

FAIRNESS CONTROVERSIAL CASE

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Byline: GZEDIT

West Virginia Supreme Court Justice Brent Benjamin has become a national symbol of questionable justice.

Group after group is asking the U.S. Supreme Court to declare that fairness was tainted when Massey Energy's chief spent more than \$3 million to elect Benjamin - then the justice voted twice to spare Massey a damage verdict now valued at \$82 million.

The American Bar Association, the nation's foremost justice body, filed a brief telling the Washington court: "Substantial judicial campaign contributions may create an appearance of bias and undermine the legitimacy of the judicial system."

A brief by the Brennan Center for Justice said "facts of this case are so egregious" that Benjamin must be blocked from ruling on Massey matters.

The American Academy of Appellate Lawyers told the high court that the Massey chief's campaign support was "so great that it is easy to say it crossed the line of impropriety" for Benjamin to rule in Massey's favor.

This week, 27 former state Supreme Court justices - including West Virginia's **Richard Neely** - filed a brief saying "participation of Justice Benjamin in this case created an appearance of impropriety."

And now a coalition of major business corporations has added a brief saying Benjamin's refusal to abstain from the Massey suit "created an appearance of bias that would diminish the integrity of the judicial process in the eyes of any reasonable person." The firms asked the U.S. court to "signal to businesses and the general public that judicial decisions cannot be bought and sold."

In view of this overwhelming barrage - also voiced by major law journals and national newspapers - we can't imagine that the U.S. Supreme Court will allow Benjamin's participation to stand.

Two other West Virginia justices, Larry Starcher and Spike Maynard, correctly removed themselves from Massey cases because they were compromised. But Benjamin stubbornly refused to follow their example.

It's a shame that the Mountain State is on display nationally as a place where justice is suspect.