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### October 15, 2015: The Difficulty of Reining in Money

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Title: The Difficulty of Reining in Money

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10/15/2015—Last night's debate among candidates for the Pennsylvania Supreme Court illustrated the problem of reining in money. The candidates all pledged to take the Supreme Court out of judicial discipline, which may finally portend a new era of institutional modesty at the Supreme Court. But in response to a question about independent money, there was confusion and obfuscation. The fear in Pennsylvania is last minute attack ads aimed at one candidate of the opposite Party, to help one more candidate get elected among the three to be elected. I'm not sure it's going to happen. It's getting pretty late in the election. But it could. So the question was whether the candidates would prevent this from happening. What we got was that noncoordination rules would prevent any action by a candidate and that outside groups have a first amendment right to do this under the Citizens United case. As to the first, there aren't any noncoordination rules as far as I know. Judicial elections don't have contribution limits, so why would there be rules on noncoordination that normally enforce contribution limits? As for the first amendment, the question isn't whether it would be illegal to run attack ads, but whether a candidate would tell her supporters not to do so. This mindset shows the harm of rights theory. Just because there is a right to do something, doesn't mean it is right to do it. It's going to take practice to live in a world without contribution limits.