

Latest ad in Supreme Court race sparks controversy

Monday May 5, 2008, by Justin D. Anderson, Daily Mail Capitol Reporter

Massey Energy chief Don Blankenship called a new television ad sponsored by the Affiliated Construction Trades Foundation a childish poke at Justice Elliott "Spike" Maynard in what is a serious political race.

"I guess, you know, in a way I just find it childish," Blankenship said. "We're in a situation where these races and these positions in the state government are serious issues."

But Steve White, who heads the foundation, took issue with that criticism. He contends the ad, while light-hearted, points out what the foundation sees as a serious lapse in judgment for Maynard.

"I disagree, and we've had numerous people compliment the ad," White said. "I just think the ad speaks for itself."

The ad features shots of the now infamous photos of Blankenship and Maynard together on the French Riviera floating over scenes a luxurious seaside resort. Both men contend they were on separate vacations at the time and met up for a dinner or two.

A voice doing an impression of "Lifestyles of the Rich and Famous" host Robin Leach recites a poem criticizing Maynard.

"On the French Riviera, where the rich and famous play, Spike and Don spent a very pleasant day," the voice begins. "While together, the time they were spending, a matter of millions in court was pending."

The ad goes on to revisit Maynard's vote in favor of Massey in 2006 in its appeal over a \$50 million jury verdict for a small coal company that had accused Massey of forcing it into bankruptcy through fraud.

"Now when Massey first won their appeal, it was Spike's vote that sealed the deal," the ad says. "Justice is blind, but you can see, Spike showed bad judgment in hearing this plea."

Maynard recused himself from the case when the court voted to rehear the appeal this year. The court again overturned the lower court's verdict in favor of the Harman Mining Company. The ad accuses Maynard of refusing to admit he made a mistake in hearing the appeal the first time around.

"You decide how this story ends," the ad says. "Is justice for all, or just between friends?"

Blankenship has not had much, if any, real involvement in this year's state Supreme Court race. During the 2004 race, Blankenship spent about \$3.5 million for advertisements, helping to get Justice Brent Benjamin elected.

Of the ACT Foundation ad, Blankenship said Massey "is trying to run the most respectable coal mines in the world" and is providing jobs in West Virginia. He said Maynard has been a respected justice for the past 12 years and before then, when he was a Mingo County circuit judge.

"So, to me, it's a more serious matter than trying to run a humorous ad about that type of thing," Blankenship said.

White said the ad brings up matters of true concern.

"We feel concerned about Justice Maynard's poor judgment in not disclosing the extent of this relationship. I don't believe he's admitted he's done anything wrong in his public statements and I think that shows a second lack of judgment."

But Blankenship said he hopes the public's focus on the photos and the European trip is waning.

"I just know that West Virginia is last in judicial system and last in jobs and first in poverty and so forth for a reason," Blankenship said. "And the behavior of the Supreme Court in the past has been a big part of that and Judge Maynard has been a big part in helping the state turn around."

"Certainly, I'd hate to see that lost."

The ad can be viewed at <http://www.youtube.com/watch?v=XfJLXjfnN2k>.

The ACT Foundation, through its Building and Construction Trades Council political action committee, paid Charleston-based The Phillips Group \$155,809 to buy television airtime. The company was paid \$6,466 for production, according to financial filings with the Secretary of State.

The foundation also paid Charleston-based The Kitchens Group \$13,250 to conduct a survey on the Supreme Court race.

Democratic Supreme Court candidates Menis Ketchum and Margaret Workman each received a \$1,000 contribution from the foundation.

White said interviews with those candidates showed they would be most beneficial to working families.

He said the survey the foundation conducted showed that a lot of voters were still concerned about the French Riviera trip.

Contact writer Justin D. Anderson at jus...@dailymail.com or 348-4843.