Race for Erie County Family Court judge draws unusual interest
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The election for Erie County Family Court – usually a staid affair on the local political stage – may very well rank as the hottest contest on Thursday's primary ballot.

It features a bit of everything: money, well-known political families, Democratic as well as Republican races, and this year’s only manifestation of the internal battle splitting the local Democratic Party.

So far, upward of a half-million dollars is flowing throughout one of the few contests with television advertising. It features four candidates for a post paying $159,900 a year. And over the weekend, it spawned a slew of charges and countercharges normally shunned by judicial candidates bound by strict ethical guidelines.

Kelly A. Brinkworth, a longtime assistant county attorney in the Erie County Attorney’s Office, has the backing of Democratic Party leaders.

A rival Democratic faction with close ties to former Chairman G. Steven Pigeon supports Michele A. Brown, chief attorney for the Children’s Legal Center.

So far, Brinkworth has raised about $173,200 and, as of the end of August, spent nearly $160,000. Brinkworth donated $60,000 to the campaign, while other family members contributed almost $40,000, according to campaign filing reports.

Brown raised almost $280,000 – all but $20,000 was money she and her husband loaned or donated to the campaign – with the last $50,000 reported during the first three days of September, the reports show. As of the end of August, the Brown campaign had spent $196,300, the records also show.

Also competing in the Democratic primary for Family Court judge is the endorsed Republican candidate – Brenda M. Freedman, a referee in both the Erie County Family and State Supreme courts – and Democrat Joseph T. Jarzembek, a lawyer in the Erie County Department of Social Services.

And TV ads related to the race raised the most controversy of any primary election this year.

Erie County Democratic Chairman Jeremy J. Zellner – who backs Brinkworth – demanded that Brown remove from the airwaves a new ad accusing Brinkworth of making “negative and untrue statements” in a recent mailing. While ethical codes prohibit judicial candidates from making such statements, Zellner emphasized the Erie County Democratic Committee sent the mailer and that Brinkworth and her campaign had no involvement.

This is what the Brown ad says:

“State rules prohibit judicial candidates from running a negative campaign, but Kelly Brinkworth broke those rules, violating the judicial code of ethics with false attacks. If we can’t trust Kelly Brinkworth to follow the rules before she’s a judge, how could we ever trust Kelly Brinkworth if she became a judge?”

The party committee, Zellner said, was not bound by judicial restrictions and the party organization can essentially say whatever it wants.

He also pointed to legal problems dogging some members of Brown’s campaign, citing Pigeon (who has no direct involvement with the campaign) and an investigation by state and federal authorities into his fundraising activities. Zellner said he will send “cease and desist” notices to local TV stations as well as a complaint to the Erie County Bar Association.

“This commercial is false on its face, and that’s a direct violation of the rules for judicial campaigns,” he said. “It should immediately be taken down.”
Asked if he should be bound by the same ethical considerations, Zellner said he is “allowed to point out what I think are the facts.”

“My concern is that Kelly had nothing to do with this mailer,” he said.

But the Brown campaign late Saturday said Zellner has mistakenly interpreted the rules governing judicial elections. Joseph G. Makowski, the campaign’s legal adviser, said Zellner and the county committee initiated the negative tone with mailings and electronic communications. He said Brinkworth is responsible for ensuring that supporters such as the county committee that endorsed her follows the same rules.

“Simply put, in a judicial race no candidate or supporter can launch a negative campaign,” Makowski said. “That’s exactly what Jeremy Zellner has done and the Brown campaign was entitled to respond under the rules.”

Freedman’s campaign, meanwhile, raised $148,800 and spent $140,500 by the end of August, records show. Freedman’s funds included $50,000 in loans and $1,250 in donations from her mother, attorney Maryann Saccomando Freedman.

Jarzembek loaned his campaign $800 and spent $600 by the middle of August, with no other contributions reported. He did not file the required 11-day pre-primary report that was due Aug. 31.

While total spending so far is close to $500,000, the amount raised to date is just over $602,000, records show.

In addition to money provided by the candidates and their families, a good chunk of the contributions to the Freedman, Brown and Brinkworth campaigns comes from the legal community. In Brinkworth’s case, there also are contributions tied to her Democratic Party endorsement.

The big spending in the race reflects the cost of television advertising by Brinkworth, Brown and Freedman, campaign reports show.

Except for Jarzembek, the other three candidates all are running in the Republican primary as well as the Democratic primary.

Brinkworth and Freedman are the only candidates running in the primary races for the Conservative, Working Families, Independence and Green parties, in an effort to gain additional party lines on which to run in the November general election.

It is fairly typical for candidates seeking election to the bench to run on all of the available political party lines, although Zellner has also raised complaints about Brown’s name appearing on the Democratic ballot.

Zellner accused Brown of collaborating with allies of Pigeon, and questioned the backgrounds of those who circulated petitions for Brown, including a man convicted of extortion in 2006; a local attorney who pleaded guilty to failure to report taxable income; and the treasurer for the political action committee who also was under investigation in the Pigeon probe.

“She’s working with a bunch of people who I think make her a candidate that is flawed. I think she has a serious case of bad judgment, surrounding herself with the people that she has,” Zellner said.

Brown described the allegations against her as “pure political theater.”

Both Brown and Brinkworth received ratings of “well qualified” by the Erie County Bar Association.

Brown, 62, is a 1970 graduate of Williamsville High School. She earned a degree from the University of Northern Colorado in 1974. From 1975 to 1977, she worked in management at the Permanent Savings Bank, graduated from University at Buffalo Law School in 1980, and was admitted to the New York State Bar in June of that year. She has represented children in cases involving custody, visitation, adoption, guardianship, abuse and neglect. In 1999, she was appointed to run the Children’s Legal Center as chief attorney.

Brinkworth, 52, has been employed in the Erie County Law Department for 24 years, where she has been the supervising assistant county attorney for the Family Court Division since 1997. She is a 1985 University at Buffalo graduate and was admitted to the state bar in 1990, after graduating from UB Law
Freedman, a Republican, has since 2006 been a referee in both the Erie County Family and State Supreme courts, through the state Unified Court System. She was the principal law clerk there for two years prior to that.

A 1981 City Honors graduate, she earned a bachelor’s degree in philosophy and psychology from SUNY Fredonia in 1985 and her law degree from UB Law School in 1989. Freedman, 52, worked at local law firms as an associate and a partner in the early 1990s, and taught in both the Buffalo Public Schools and Amherst Central School District for two years in the mid-1990s. She was rated outstanding by the bar association.

Jarzembek, 57, did not seek a rating from the association. A 1986 UB Law School graduate who joined the bar in 1987, he is an attorney who works at Erie County Family Court for the county’s Department of Social Services. He ran unsuccessfully for Erie County Family Court judge in 2013.

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