

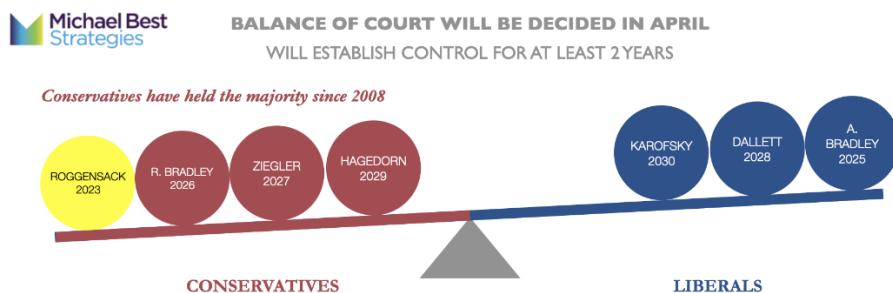
Memorandum

To: Clients and Friends
From: Michael Best Strategies
Date: February 17, 2023
Subject: 2023 Wisconsin Supreme Court Race Analysis

Background

Wisconsin Supreme Court Justice Patience Roggensack is retiring from the bench in August and the ideological balance of the court for at least the next two years hinges on the outcome of April's Supreme Court election. Currently, conservatives hold a 4-3 majority on the court that includes Chief Justice Annette Ziegler, Justice Rebecca Bradley, Justice Brian Hagedorn, and Justice Patience Roggensack. The liberal minority includes Justice Ann Walsh Bradley, Justice Rebecca Dallet, and Justice Jill Karofsky. The candidates for the April 2023 Spring Election include two liberals and two conservatives; the liberal candidates are Milwaukee County Judge Janet Protasiewicz and Dane County Judge Everett Mitchell. The conservative candidates are former state Supreme Court Justice Dan Kelly and Waukesha County Judge Jennifer Dorow.

All four candidates will face off in the February 21, 2023, Spring Primary Election in which the top two vote-getters will advance to the general election in April. If a liberal-leaning candidate were to win a ten-year term in April, liberals would hold a majority on the court for the first time since 2008. That means the outcome of issues such as legislative maps and abortion restrictions would ultimately be ruled on by a liberal-leaning majority. However, if a conservative wins, it would not be until 2026 that liberals have another chance to claim the majority.



2023 Election Decides Control of Court

- If Liberals win, 2025 Election would be first opportunity for Conservatives to re-capture
- If Conservatives win, 2026 would be the next opportunity for change in control of court



The Conservative Candidates

Dan Kelly

Former state Supreme Court Justice Dan Kelly was appointed to the Supreme Court bench in 2016 by then-Gov. Scott Walker. Justice Kelly lost his bid to keep the seat in the April 2020 election to his liberal-leaning opponent, then-Judge Jill Karofsky, by a margin of 10.5%. Justice Kelly was just the second state Supreme Court incumbent in Wisconsin's history to lose re-election and he is the first former member of the court to run again several years after having sat on the bench. Justice Kelly has been endorsed by current state Supreme Court Justice Rebecca Bradley and is being supported by outside groups with considerable resources such as Fair Courts America and the billionaire Uihlein family. Since losing his seat in 2020, Justice Kelly has worked at the Institute for Reforming Government, a conservative think tank based in Delafield.



Jennifer Dorow

Waukesha County Circuit Court Judge Jennifer Dorow became a household name nationally last year for presiding over the trial of Darrell Brooks, the man who drove his vehicle through a Waukesha Christmas parade killing six people in November 2021. Judge Dorow was first appointed to the circuit court in 2011 by then-Governor Scott Walker. In both her 2012 election and 2018 re-election bid for Waukesha County Circuit Court, Judge Dorow was unopposed. Judge Dorow is being endorsed by state Supreme Court Justice Patience Roggensack, whose seat she hopes to fill in April, as well as 2022 GOP attorney general nominee and Fond du Lac County District Attorney Eric Toney.



The Liberal Candidates

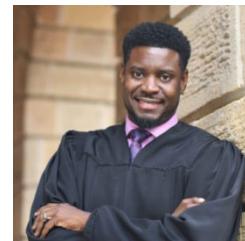
Janet Protasiewicz

Milwaukee County Circuit Court Judge Janet Protasiewicz (pro-tuh-SAY-witz) was a Milwaukee County assistant district attorney for 26 years before she was elected to the bench in 2014. She has also served as an adjunct law professor at Marquette Law School. Judge Protasiewicz has drawn scrutiny from Republicans for calling the state's legislative maps "rigged" and saying she believes "in a woman's freedom to make her own decision on abortion." She's also been incredibly successful with fundraising, bringing in a record breaking \$924,449 in 2022. In both her 2014 election and 2020 re-election bid for Milwaukee County Circuit Court, Judge Protasiewicz was unopposed. Judge Protasiewicz has received the endorsement of current state Supreme Court Justice Rebecca Dallet.



Everett Mitchell

Dane County Circuit Court Judge Everett Mitchell was first elected to the bench in 2016. He currently presides over Branch Four's juvenile court and oversees the county's High Risk Drug Court Program. Judge Mitchell also works as an adjunct professor at the University of Wisconsin-Madison Law School where he teaches courses on "Race, Racism and the Law," as well as the "Foundational Principles of the Juvenile Justice System." In both his 2016 election and 2022 re-election bid for Dane County Circuit Court, Judge Mitchell was unopposed. Judge Mitchell's endorsements include former Democratic Gov. Jim Doyle, as well as former state Supreme Court Justice Louis Butler.



Fundraising Information (July 2022 – February 2023)

Janet Protasiewicz

\$ Raised: \$1,884,732
\$ Spent: \$1,373,056
Cash on Hand: \$276,625

Jennifer Dorow

\$ Raised: \$733,490
\$ Spent: \$405,056
Cash on Hand: \$ 267,133

Everett Mitchell

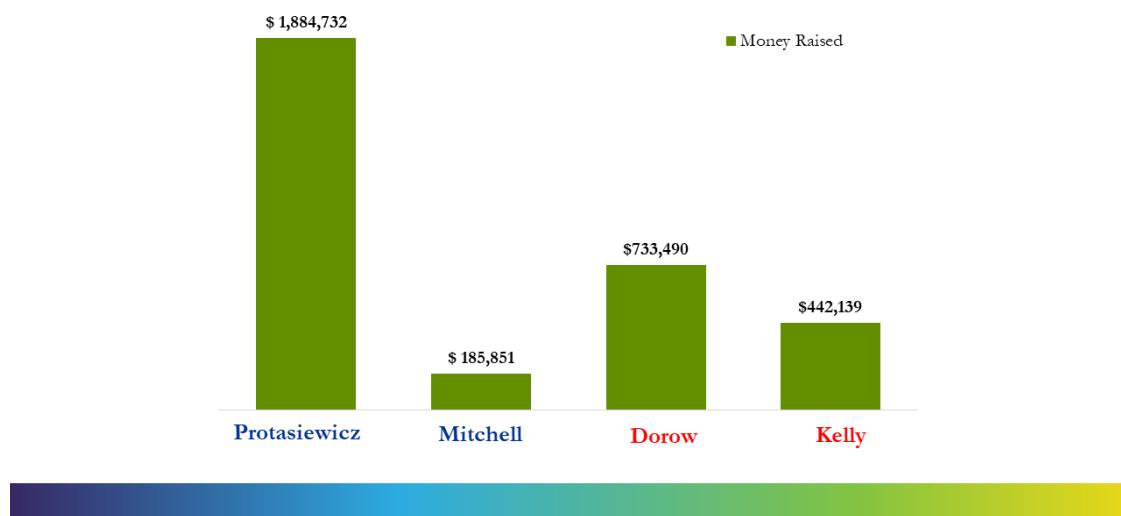
\$ Raised: \$185,851
\$ Spent: \$102,641
Cash on Hand: \$120,726

Dan Kelly

\$ Raised: \$442,139
\$ Spent: \$231,678
Cash on Hand: \$201,966



SCOWIS FUNDRAISING TOTALS (JULY 2022 - FEB 2023)



Fundraising Summary

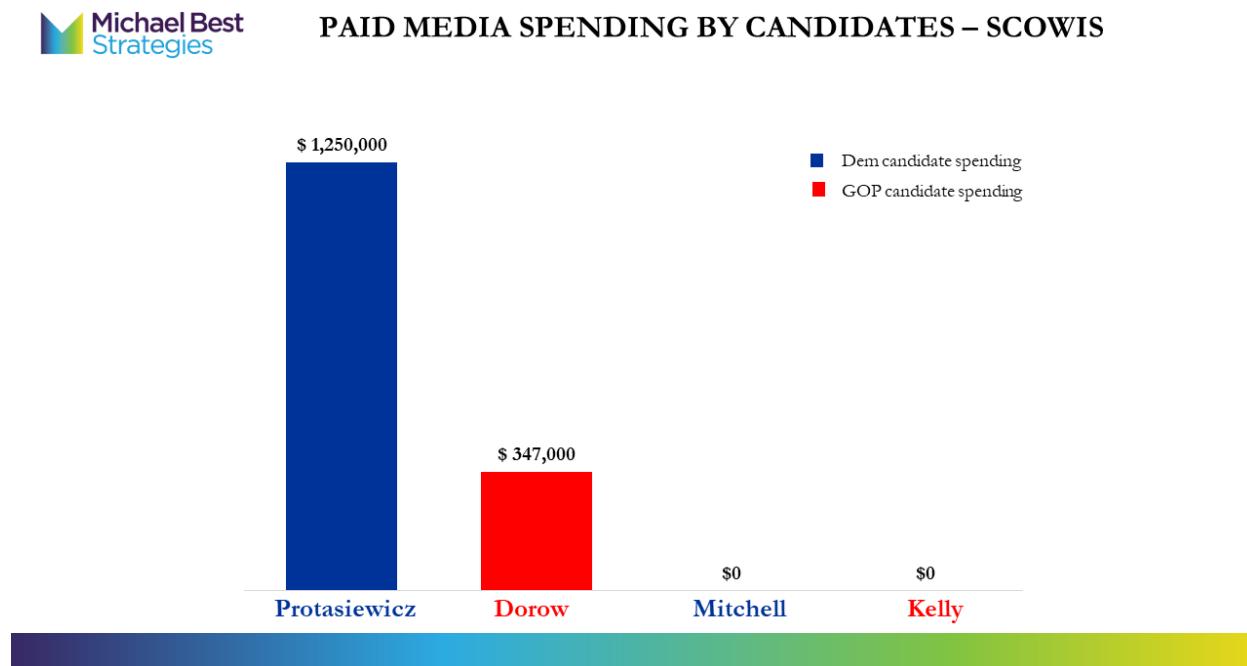
Fundraising reports that cover July 1 through December 31, 2022, show that Judge Protasiewicz has raised more money than all three of her opponents combined. Judge Protasiewicz pulled in \$756,117 in the final six-month period of last year. That tops the \$823,104 former Justice Shirley Abrahamson raised in 2008 ahead of her successful reelection bid in 2009, which had been the record fundraising amount for a Supreme Court candidate in the year before an election. In contrast, Judge Protasiewicz's liberal opponent, Judge Mitchell, raised \$115,689. The two conservative candidates, former Justice Kelley and Judge Dorow, raised \$312,359 and \$306,919, respectively. Judge Protasiewicz and Judge Mitchell both actively fundraised during the entire six-month period whereas Justice Kelley launched his campaign in September and Judge Dorow's fundraising was all done in December. Candidates are required to submit their next round of fundraising reports on February 13th.

Breakdown of Paid Media Spending

Candidates and groups have reserved more than \$6.5 million in ads for Wisconsin's Supreme Court race. That's already more than half of the spending needed to break the state's record for the most expensive Supreme Court campaign, which was \$9.8 million in 2020. So far, candidates have spent about \$1.6 million while groups have spent around \$4.9 million. The spending includes:

Candidates

- Judge Janet Protasiewicz (liberal): \$1.25 million in TV ads
- Judge Jennifer Dorow (conservative): \$347,000 in TV and radio ads
- Former Justice Dan Kelley (conservative) has not yet announced paid media buys.
- Judge Everett Mitchell (liberal) has not yet announced paid media buys.



Groups

Opposing Judge Dorow:

- A Better Wisconsin Together: \$1.6 million
- Safe Families America: \$85,650
- Protect Our Families: \$195,251

Supporting Justice Kelly

- Fair Courts America: \$1.8 million in TV and radio ads
- Women Speak Out PAC: \$14,524

Opposing Judge Protasiewicz

- The Alliance for Reform: \$520,000
- Wisconsin Manufacturers & Commerce: \$250,000

Supporting Judge Dorow

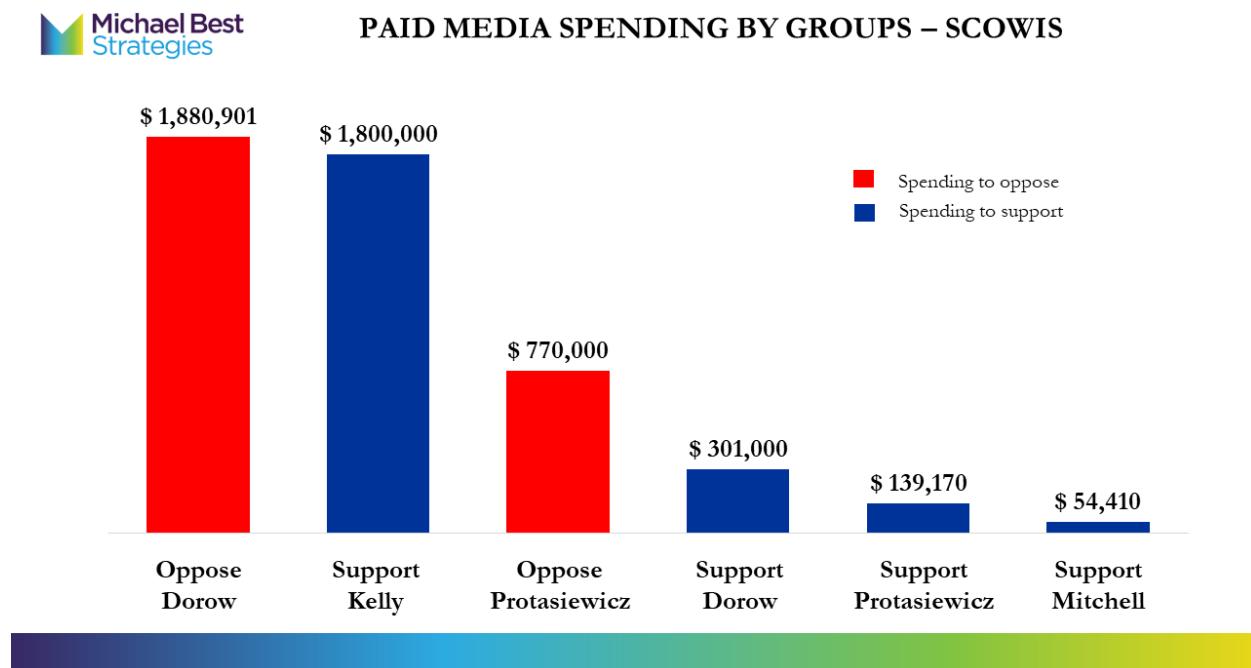
- Conservative Action for America: \$246,000
- Justice for Wisconsin: \$55,000

Supporting Judge Protasiewicz

- Minocqua Brewing Co.: \$14,170
- One for All Committee: \$125,000

Supporting Judge Everett

- BLOC PAC: \$54,410



In the News

1. UpFront: Daniel Kelly 1-on-1 <https://www.wisn.com/article/daniel-kelly-1-on-1/42695361>
2. UpFront: Janet Protasiewicz 1-on-1 <https://www.wisn.com/article/janet-protasiewicz-1-on-1/42605275>
3. UpFront: Everett Mitchell 1-on-1 <https://www.wisn.com/article/everett-mitchell-1-on-1/42765445>
4. UpFront: Jennifer Dorow 1-on-1 <https://www.wisn.com/article/jennifer-dorow-1-on-1/42836941>
5. Channel 3000: Wisconsin Supreme Court candidate forum
<https://www.youtube.com/watch?v=nq27XC5RFo8>
6. Politico: "The most important election nobody's ever heard of"
<https://www.politico.com/news/2023/01/16/wisconsin-state-supreme-court-race-abortion-00077958>
7. New York Times: 2023's Biggest, Most Unusual Race Centers on Abortion and Democracy
<https://www.nytimes.com/2023/01/25/us/politics/wisconsin-supreme-court-election.html>