.
- 40 N.C. Gen. Stat. § 153A-340; "The purposes of this [act is] to allow counties time to adopt zoning ordinances under G.S. 153A- 340," according to *The Clean Water Responsibility and Environmentally Sound Policy Act*, H.B. 515, 1997N.C. Sess. Laws 458 (N.C. 1997).
- 41 *Craig v. Cnty of Chatham*, 565 S.E.2d 172, 174 (N.C. 2002).
- 42 Ibid., p. 175.
- 43 Nicole, "CAFOs and Environmental Justice: The Case of North Carolina."
- 44 Ibid.
- 45 *Craig*, 565 S.E.2d, p. 175.
- 46 *Craig*, 545 S.E.2d, p. 461.
- 47 *Craig v. Cnty of Chatham*, 545 S.E.2d 455, 462 (Ct. App., N.C., 2001) (Cnty of Chatham).
- 48 *Craig*, 565 S.E.2d, p. 175.
- 49 For more information on N.C. Gen. Stat. § 130A-39(b), see *Craig*, 565 S.E.2d, p. 176.
- 50 *Craig*, 565 S.E.2d, p. 172.
- 51 *Craig*, 565 S.E.2d, pp. 172, 176.
- 52 Ibid., p. 177.
- 53 *Craig*, 565 S.E.2d, p. 180.
- 54 Christy Noel, Note, *Preemption Hogwash: North Carolina's Judicial Repeal of Local Authority to Regulate Hog Farms in Craig v. County of Chatham*, 80 N.C. L. Rev. 2121, 2126 (2002).
- 55 *Conroy v. Aniskoff*, 507 U.S. 511, 519 (1993) (Scalia, J., concurring).
- 56 National Institute on Money in Politics, "Election Overview," available at <http://followthemoney.org/election-overview?s=NC&y=2000> (last accessed September 2014).
- 57 National Institute on Money in Politics, "General Results," available at <http://www.followthemoney.org/database/search.phtml?searchbox=carlton+law+firm> (last accessed September 2014).
- 58 *MW Clearing & Grading, Inc. v. North Carolina Department of Environment and Natural Resources*, 628 S.E.2d 379 (N.C. 2006).
- 59 *Holly Ridge Associates, LLC v. North Carolina Department of Environment and Natural Resources*, 648 S.E.2d 830 (N.C. 2007).
- 60 *Murphy Family Farms v. North Carolina Department of Environment and Natural Resources*, 605 S.E.2d 636 (N.C. 2004).
- 61 *Murphy Family Farms v. North Carolina Department of Environment and Natural Resources*, 585 S.E.2d 446 (N.C.App. 2003).
- 62 Naftali Bendavid, "Reform judicial races, critics urge," *Chicago Tribune*, February 19, 2002, available at http://articles.chicagotribune.com/2002-02-19/news/0202190270_1_judicial-races-judges-illinois-campaign.
- 63 Michael Cobb and James Zink, "Financing, fairness and faith in judicial elections," *The Raleigh News & Observer*, August 4, 2013, available at <http://www.newsobserver.com/2013/08/04/3082166/financing-fairness-and-faith-in.html>.
- 64 *Judicial Campaign Reform Act*, North Carolina S.B. 1054 (2002), available at <http://www.ncleg.net/Sessions/2001/Bills/Senate/PDF/S1054v10.pdf>.
- 65 For information on the authors' methodology for this research, please see the "Appendix and methodology" section.
- 66 *Caperton v. A.T. Massey Coal Company*, 556 U.S. 868 (2009).
- 67 Ibid.
- 68 Ibid.
- 69 For information on the study's results, please see the "Appendix and methodology" section.

- 70 Gus Voss, "Stark Contrasts: The Effect of Public Campaign Funds on North Carolina Supreme Court Races," National Institute on Money in State Politics, February 6, 2014, available at <http://www.followthemoney.org/press/ReportView.phtml?r=503>.
- 71 Ibid.
- 72 *Citizens United v. FEC*, 558 U.S. 310 (2010); *SpeechNOW.org v. FEC*, 599 F.3d. 686 (D.C.Cir 2010).
- 73 Billy Corriher, "The Million Dollar Judges of 2012" (Washington: Center for American Progress, 2013), available at <https://www.americanprogress.org/issues/civil-liberties/report/2013/01/15/49590/the-million-dollar-judges-of-2012/>.
- 74 Chris Kromm, "Power and Justice: Duke Energy extends influence to courts," Facing South, March 7, 2014, available at <http://www.southernstudies.org/2014/03/power-and-justice-duke-energy-extends-influence-to.html>.
- 75 Billy Corriher, "Koch Brothers and D.C. Conservatives Spending Big on Nonpartisan State Supreme Court Races" (Washington: Center for American Progress, 2014), available at <http://cdn.americanprogress.org/wp-content/uploads/2014/08/StateSupremeCourtsv2.pdf>.
- 76 Voss, "Stark Contrasts."
- 77 *Calabria v. North Carolina Board of Elections*, 640 S.E.2d 61 (N.C.App. 2006).
- 78 Ibid.
- 79 *Arizona Free Enterprise Club v. Bennett*, 564 U.S. ___, 131 S.Ct. 2806 (2011).
- 80 Ibid.
- 81 Morrill, "Sarah Parker leaves legacy on Supreme Court."
- 82 Gary D. Robertson, Associated Press, "Dialing for dollars new for NC court hopefuls," updated October 12, 2014, available at <http://www.wncn.com/story/26647842/dialing-for-dollars-new-for-nc-court-hopefuls>.
- 83 FollowNCMoney, "Justice for All NC," available at <http://www.followncmoney.org/committee/justice-all-nc> (last accessed October 2014).
- 84 Chris Kromm, "5 players behind the Big Money attacks in NC Supreme Court elections," Facing South, May 2, 2014, available at <http://www.southernstudies.org/2014/05/5-players-behind-the-big-money-attacks-in-nc-supre.html>.
- 85 Ibid.
- 86 Andrew Zajac, "Duke Energy, North Carolina Appeal Coal Ash Ruling," Bloomberg, April 8, 2014, available at <http://www.bloomberg.com/news/2014-04-08/duke-energy-north-carolina-appeal-coal-ash-ruling.html>.
- 87 Renee Chou, "Utility Commission, AG approve settlements in Duke Energy probe," WRAL, December 3, 2012, available at <http://www.wral.com/nc-regulator-to-vote-on-settling-duke-energy-probe/11836800/>; Gary D. Robertson, "NC justices uphold order that led to rate rise," Associated Press, August 20, 2014, available at <http://www.wwaytv3.com/2014/08/20/nc-justices-uphold-order-that-led-to-rate-rise>.
- 88 Bruce Henderson, "Court upholds Duke-Progress merger approval," *The Charlotte Observer*, March 4, 2014, available at <http://www.charlotteobserver.com/2014/03/04/4740317/court-upholds-duke-progress-merger.html>.
- 89 Spross, "EPA And Duke Energy Strike A Deal To Clean Up Dan River Coal Ash Spill."
- 90 Ibid.
- 91 Mara Hvistendahl, "Coal Ash Is More Radioactive than Nuclear Waste," *Scientific American*, December 13, 2007, available at <http://www.scientificamerican.com/article/coal-ash-is-more-radioactive-than-nuclear-waste/>.
- 92 U.S. Environmental Protection Agency, "Human and Ecological Risk Assessment of Coal Combustion Wastes" (2010), available at <http://earthjustice.org/sites/default/files/library/reports/epa-coal-combustion-waste-risk-assessment.pdf>.
- 93 Sierra Club, "Dangerous Waters."
- 94 Taft Wireback, "Water is pushing and burying coal ash in Dan River," *Greensboro News & Record*, May 3, 2014, available at http://www.news-record.com/news/dan-river/article_065e00b6-d336-11e3-9ea6-0017a43b2370.html.
- 95 Sierra Club, "Dangerous Waters."
- 96 Ibid.
- 97 Consent Decree at 5, *Appalachian Voices v. McCarthy*, No. 12-cv-523 (D.D.C. 2014), available at <http://earthjustice.org/sites/default/files/files/044-1-Consent-Decree.pdf>.
- 98 Earthjustice and Waterkeeper Alliance, "North Carolina: Coal Ash Disposal, Damage and Regulation," available at <http://earthjustice.org/sites/default/files/nc-coal-ash-factsheet-1112.pdf> (last accessed October 2014).
- 99 Catawaba Riverkeeper, "Mountain Island Lake Sampling Results"; Sierra Club, "Dangerous Waters," p. 23.
- 100 Mitch Weiss and Michael Biesecker, "Duke Energy ordered to test near homes for toxic chemicals," Associated Press, July 3, 2014, available at http://www.sltoday.com/business/local/duke-energy-ordered-to-test-near-homes-for-toxic-chemicals/article_beab5e9f-0051-5bc8-b57a-0cf91563f252.html.
- 101 Ibid; The Associated Press reported, "Duke spokeswoman Erin Culbert says the company wants to ensure both homes have safe water supplies." See Associated Press, "Duke ordered to test near homes for coal chemicals," News Channel 11, July 17, 2014, available at <http://www.wjhl.com/story/25935177/duke-ordered-to-test-near-homes-for-coal-chemicals>.
- 102 Order on Petition for Judicial Review at 2-3, *Cape Fear River Watch v. N.C. Envtl. Mgmt. Comm.*, No. 13-CVS-93 (N.C. Sup. Ct. Mar. 6, 2014), available at <http://pulse.ncpolicywatch.org/wp-content/uploads/2014/03/Duke-Energy-3-6-14-Order-on-Petition-for-Judicial-Review.pdf>.
- 103 Ibid., p. 16.
- 104 Zajac, "Duke Energy, North Carolina Appeal Coal Ash Ruling"; Order Denying Motion for Stay During Appeal Period at 1, *Cape Fear River Watch v. N.C. Envtl. Mgmt. Comm.*, No. 13-CVS-93 (N.C. Sup. Ct. March 20, 2014), available at http://www.wral.com/asset/news/state/nccapitol/2014/03/20/13497730/Order_denying_motion_for_stay.pdf.
- 105 Duke Energy, "Duke Energy completes cleanup work along the Dan River," Press release, July 16, 2014, available at <http://www.duke-energy.com/news/releases/2014071601.asp>.

- 106 Southern Environmental Law Center, "Joint Press Statement on N.C. Coal Ash Bill S729," Press release, August 19, 2014, available at <https://www.southernenvironment.org/news-and-press/press-releases/joint-press-statement-on-n.c.-coal-ash-bill-s729-s729-fails-to-protect-people-from-duke-energys-co>.
- 107 Andrew Kenney, "NC lawmakers pass coal ash legislation; adjourn very long short session," *The Raleigh News & Observer*, August 20, 2014, available at <http://www.newsobserver.com/2014/08/20/4083859/nc-house-coal-ash-bill-heads-to.html>.
- 108 Ibid.
- 109 Jarvis, "McCrory likely to sign coal ash bill despite concerns."
- 110 Clarke Morrison, "Environmentalists slam new coal ash bill," *Asheville Citizen-Times*, August 20, 2014, available at <http://www.citizen-times.com/story/news/local/2014/08/20/environmentalists-slam-new-coal-ash-bill/14340307/>.
- 111 Ibid.
- 112 Biesecker, "North Carolina Regulators Side With Duke Energy In Coal Ash Appeal."
- 113 Trip Gabriel, "Ash Spill Shows How Watchdog Was Defanged," *The New York Times*, February 28, 2014, available at http://www.nytimes.com/2014/03/01/us/coal-ash-spill-reveals-transformation-of-north-carolina-agency.html?_r=0.
- 114 Michael Biesecker, "Investigation into NC coal ash spill widens," Associated Press, February 19, 2014, available at <http://bigstory.ap.org/article/prosecutors-file-new-subpoenas-over-nc-coal-ash>.
- 115 Ibid.
- 116 Biesecker, "North Carolina Regulators Side With Duke Energy In Coal Ash Appeal."
- 117 Gabriel, "Ash Spill Shows How Watchdog Was Defanged."
- 118 Biesecker, "Investigation into NC coal ash spill widens."
- 119 Sue Sturgis, "New details emerge on Gov. McCrory's Duke Energy money ties," Facing South, April 22, 2014, available at <http://www.southernstudies.org/2014/04/new-details-emerge-on-gov-mccrorys-duke-energy-mon.html>.
- 120 Gabriel, "Ash Spill Shows How Watchdog Was Defanged."
- 121 Michael Wines, "Emails Link Duke Energy and North Carolina," *The New York Times*, March 14, 2014, available at <http://www.nytimes.com/2014/03/14/us/emails-link-duke-energy-and-state.html>.
- 122 Curliss and Bonner, "McCrory says no rules were broken in ethics filings on Duke Energy stock sale."
- 123 Ibid.
- 124 Ibid.
- 125 Ibid.
- 126 Spross, "EPA And Duke Energy Strike A Deal To Clean Up Dan River Coal Ash Spill."
- 127 Duke Energy, "Duke Energy pledges to take care of Dan River and surrounding environment," Press release, February 7, 2014, available at <http://www.duke-energy.com/news/releases/2014020701e.asp>.
- 128 Bruce Henderson, "Duke CEO: Customers should pay ash pond costs," *The Charlotte Observer*, March 7, 2014, available at http://www.charlotteobserver.com/2014/03/07/4749430/duke-ceo-customers-should-pay.html#U_45LCTD_cs.
- 129 Taft Wireback, "Duke: \$2M for better Dan," *Greensboro News & Record*, September 25, 2014, available at http://www.news-record.com/news/duke-m-for-a-better-dan/article_18b05e56-4430-11e4-b8e7-001a4bcf6878.html.
- 130 Kromm, "After tumultuous reign, Art Pope steps down as NC budget chief."
- 131 Ibid.
- 132 Sharon McCloskey, "Behind closed doors: North Carolina creates a 'star chamber' for wayward judges," NC Policy Watch, July 31, 2013, available at <http://www.ncpolicywatch.com/2013/07/31/behind-closed-doors-north-carolina-creates-a-star-chamber-for-wayward-judges/#>.
- 133 Ibid.
- 134 Ibid.
- 135 Ibid.
- 136 Lynn Bonner and Anne Blythe, "NC Supreme Court: Newby can participate in redistricting case," *The Raleigh News & Observer*, December 17, 2012, available at http://www.newsobserver.com/2012/12/17/2550986_nc-supreme-court-newby-can-participate.html?rh=1.
- 137 Ibid.
- 138 Ibid.
- 139 Rob Schofield, "Overlap between Pope groups and state government continues to grow," *The Progressive Pulse*, February 13, 2014, available at <http://pulse.ncpolicywatch.org/2014/02/13/overlap-between-pope-groups-and-state-government-continues-to-grow/#>.
- 140 Ibid.
- 141 Anne Blythe, "NC Supreme Court races draw political interest," *The Raleigh News & Observer*, April 4, 2014, available at http://www.newsobserver.com/2014/04/04/3759010_nc-supreme-court-races-draw-political.html?rh=1.
- 142 Ibid.
- 143 Ibid.
- 144 Alex Kotch, "INSTITUTE INDEX: A primary drenched in outside money," *The Institute for Southern Studies Facing South* blog, May 9, 2014, available at <http://www.southernstudies.org/2014/05/institute-index-a-primary-drenched-in-outside-mone.html>.
- 145 Ibid.
- 146 Ibid.
- 147 John D. Echeverria, "State Judicial Elections and Environmental Law: Case Studies of Montana, North Carolina, Washington and Wisconsin." Working Paper 19–14 (Vermont Law School, 2014), available at <http://ssrn.com/abstract=2510891>.
- 148 FollowNCMoney, "Republican State Leadership Committee sends \$400,000 more to Justice for All NC just over a week before election day," October 28, 2014, available at <http://followncmoney.org/news/republican-state-leadership-committee-sends-400000-more-justice-all-nc-just-over-week-election->

149 Ibid.

150 Nicholas Confessore, "A National Strategy Funds State Political Monopolies," *The New York Times*, January 11, 2014, available at http://www.nytimes.com/2014/01/12/us/politics/a-national-strategy-funds-state-political-monopolies.html?_r=3.

151 Corriher, "Koch Brothers and D.C. Conservatives Spending Big on Nonpartisan State Supreme Court Races," p. 24.

152 Billy Corriher, "Public Financing of Judicial Elections Can Give Small Donors a Decisive Role" (Washington: Center for American Progress, 2012), available at <http://www.americanprogress.org/issues/civil-liberties/report/2012/12/12/47657/public-financing-of-judicial-races-can-give-small-donors-a-decisive-role/>.

153 New York City Campaign Finance Board, "2013 Limits, Requirements, and Public Funds," available at <http://www.nycfb.info/candidates/candidates/limits/2013.htm> (last accessed August 2014).

154 Ibid.

155 New York City Campaign Finance Board, "Overview of the Program," http://www.nycfb.info/candidates/candidates/overview.aspx?sm=candidates_overview (last accessed August 2014).

156 New York City Campaign Finance Board, "Why do we have public financing of NYC elections?" (2012), available at http://www.nycfb.info/PDF/press/WhyPublicFinancing.pdf?sm=press_21f.

157 Ibid.

158 Michael J. Malbin, Peter W. Brusoe, and Brendan Glavin, "Small Donors, Big Democracy: New York City's Matching Funds as a Model for the Nation and States," *Election Law Journal* 11 (1) (2012).

159 Chris Kromm, "How Art Pope killed clean elections for judges in North Carolina," *Facing South*, June 13, 2013, available at <http://www.southernstudies.org/2013/06/how-art-pope-killed-clean-elections-for-judges-in-.html>.

160 James Sample and others, "The New Politics of Judicial Elections, 2000–2009: Decade of Change" (New York: Brennan Center for Justice, 2010), available at <http://www.brennancenter.org/sites/default/files/legacy/JAS-NPJE-Decade-ONLINE.pdf>.

161 Alicia Bannon and others, "The New Politics of Judicial Elections, 2011–12" (New York: Brennan Center for Justice, 2013), available at <http://newpoliticsreport.org/content/uploads/JAS-NewPolitics2012-Online.pdf>.

162 National Institute on Money in State Politics, "Election Overview," available at <http://www.followthemoney.org/election-overview> (last accessed October 2014).

163 North Carolina State Board of Elections, "NC Campaign Report Search By Entity," available at http://app.ncsbe.gov/webapps/cf_rpt_search_org/ (last accessed October 2014).

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