

# THE TAMPA TRIBUNE

and The Tampa Times

## METRO

### Judicial Elections Oversight Lax

#### Defunct Hillsborough Committee Leaves State To Rule On 2 Complaints

By THOMAS W. KRAUSE  
The Tampa Tribune

**TAMPA** — A candidate for judge speaks to government employees while they're working. Another judicial candidate touts in a campaign flier that she used to be a judge but neglects to mention she had been removed from the bench.

Are those violations of what candidates for judges can do or say?

In Hillsborough County, you probably won't know until after the election Sept. 5.

In 2004, the last time voters were asked to select new judges, anyone who saw a candidate campaigning through what they considered to be less-than-ethical means could complain to a committee of the Hillsborough County Bar Association.

Last year, however, that committee was disbanded.

Anyone worried about the actions of this year's crop of 16 candidates has few places to turn.

Candidates for judge must adhere to a strict set of election rules, much more intricate than the rules for other offices. The rules are mandated by the Florida Supreme Court to ensure judges remain impartial. Other candidates and their supporters are often quick to point out when a rule is violated or a gray area broached.

Tom Scarritt, former chair of the county's oversight committee, said the absence of a local hub for judicial campaign complaints hurts local voters.

Average voters rarely have firsthand information about lawyers running for judge. Without a committee to regulate the campaigns, Scarritt said, voters receive even less education about the character of the men and women who want to preside over divorces, juvenile cases and lawsuits.

Manuel Menendez, chief judge of the Hillsborough County judicial circuit, said the judicial campaign committee seemed like a good idea when it began but didn't work in practice. After many meetings to work out the bugs, Menendez said, he couldn't support continuing the committee.

"I thought it was a very well-intentioned committee with a lot of very well-intentioned people," Menendez said. "It turned into a he said/she said."

#### Candidate Controversy

Two local candidates for judge already have raised the ire of competitors.

Colleen Mackin, a political strategist working for Group-32 judge candidate Caroline Tesche, has said one

#### Campaign Rules

*In addition to rules and regulations pertaining to all political candidates, those running for judge must also adhere to the following rules mandated by the Florida Supreme Court. Judge candidates cannot:*

- Endorse another candidate for public office.
- Make speeches on behalf of a political organization.
- Attend political party functions.
- Make promises of how the candidate will act in office, other than to say he or she will be impartial.
- Make comments that appear to commit the candidate to one side in cases that might come before the court.
- Knowingly misrepresent the qualifications of the candidate or the candidate's challengers.

Source: Florida Code of Judicial Conduct

of Tesche's opponents inappropriately spoke to a group of county employees on county time when he toured the clerk-of-court office.

Florida law, Mackin said, prohibits using the services of public employees while they are working.

The candidate, Bernard Silver, has denied violating any statute. A letter sent to him by the Florida Department of State says speaking to a group of public employees during work hours is not in itself a violation.

When Mackin found no local committee to look into Silver's actions to determine he violated campaign rules, she complained to the Florida Elections Commission, which has agreed to look into the matter. But it is unclear how soon the commission will release a ruling, and the election is three weeks off.

"I would have loved to have another voice, another opinion on it," Mackin said. "Sometimes, you don't get it as expediently from the state as you do from a local group."

A second elections question involves Elizabeth "Betsey" Hapner, who is running against Silver and Tesche.

A couple of weeks ago, local lawyers Morris "Sandy" Weinberg and his wife Rosemary Armstrong were concerned with a flier that listed Hapner as a "former county court judge."

What was not listed, Weinberg said, was that Hapner was removed from the bench by the Florida Supreme Court.

After a 1998 investigation by the state's Judicial Qualifications Commission, the high court determined that Hapner neglected her clients during her campaign, provided inaccurate information to judges in court proceedings and concocted evidence against her former husband during a 1996 domestic violence hearing.

Weinberg said when Hapner's flier ignored her removal she violated a rule that says judge candidates cannot "knowingly misrepresent" their qualifications.

Hapner said she knows of no law or rule that would require her to say she was removed from office. Her removal, she said, does not change the fact that she was a judge for about 1½

years.

When Weinberg and his wife first saw the flier, they called fellow lawyers, trying to find someone who sits on the judicial campaign committee.

"We found out the committee doesn't exist anymore," Weinberg said. "What can you do?"

Although Weinberg and Armstrong do financially support some judicial candidates, they had not written checks to anyone in Hapner's race as of Friday. Weinberg said he might donate to Silver's campaign.

#### Few Places To Turn

Scarritt said the former Judicial Campaign Practices Committee was set up by the Hillsborough Bar Association to handle complaints such as Weinberg's and Mackin's.

If the committee were still in place, he said, any concerned citizen could send a letter to the committee alleging a violation. Within 24 hours, the candidate would be asked to respond.

When the committee reached a determination, it would issue a public statement to the media. Candidates, therefore, would know immediately whether a violation occurred.

Without the committee, those who wish to complain about a candidate have few choices: They can file with the Florida Elections Commission, the Judicial Qualifications Commission or the Florida Bar.

An official with the elections commission said the group handles elec-

tion issues that relate to candidates for any office. It doesn't look into the more strict rules that govern judge candidates. The commission takes complaints against candidates in any election, statewide, which can slow the process.

Brooke Kennerly, the Judicial Qualifications Commission executive director, said the commission has authority over sitting judges and would hold on to any complaint until after an election to see whether the candidate won.

The ethics chief for the Florida Bar, Elizabeth Tarbert, also said any elections investigation would have to wait until after the polls close. The bar only has jurisdiction on judge candidates who lose.

The Hillsborough County judicial campaign committee was disbanded

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MANUEL MENENDEZ

Chief judge of the Hillsborough County judicial circuit on local committee

after problems in its first year.

Responding to a complaint, the committee said incumbent Judge Charles Bergmann knowingly violated election rules. Bergmann wrote to the committee saying he was not given a fair chance to air his side of the story.

Eventually, the committee reversed its opinion, saying it did not have enough information to find Bergmann in violation. That reversal, however, came after the election, which Bergmann won.

For several months after the 2004 election, Chief Judge Menendez and other sitting judges were invited to bar meetings to help tweak the committee's bylaws, Scarritt said. Ultimately, Menendez said he could not support the committee for another election year because it did not seem to act fairly.

"It was set up with grand ideas and good ideals," Menendez said. "But I do not believe with Judge Bergmann it was handled anywhere near appropriately."

Then-bar president Bill Schifino shut down the committee, saying he did not want to force it on judges if they did not support it, Scarritt said.

Schifino was out of the country this week and could not be reached for comment.

Other counties seem to run similar committees with few problems.

In Dade County, the local bar had a judicial campaign committee for more than 10 years. The Dade County chair, Jonathan Goodman said he was surprised Hillsborough County had problems with the concept.

Just like Hillsborough's former committee, the Dade committee takes complaints, asks for responses and makes a ruling.

"I don't remember anyone in any of our cases ever seeking an appeal," Goodman said. "It just doesn't ring a bell with me."

Reporter Mari Robyn Jones contributed to this report. Reporter Thomas W. Krause can be reached at (813)259-7698 or tkrause@tampatrib.com.



Hapner  
Was removed from bench



Silver  
Accused of talking to workers on duty