

**Topline Data**  
**Statewide Survey of 500 Registered Voters in New Jersey**

*prepared for*

**The Federalist Society**

*by the polling company™, inc.*

Fielding Dates: January 9-10, 2009

Margin of Error: ±4.38%

**Introduction**

A. Are you 18 years of age or older and currently registered to vote here in New Jersey, registered in a different state, or not registered at all?

100% YES

**Supreme Court of New Jersey**

1. In general, would you rate the job the Supreme Court of New Jersey is doing as...(READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP)

**28% TOTAL EXCELLENT/GOOD (NET)**

1% EXCELLENT

27% GOOD

**52% TOTAL FAIR/POOR (NET)**

39% FAIR

13% POOR

19% NOT SURE/NO BASIS TO JUDGE

1% REFUSED (VOLUNTEERED)

2. How familiar would you say you are with the Supreme Court of New Jersey and its rulings and decisions? Are you... (READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP.)

**32% TOTAL FAMILIAR (NET)**

5% VERY FAMILIAR

27% SOMEWHAT FAMILIAR

**67% TOTAL UNFAMILIAR (NET)**

30% JUST A LITTLE BIT FAMILIAR

37% NOT AT ALL FAMILIAR

1% DO NOT KNOW (VOLUNTEERED)

\* REFUSED (VOLUNTEERED)

3. Can you name any of the Justices currently serving on the Supreme Court of New Jersey? (OPEN-ENDED. PRE-CODED LIST. ACCEPTED MULTIPLE ANSWERS. LAST NAMES ONLY WERE ACCEPTABLE. VOLUNTEERED LIST) PROBED: Can you name any others?

1% HELEN E. HOENS  
1% JAYNEE LAVECCHIA  
1% VIRGINIA LONG  
1% STUART RABNER  
1% JOHN E. WALLACE, JR.  
\* BARRY T. ALBIN  
\* ROBERTO A. RIVERA-SOTO

2% OTHER (VOLUNTEERED)  
\* MR. HUGHES  
\* ROBERT GARDNER  
\* MS. GARABOLDI  
\* ALITO  
\* ZUSALLY  
\* TOM SUMNERS  
\* WILENTZ  
\* MURPHY

94% DO NOT KNOW/CANNOT NAME ANY (VOLUNTEERED)  
1% REFUSED (VOLUNTEERED)

4. When a vacancy occurs on the Supreme Court of New Jersey, The Governor of New Jersey alone is responsible for nominating Justices to fill open seats. After nomination, the Justice goes before the New Jersey State Senate to be confirmed. Which of the following do you think *should be* most important for a Governor to consider when choosing individuals to serve on the Supreme Court of New Jersey? Should the Governor consider his or her...? (READ AND ROTATED LIST. ACCEPT ONLY ONE.)

- 33% RECORD OF INTERPRETING THE LAW AS IT IS WRITTEN IN PAST RULINGS
- 27% PAST EXPERIENCE AS A JUDGE
- 15% LEGAL ARTICLES ADVOCATING FOR THE INTERPRETATION OF THE LAW AS IT IS WRITTEN
- 7% PAST POLITICAL EXPERIENCE, SUCH AS HOLDING ELECTED OFFICE
- 6% RECORD OF INCORPORATING PERSONAL VIEWS AND EXPERIENCES IN PAST RULINGS
- 4% LEGAL ARTICLES ADVOCATING FOR THE INCORPORATION OF PERSONAL VIEWS AND EXPERIENCES INTO COURTROOM RULINGS
- 2% POLITICAL PARTY AFFILIATION
  
- \* OTHER (VOLUNTEERED)
  - \* THEIR BANK ACCOUNTS
  - \* INTEGRITY AND EXPERIENCE
  
- \* ALL OF THE ABOVE
- 4% DO NOT KNOW (VOLUNTEERED)
- \* REFUSED (VOLUNTEERED)

I am now going to read you a list of items the Governor could consider when deciding whom to nominate to the Supreme Court of New Jersey. For each, please tell me on a scale of one to ten, how important each should be. “One” is “not at all important” and “ten” is “extremely important.” (ROTATED 5-10)

5. Ethics

**1% TOTAL LOW IMPORTANCE (NET)**

1% 1 – NOT AT ALL IMPORTANT  
 \* 2  
 - 3

**9% TOTAL MEDIUM IMPORTANCE (NET)**

\* 4  
 2% 5  
 4% 6  
 3% 7

**88% TOTAL HIGH IMPORTANCE (NET)**

7% 8  
 9% 9  
 72% 10 – EXTREMELY IMPORTANT  
  
 1% DO NOT KNOW (VOLUNTEERED)  
 \* REFUSED (VOLUNTEERED)

6. Finding a judge who will interpret the law as it is written.

**5% TOTAL LOW IMPORTANCE (NET)**

2% 1 – NOT AT ALL IMPORTANT  
 1% 2  
 2% 3

**16% TOTAL MEDIUM IMPORTANCE (NET)**

1% 4  
 5% 5  
 3% 6  
 7% 7

**76% TOTAL HIGH IMPORTANCE (NET)**

16% 8  
 12% 9  
 48% 10 – EXTREMELY IMPORTANT  
  
 2% DO NOT KNOW (VOLUNTEERED)  
 \* REFUSED (VOLUNTEERED)

7. Finding a judge who will incorporate his or her own personal viewpoints and experiences into rulings and decisions.

**38% TOTAL LOW IMPORTANCE (NET)**

25% 1 – NOT AT ALL IMPORTANT  
6% 2  
7% 3

**42% TOTAL MEDIUM IMPORTANCE (NET)**

6% 4  
16% 5  
11% 6  
9% 7

**19% TOTAL HIGH IMPORTANCE (NET)**

10% 8  
2% 9  
7% 10 – EXTREMELY IMPORTANT  
  
1% DO NOT KNOW (VOLUNTEERED)  
\* REFUSED (VOLUNTEERED)

8. A record of competence

**2% TOTAL LOW IMPORTANCE (NET)**

1% 1 – NOT AT ALL IMPORTANT  
1% 2  
\* 3

**8% TOTAL MEDIUM IMPORTANCE (NET)**

- 4  
3% 5  
1% 6  
4% 7

**90% TOTAL HIGH IMPORTANCE (NET)**

13% 8  
11% 9  
66% 10 – EXTREMELY IMPORTANT  
  
1% DO NOT KNOW (VOLUNTEERED)  
\* REFUSED (VOLUNTEERED)

9. Experience

**2% TOTAL LOW IMPORTANCE (NET)**

1% 1 – NOT AT ALL IMPORTANT  
\* 2  
1% 3

**22% TOTAL MEDIUM IMPORTANCE (NET)**

\* 4  
6% 5  
5% 6  
11% 7

**75% TOTAL HIGH IMPORTANCE (NET)**

18% 8  
11% 9  
46% 10 – EXTREMELY IMPORTANT  
  
\* DO NOT KNOW (VOLUNTEERED)  
\* REFUSED (VOLUNTEERED)

10. Fidelity to the New Jersey Constitution and Laws

**3% TOTAL LOW IMPORTANCE (NET)**

2% 1 – NOT AT ALL IMPORTANT  
1% 2  
\* 3

**15% TOTAL MEDIUM IMPORTANCE (NET)**

\* 4  
5% 5  
3% 6  
7% 7

**79% TOTAL HIGH IMPORTANCE (NET)**

17% 8  
14% 9  
48% 10 – EXTREMELY IMPORTANT  
  
2% DO NOT KNOW (VOLUNTEERED)  
\* REFUSED (VOLUNTEERED)

11. As you might be aware, an executive order is a declaration issued by the Governor that has the force of law without being voted on by the state legislature. In 2006, Governor Jon Corzine signed an Executive Order part of which established a more formal role for the New Jersey State Bar Association, which is a private group of lawyers. I am now going to read you the opinions of two people regarding the role of the State Bar Association. Please tell me which one comes closest to your own view: (ROTATED)

(PROBED: And would that be STRONGLY or SOMEWHAT AGREE PERSON 1/  
PERSON 2?)

**PERSON 1:** It is a good idea for the State Bar Association to review the nominees for the Supreme Court of New Jersey because lawyers know more than most citizens, legislators or the Governor about what qualities a good judge should possess.

**PERSON 2:** It is not a good idea for the State Bar Association to review the nominees for the Supreme Court of New Jersey because lawyers are likely to have conflicts of interest before the court and lawyers are no more likely than citizens, legislators, or the Governor to know what qualities a good judge should possess.

**47% TOTAL AGREE PERSON 1**  
29% STRONGLY AGREE PERSON 1  
18% SOMEWHAT AGREE PERSON 1

**49% TOTAL AGREE PERSON 2**  
19% SOMEWHAT AGREE PERSON 2  
30% STRONGLY AGREE PERSON 2

4% DO NOT KNOW (VOLUNTEERED)  
\* REFUSED (VOLUNTEERED)

## **Judicial Activism/Judicial Review**

Changing topics slightly....

(ROTATED QUESTION SETS 12-13 AND 14-15 SO THAT SOME VOTERS WERE ASKED ABOUT JUDICIAL ACTIVISM FIRST AND OTHERS WERE ASKED ABOUT JUDICIAL RESTRAINT FIRST.)

12. How familiar are you with the concept of “judicial activism”? Would you say you are...  
(READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP)

**31% TOTAL FAMILIAR (NET)**

12% VERY FAMILIAR  
19% SOMEWHAT FAMILIAR

**68% TOTAL UNFAMILIAR (NET)**

15% JUST A LITTLE BIT FAMILIAR  
53% NOT AT ALL FAMILIAR

1% DO NOT KNOW (VOLUNTEERED)  
\* REFUSED (VOLUNTEERED)

“Judicial activism” is a term used to describe when a judge feels that his or her role is not simply to review the law as it is written, but is instead to allow for new or evolving meaning of the law over time.

13. Do you think judicial activism is a (ROTATED) mostly positive or mostly negative thing for the Supreme Court of New Jersey?

48% MOSTLY POSITIVE  
37% MOSTLY NEGATIVE  
14% DO NOT KNOW (VOLUNTEERED)  
1% REFUSED (VOLUNTEERED)

14. How familiar are you with the concept of “judicial restraint”? Would you say you are...  
(READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP)

**33% TOTAL FAMILIAR (NET)**

11% VERY FAMILIAR  
22% SOMEWHAT FAMILIAR

**66% TOTAL UNFAMILIAR (NET)**

21% JUST A LITTLE BIT FAMILIAR  
45% NOT AT ALL FAMILIAR

2% DO NOT KNOW (VOLUNTEERED)  
\* REFUSED (VOLUNTEERED)

“Judicial restraint” is a term used to describe when a judge views his or her role solely as an evaluator of whether a law or lower court ruling is in line with the state constitution.

15. Do you think judicial restraint is a (ROTATED) mostly positive or mostly negative thing for the Supreme Court of New Jersey?

66% MOSTLY POSITIVE  
19% MOSTLY NEGATIVE  
15% DO NOT KNOW (VOLUNTEERED)  
\* REFUSED (VOLUNTEERED)

16. Based on the definitions I gave you, would you rather the Supreme Court of New Jersey practice (ROTATED) judicial activism or judicial restraint?

46% JUDICIAL RESTRAINT  
37% JUDICIAL ACTIVISM  
7% BOTH (VOLUNTEERED)  
1% NEITHER (VOLUNTEERED)  
8% DO NOT KNOW (VOLUNTEERED)  
\* REFUSED (VOLUNTEERED)

## **Supreme Court of New Jersey Cases**

Next, I would like to discuss some rulings made by the Supreme Court of New Jersey.

17. In *Democratic Party v. Samson*, the New Jersey Supreme Court ruled that the state Democratic Party could change their candidate for the upcoming Senate race from Robert Torricelli to Frank Lautenberg, even though a New Jersey statute stated that the deadline had passed, all 21 county clerks in the state opposed it, and it was estimated to cost upwards of \$800,000 to reprint and send replacement ballots. The Court cited the “interest of the electorate” as the reason for its decision. Regardless of your own personal politics or whom you supported for the United States Senate, do you agree or disagree with this ruling? (PROBED: And would that be STRONGLY or SOMEWHAT AGREE/DISAGREE?)

**29% TOTAL AGREE (NET)**

15% STRONGLY AGREE

14% SOMEWHAT AGREE

**62% TOTAL DISAGREE (NET)**

17% SOMEWHAT DISAGREE

45% STRONGLY DISAGREE

2% IT DEPENDS/NEED MORE INFORMATION (VOLUNTEERED)

7% DO NOT KNOW (VOLUNTEERED)

1% REFUSED (VOLUNTEERED)

18. In *Dale v. Boy Scouts of America*, the Supreme Court of New Jersey ruled that the Boy Scouts of America had to comply with New Jersey’s anti-discrimination laws and could be required to allow homosexual adult males as Assistant Scoutmasters. The United States Supreme Court later overturned this ruling, stating that the Boy Scouts of America’s First Amendment rights of association and free speech permitted it to make its own decisions about who its leaders could be without state interference. Which of the following comes closest to your own opinion: (ROTATED)

59% THE BOY SCOUTS OF AMERICA IS A PRIVATE ORGANIZATION ENTITLED TO DECIDE WHO CAN OR CANNOT BE A SCOUTMASTER

31% THE BOY SCOUTS OF AMERICA IS NOT A PRIVATE ORGANIZATION AND SHOULD NOT BE ABLE TO RESTRICT WHO CAN OR CANNOT BE A SCOUTMASTER

1% BOTH (VOLUNTEERED)

1% NEITHER (VOLUNTEERED)

6% IT DEPENDS/NEED TO KNOW MORE (VOLUNTEERED)

3% REFUSED (VOLUNTEERED)

19. In *New Jersey Farm Bureau v. Township of East Amwell*, a New Jersey court allowed East Amwell to continue its practice of “down-zoning” in an effort to preserve farmland. Down-zoning takes away farmers’ options of selling land parcels smaller than 10 acres. Many farmers sell off their land in smaller parcels for development or farming operations. Do you agree or disagree with this ruling of the Court to prohibit farmers from selling smaller segments of their land? (PROBED: And would that be STRONGLY or SOMEWHAT AGREE/ DISAGREE?)

**30% TOTAL AGREE (NET)**

18% STRONGLY AGREE

12% SOMEWHAT AGREE

**58% TOTAL DISAGREE (NET)**

27% SOMEWHAT DISAGREE

31% STRONGLY DISAGREE

6% IT DEPENDS/NEED MORE INFORMATION (VOLUNTEERED)

5% DO NOT KNOW (VOLUNTEERED)

1% REFUSED (VOLUNTEERED)

20. As you might have heard, the New Jersey Division of Civil Rights ruled last month that an Ocean Grove Methodist Church had discriminated against a same-sex couple when it refused to rent its gazebo to that couple for their civil union ceremony. The church refused the use of its property because same-sex civil unions conflict with its religious beliefs and argued that the First Amendment protected its religious freedom to deny same-sex civil unions. . The couple argued that tax-exempt organizations, like this church, are obliged to follow the state’s antidiscrimination law. Thinking about this case and others like it, which of the following do you think is more important (ROTATED)

47% PROTECTING RELIGIOUS LIBERTY

38% ENFORCING ANTI-DISCRIMINATION LAWS

3% BOTH (VOLUNTEERED)

1% NEITHER (VOLUNTEERED)

5% IT DEPENDS/NEED TO KNOW MORE (VOLUNTEERED)

4% REFUSED (VOLUNTEERED)

## **Demographics**

21. Which of the following categories best describes your age? (IF RESPONDENT SAID DON'T KNOW OR REFUSES TO ANSWER SAID, "I only need a range, not a specific age.")

11% 18-24  
17% 25-34  
21% 35-44  
21% 45-54  
13% 55-64  
16% 65+  
1% REFUSED (VOLUNTEERED)

22. Would you describe your racial or ethnic background as...(READ LIST)?

80% WHITE/CAUCASIAN  
10% BLACK/AFRICAN-AMERICAN  
7% HISPANIC/LATINO  
1% ASIAN  
\* MIDDLE EASTERN  
1% OTHER\_\_\_\_\_ (VOLUNTEERED)  
- DON'T KNOW (VOLUNTEERED)  
1% REFUSED (VOLUNTEERED)

23. Do you consider yourself to be a....

**31% TOTAL REPUBLICAN (NET)**  
13% STRONG REPUBLICAN  
6% NOT-SO-STRONG REPUBLICAN  
12% INDEPENDENT-LEANING-REPUBLICAN

**22% INDEPENDENT**

**44% TOTAL DEMOCRAT (NET)**  
12% INDEPENDENT-LEANING-DEMOCRAT  
5% NOT-SO-STRONG DEMOCRAT  
27% STRONG DEMOCRAT

\* DO NOT KNOW (VOLUNTEERED)  
1% REFUSED (VOLUNTEERED)

24. Thinking for a moment about your social, economic, and political views ...Do you consider yourself to be...?

(IF CONSERVATIVE/LIBERAL, ASKED) And would you consider yourself to be VERY (conservative/liberal) or just SOMEWHAT (conservative/liberal)?

**34% TOTAL CONSERVATIVE (NET)**

13% VERY CONSERVATIVE  
21% SOMEWHAT CONSERVATIVE

**34% MODERATE**

**26% TOTAL LIBERAL (NET)**

16% SOMEWHAT LIBERAL  
10% VERY LIBERAL

**4% LIBERTARIAN**

1% DO NOT KNOW (VOLUNTEERED)  
1% REFUSED (VOLUNTEERED)

25. How long have you lived in New Jersey?

46% NATIVE/MY ENTIRE LIFE  
6% NOT BORN HERE, BUT SINCE I WAS YOUNG/SCHOOL-AGE  
25% MORE THAN 20 YEARS  
10% 11-19 YEARS  
8% 6-10 YEARS  
4% 1-5 YEARS  
\* LESS THAN ONE YEAR  
1% REFUSED (VOLUNTEERED)

26. Regarding your family's annual income...Please tell me which of the following categories best describes your family's annual income. I don't need a specific amount, a broad range will be fine.

4%	BELOW \$20,000
2%	\$20,000 TO \$24,999
2%	\$25,000 TO \$29,999
4%	\$30,000 TO \$39,999
5%	\$40,000 TO \$49,999
6%	\$50,000 TO \$59,999
5%	\$60,000 TO \$69,999
7%	\$70,000 TO \$79,999
5%	\$80,000 TO \$89,999
35%	\$90,000 AND ABOVE
24%	REFUSED (VOLUNTEERED)

27. Are you...? (READ CATEGORIES)

47%	CATHOLIC
29%	PROTESTANT
6%	JEWISH
6%	AGNOSTIC/ATHEIST
1%	MUSLIM
-	MORMON
2%	OTHER (SPECIFY) (VOLUNTEERED)
5%	NONE/UNAFFILIATED (VOLUNTEERED)
5%	REFUSED (VOLUNTEERED)

28. How often do you attend religious services?

11%	A FEW TIMES A WEEK OR MORE
24%	ONCE A WEEK
12%	A FEW TIMES PER MONTH
17%	A FEW TIMES PER YEAR
31%	SELDOM/NEVER
6%	DON'T KNOW/REFUSED (VOLUNTEERED)

29. Gender

48%	MALE
52%	FEMALE

30. Region<sup>1</sup>

50% NORTH JERSEY  
25% SOUTH JERSEY  
25% CENTRAL JERSEY

---

<sup>1</sup> North Jersey is comprised of Bergen, Essex, Hudson, Hunterdon, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties. South Jersey is comprised of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem Counties. Central Jersey is comprised of Mercer, Middlesex, Monmouth, and Ocean Counties.