

# PAY TO PLAY



**How Big Money  
Buys Access  
to the Texas  
Supreme Court**

Texans for Public Justice

# ACKNOWLEDGEMENTS

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# **PAY TO PLAY:**

## **HOW BIG MONEY BUYS ACCESS TO THE TEXAS SUPREME COURT**

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# SUMMARY

## I.

- The 10 Texas Supreme Court Justices who faced an election from 1994 through 1998 raised \$12.8 million for those political campaigns.
- These justices raised 52 percent of this money (\$6.7 million) from lawyers, law firms and litigants who filed appeals with the high court during this same period.
- The justices rejected 89 percent of the 3,942 appeals that they received, agreeing to review *just 11 percent of them*.
- The justices were four times more likely to accept an appeal filed by a campaign contributor than they were to accept an appeal filed by a non-contributor.
- The more money that a petitioner contributed to the justices the more likely that they were to accept a given petition:
  - The justices were 7.5 times more likely to accept petitions filed by contributors of at least \$100,000 than petitions filed by non-contributors; and
  - The justices were 10 times more likely to accept petitions filed by contributors of more than \$250,000 than petitions filed by non-contributors.
- Court contributors, who accounted for 40 percent of all petitions *filed*, accounted for 70 percent of all the petitions that the court *accepted*.
- The court was more receptive to petitions filed by Chief Justice Tom Phillips' old firm than any other major appellate firm. Baker Botts—one of just two firms that contributed more than \$250,000 to the justices—enjoyed an astonishing petition-acceptance rate of 74 percent.



# INTRODUCTION

## II.

Every year, hundreds of litigants who are unsatisfied with their treatment by lower state courts file “petitions for review” that urge the Texas Supreme Court to intervene on their behalf.<sup>1</sup> Acting in secrecy, the justices agree to accept a small fraction of these requests. Usually just one side (“the petitioner”) seeks Supreme Court review to reverse a lower court action that benefited an opponent (“the respondent”). In these instances, the court rules either *for* or *against* litigants at the most basic level, determining who will get their day in the high court—and who will not. This report analyzes the extent to which the justices swing the courtroom doors open wider when big campaign contributors come knocking. It finds that petitioners who donate to the justices enjoy extraordinary access to the high court.

Texas is one of eight remaining states where Supreme Court candidates run for office in expensive, partisan campaigns that owe much of their funding to the lawyers and litigants who have business before these courts. These judicial elections are then decided by an electorate that—for the most part—knows little about the justices it elects.

Texans for Public Justice previously documented the inherent conflicts of interest of this system,<sup>2</sup> which has been exposed in such national investigative programs as *Frontline* and *60 Minutes*. Such coverage has trained a spotlight on Texas’ system of judicial selection, particularly the degree to which its top judges take campaign funds from lawyers and litigants with business in their courtrooms.

The legal establishment has danced around this legitimacy crisis with a Texas two step. It acknowledges that Texas’ judicial-selection system is fatally flawed. “The way Texas elects partisan judges, and allows those who practice before them to supply the campaign money will always fuel suspicion that justice is for sale here,” Texas Supreme Court Chief Justice Tom Phillips has said. At the same time, the legal establishment insists that this is a mere *perception* problem. Those who give and take the millions of campaign dollars say that this money has *no influence* on the official actions of Texas judges. They cling to this claim despite a 1999 Supreme Court survey that found that 48 percent of the state’s *judges* say that campaign contributions have “a significant influence on the outcome of judicial decisions.”

The contention that money does not influence judicial actions stumbles over an awkward coincidence. When plaintiff lawyers bankrolled Texas Supreme Court justices in the 1980s, the court’s decisions often favored plaintiff interests. Similarly, as documented by watchdogs, the media and even a prominent state appellate judge,<sup>3</sup> the court’s decisions have overwhelmingly favored corporate defendants and defense lawyers since the 1990s, when these interests began bankrolling justices’ campaigns. This study goes a step further by using the court’s own contributions and docket data to document that the justices are far more likely to accept appeals filed by their top campaign contributors.

<sup>1</sup> Formerly called “applications for writ of error.”

<sup>2</sup> See *Payola Justice and Checks & Imbalances*, as well as *The Dollar Docket* newsletter, online at [www.tpj.org](http://www.tpj.org).

<sup>3</sup> See “Juries Under Siege,” Chief Justice Phil Hardberger, *St. Mary’s Law Journal*, V. 30, No. 1, 1998, as well as Justice Hardberger’s footnotes on sources documenting this disturbing trend.



# METHOD

## III.

**Combining two databases** covering 1994 through 1998, this study finds that Texas Supreme Court justices are much more likely to accept appeals filed by their campaign contributors than appeals filed by non-contributors.

The databases combined to produce this report are:

- Campaign contributions data that justices file with the Texas Ethics Commission; and
- Docket data covering “petitions for review”<sup>4</sup> filed with the Supreme Court.

### **Petitions data**

From 1994 through 1998, Texas Supreme Court justices exercised their discretion to either grant or deny 4,237 petitions for review filed by petitioners who sought to appeal the actions of lower state courts.<sup>5</sup> Usually just one side of a dispute petitioned the Supreme Court for relief, though both sides sometimes filed petitions—albeit for different reasons. For the sake of simplicity, this study just examines the 3,942 “single-sided petitions” in which just *one side* of a dispute petitioned the high court to review their case. Excluding the relatively few cases in which both sides filed petitions left researchers with a simplified body of appeals. In the petitions analyzed here, just one side of a dispute asked the Supreme Court to take its case, a request that the justices then either granted or denied (the next section explains the petition process).

### **Contributions data**

The campaign contribution data in this report cover the election cycles of the 10 Supreme Court justices who faced an election from 1994 through 1998 (see the table on page 7). Researchers married the contributions and petitions databases to identify those lawyers and litigants who filed Supreme Court petitions and who also contributed to the justices’ political campaigns.

The legal counsel contributions data include direct contributions from the attorney, the attorney’s law firm (or its political action committee) and other attorneys employed by that firm. Contributions data on litigating parties only cover contributions made by institutional entities (e.g. Exxon or El Paso Electric Co.). The data for these institutional parties include the contributions of the entity (or its PAC) and the entity’s employees (usually its top executives). This report excludes the contributions of individual parties (e.g. Jane Doe) because court records rarely identify the home town of these individuals, making it exceedingly difficult to accurately match individual parties with campaign contributors of the same name.

In all, this study screened the contributions of 1,766 petitioning parties and 5,060 petitioning attorneys affiliated with 1,717 law firms.

<sup>4</sup> The court adopted this nomenclature in 1997; previously, the rough equivalent was called “writ of error.”

<sup>5</sup> Additional petitions were dismissed before the justices acted to accept or deny them (e.g. the petitioner withdrew the petition or it was dismissed for want of jurisdiction).

# IV.

## THE APPEALS PROCESS

**The Texas Supreme Court** is the court of last resort for state civil disputes. It has jurisdiction to review questions of law that arise in lower state courts. The court has broad discretion to accept any matter that involves any one of the following six conditions:<sup>6</sup>

1. A constitutional issue;
2. Questions about the construction or validity of a statute;
3. Conflicting rulings by two appellate courts on an important point of law;
4. Disagreements among justices of the same appeals court on an important point of law;
5. A court of appeals committing an important error of law; *or*
6. A court of appeals deciding an important question of state law that should be resolved by the Supreme Court.

In September 1997, the court changed the rules governing the chief route that litigants use to appeal an issue to the high court.<sup>7</sup> Under the old system, the chief way that litigants

attempted to get the court to review a legal issue was to file lengthy “applications for writ of error.” These applications have now been replaced by shorter “petitions for review.”

Previously, the court randomly assigned applications for writ of error to one of the nine justices. Typically, that justice’s staff attorney or clerk would review the application and accompanying briefs and draft a recommendation to the full court on whether or not the court should accept the case. Under that system, the other eight justices did not see the accompanying briefs unless they specifically requested them. Under the new system, the staff of each justice gets a copy of every petition for review. Under both systems, individual justices then cast votes on whether or not to accept a case. The court declines to review any matter that fails to garner the support of at least four justices. The court keeps these deliberations and votes confidential; its rejections require no explanation.

In accepting a petition, the court is not signaling that it intends to ultimately rule in the petitioner’s favor. The court is, however, granting the petitioner an extraordinary chance to present his or her case in the Texas Supreme Court. The vast majority of petitioners never get this opportunity.

<sup>6</sup> Texas Rules of Appellate Procedure §56.1. Also see §22.001 of the Texas Government Code.

<sup>7</sup> See “Internal Procedures in the Texas Supreme Court Revisited,” James A. Vaught and R. Darin Darby, *Texas Tech Law Review*, Vol. 31, No. 1, 2000; and *Texas Civil Appellate Practice*, second edition, Elaine Grafton Carlson, West Group, December 1998.

# PAYING TO PLAY

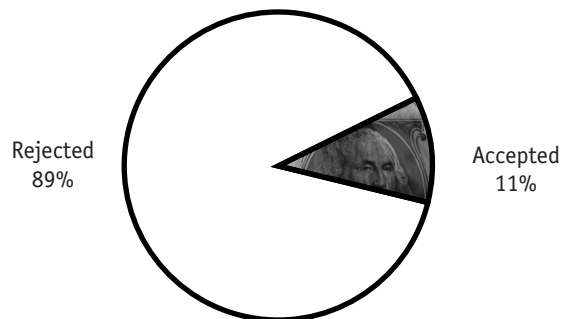
V.



## A. JUSTICES ACCEPTED JUST 11% OF THE PETITIONS

Between 1994 and 1998 Texas Supreme Court justices decided to grant or deny 4,237 “petitions for review” in which litigants asked the high court to intervene with lower courts on their behalf. Of these petitions, 3,942 were “single-sided” petitions in which just one side of a case asked the high court to intervene. The justices agreed to hear just 442 single-sided petitions, or 11 percent of the total.

### The Supreme Court Accepts Few Petitions



Petitions Rejected:	3,500
Petitions Accepted:	442
<u>Total Petitions:</u>	<u>3,942</u>

- The Supreme Court reviewed 3,942 “single-sided” petitions from 1994 through 1998.
- The court accepted just 11 percent of these petitions, rejecting the other 89 percent.

## B. PETITIONERS SUPPLIED MOST OF THE JUSTICES' CAMPAIGN FUNDS

The 10 justices who sat on the court and faced an election from 1994 through 1998 raised a total of \$12.8 million in campaign funds. They received, 52 percent—or \$6.7 million—of this amount from the litigants, lawyers and law firms that filed petitions with the court during this same period. Justice

Deborah Hankinson relied most on petitioner funds, raising 60 percent of her war chest from petitioners. Justice Priscilla Owen depended least on this funding source, but still received 43 percent of her money from court petitioners.

Justice	High Court Tenure	Election Cycle Studied	Money Raised In Cycle	Petitioner Money In Cycle	Share of Money From Petitioners
*Abbott	01/01/96–12/31/04	'96 & '98	\$1,997,150	\$1,130,45	57%
*Baker	10/03/95–12/31/02	'96	\$1,004,733	\$526,977	52%
Cornyn	01/02/91–10/26/97	'96	\$1,048,324	\$583,764	56%
*Enoch	01/03/93–12/31/04	'98	\$1,326,654	\$709,233	53%
Gonzalez	10/08/84–01/13/99	'94	\$1,743,167	\$860,509	49%
*Hankinson	10/27/97–12/31/02	'98	\$1,116,709	\$671,658	60%
*Hecht	02/02/89–12/31/06	'94	\$1,767,568	\$841,947	48%
*Owen	01/02/95–12/31/06	'94	\$926,516	\$401,307	43%
*Phillips	01/04/88–12/31/02	'96	\$1,281,661	\$664,164	52%
Spector	01/03/93–01/03/99	'98	\$545,103	\$271,008	50%
<b>TOTAL:</b>			<b>\$12,757,585</b>	<b>\$6,661,02</b>	<b>52%</b>

These justices faced an election from 1994 through 1998. (Justices Harriet O'Neill and Alberto Gonzales joined the court later; ex-Justices Lloyd Doggett, Jack Hightower and Bob Gammage sat on the court for part of the studied period but they did not stand for election during this time period.)

\*Current justice



### C. DONORS WERE FOUR TIMES MORE LIKELY TO GET HEARD

The justices were almost four times more likely to accept petitions filed by contributors than petitions filed by non-contributors. Of the 442 petitions that the court accepted, 70 percent (310 petitions) involved at least one petitioning party or law firm that contributed to a justice.

- Contributors filed 40 percent of the petitions.
- Non-Contributors filed 60 percent of the petitions.

- The court accepted 20 percent of the petitions filed by contributors.
- The court accepted just 5.5 percent of petitions filed by non-contributors.

**Donors Accounted for 40% of Petitions Filed...**

**Petitions Filed**

Non-contributors  
60%



Contributors  
40%

Contributors=1,582 petitions;  
Non-contributors=2,360 petitions.

**...And 70% of Petitions That the Justices Accepted**

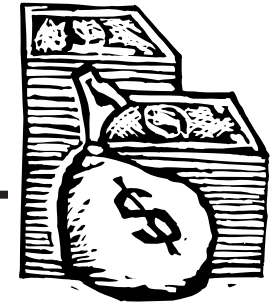
**Petitions Accepted**

Contributors  
70%



Non-contributors  
30%

Contributors=310 petitions;  
Non-contributors=132 petitions.

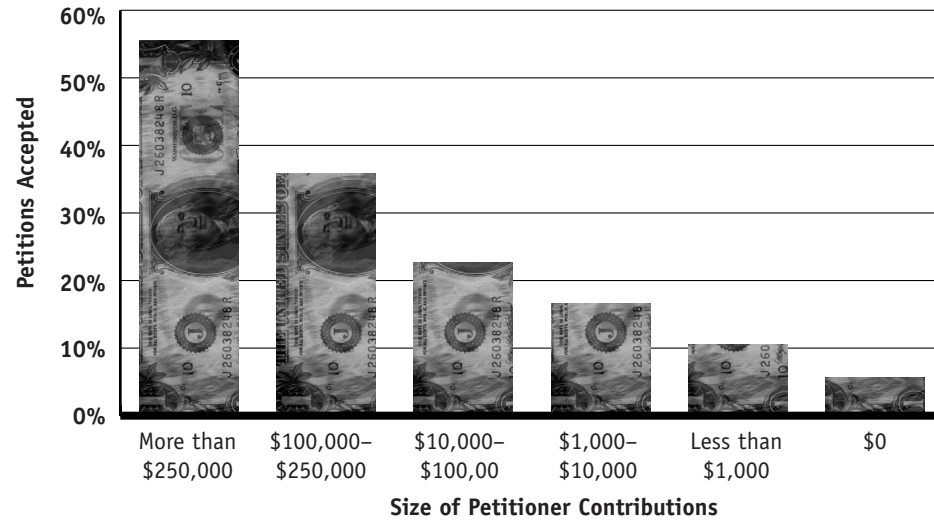


## D. BIG DONORS HAD HIGHEST ACCEPTANCE RATES

Not only do contributing petitioners enjoy an advantage in the Supreme Court but there is a strong correlation between this advantage and the amount of political money contributed. While the average overall petition-acceptance rate was 11 percent, this rate leapt to an astonishing 56 percent for petitioners who contributed more than \$250,000 to the justices. In contrast, non-contributing petitioners enjoyed an acceptance rate of just 5.5 percent. For every contribution level studied, there was a direct correlation between the amount of money contributed and the court's petition-acceptance rate.

- The average petitioner who gave the court \$250,000 or more was 10 times more likely than the average non-contributor to have a petition accepted.
- The average petitioner who gave the court \$100,000 or more was 7.5 times more likely than the average non-contributor to have a petition accepted.
- Across the board, the more a petitioner gave, the greater the likelihood that the court would accept a given petition.

**Texas justices are 10 times more likely to accept petitions filed by big donors than petitions filed by non-contributors.**



**Big Contributors Enjoy Highest Acceptance Rates**

Petitioner Contributions	Petitions Filed	Petitions Accepted	Acceptance Rate (%)
More than \$250,000	54	30	56%
\$100,000-\$250,000	137	49	36%
\$10,000-\$100,000	402	91	23%
\$1,000-\$10,000	589	98	17%
\$1-\$1,000	400	42	11%
\$0	2,360	132	6%
<b>All Petitions</b>	<b>3,942</b>	<b>442</b>	<b>11%</b>

The remainder of this section of the report takes a look at how these same trends particularly apply to petitioning law firms and to petitioning parties. For this discussion, the analysis will shift from the 3,942 individual petitions studied in this report to each filing made by every petitioner. There are many more petitioner filings than petitions because a single petition can involve multiple attorneys, law firms and parties.



### D-1. Lawyers and Law Firms Contributed \$5.4 Million

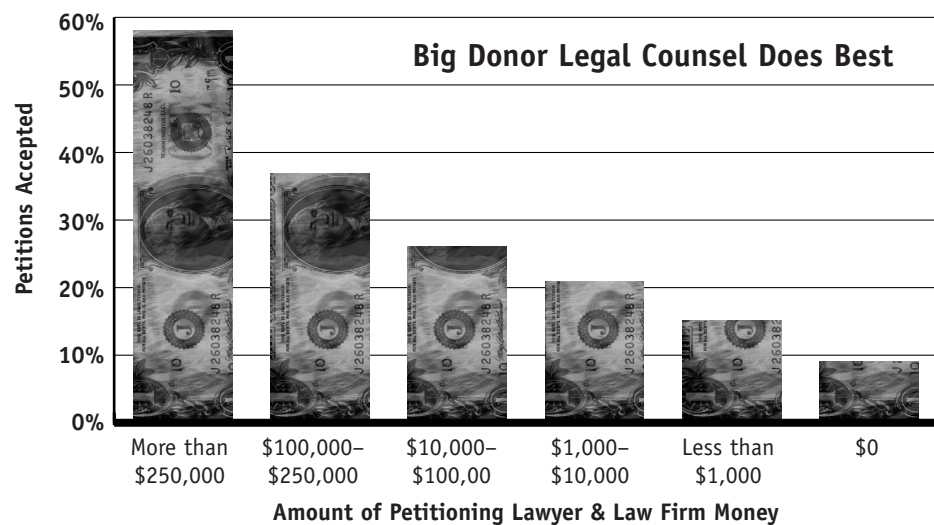
More than 5,000 attorneys affiliated with more than 1,700 law firms helped file the 3,942 Supreme Court petitions studied here. The 10 justices received \$5.4 million from these attorneys, their law firms, and other attorneys in these firms. This lawyer money accounts for 81 percent of the \$6.7 million in petitioner money that the justices raised.

### Petitioners Gave Justices \$6.7 Million



- The average legal counsel contributing more than \$250,000 was 6.4 times more likely than the average non-contributing counsel to have a petition accepted.
- The average legal counsel contributing more than \$100,000 was 4 times more likely than the average non-contributing counsel to have a petition accepted.
- Across the board, the more that the petitioning counsel gave, the greater the likelihood that the court would accept its petitions.

Here again, there is a strong correlation between the amount of money that the petitioning legal counsel contributed to the justices and the likelihood that the justices would accept their petitions. While the justices accepted just 9 percent of the petitions filed by legal counsel that did not contribute to the justices' campaigns, they accepted 58 percent of the petitions filed by the two firms that gave the justices more than \$250,000 (Vinson & Elkins and Baker Botts). In fact, the justices accepted an astounding 74 percent of the 19 petitions filed by Baker Botts, the former firm of Chief Justice Tom Phillips.



### Big Contributors Enjoy Highest Acceptance Rates

Petitioner Contributions	Petition Filings	Accepted Filings	Acceptance Rate (%)
More than \$250,000	43	25	58%
\$100,000-\$250,000	149	55	37%
\$10,000-\$100,000	440	115	26%
\$1,000-\$10,000	693	145	21%
\$1-\$1,000	409	62	15%
\$0	2,678	245	9%
<b>All Petitions</b>	<b>4,412</b>	<b>647</b>	<b>15%</b>

**Data Note:** In this section—and in the next one on petitioning parties—the analysis shifts from the 3,942 individual petitions studied in this report to each filing made by every petitioner. There are many more petitioner filings than petitions because a single petition can involve multiple attorneys, law firms and parties.

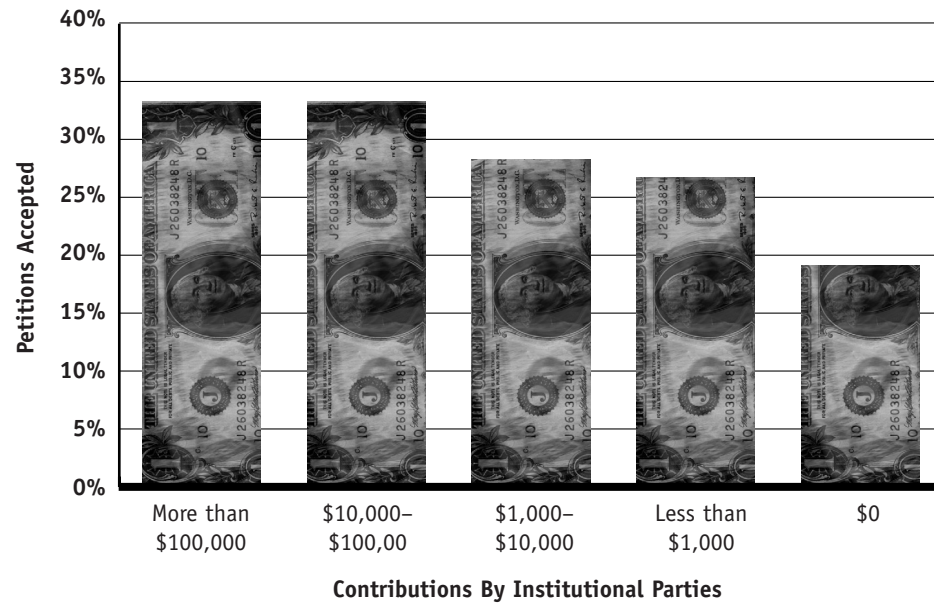
**Contributions and Acceptance Rates  
For Firms Filing More Than 10 Petitions**

Law Firm	Acceptance Rate (%)	Supreme Petitions	Petitions Accepted	Contributions To Justices
Baker Botts	74%	19	14	\$279,043
Magenheim Bateman & Helfand	57%	14	8	\$3,100
Vinson & Elkins	46%	24	11	\$371,922
Haynes & Boone	44%	25	11	\$122,185
Fulbright & Jaworski	43%	35	15	\$232,625
Gardere Wynne Sewell & Riggs	42%	12	5	\$83,488
Locke Purnell Rain Harrell	42%	12	5	\$139,423
Strasburger & Price	38%	24	9	\$101,000
Cowles & Thompson	35%	17	6	\$59,875
Bracewell & Patterson	33%	15	5	\$135,675
Small Craig & Werkenthin	33%	12	4	\$14,401
Thompson & Knight	32%	25	8	\$145,259
Brown McCarroll & Oaks Hartline	32%	22	7	\$40,400
Ramey Flock Jeffus Crawford	30%	20	6	\$17,213
Crofts Callaway & Jefferson	28%	18	5	\$1,950
Akin Gump Strauss Hauer & Feld	27%	15	4	\$69,918
Jenkins Gilchrist	27%	11	3	\$60,965
Vial Hamilton Koch & Knox	25%	12	3	\$49,875
Holman Hogan Dubose & Townsend	24%	21	5	\$7,000
Wright & Associates	19%	16	3	\$0
Clark Thomas & Winters	18%	17	3	\$47,930
Cooper Aldous & Scully	17%	12	2	\$2,600
Gilpin Paxson & Bersch	15%	13	2	\$13,750
Carr Hunt Wolfe & Joy	0%	14	0	\$5,712
<b>TOTALS:</b>	<b>34%</b>	<b>425</b>	<b>144</b>	<b>\$2,005,309</b>

### D-2. Petitioning Parties Contributed \$1.3 Million

Although lawyers and law firms dominated petitioner contributions, institutional parties contributed \$1.3 million, or 19 percent of all the petitioner money tracked here. These 1,766 institutional petitioners (including such powerhouses as Southwestern Bell, Nationsbank and Coastal Corp.) had an average petition-acceptance rate of 20 percent. For parties that contributed more than \$10,000, this acceptance rate jumped to 33 percent.

### Big-Donor Litigant Parties Do Best



The significance of the data for parties that contributed more than \$100,000 is limited by the fact that there were only three such parties and they filed just one Supreme Court petition apiece (see table). The two highest-volume petitioning parties—HEB (contributing \$72,398) and Southwestern Bell (contributing \$27,350)—filed a total of 12 petitions, with the justices agreeing to accept 33 percent of these appeals. The justices also receive large amounts of business money through trade associations, which are not included in this analysis (see *Checks & Imbalances*, Texans for Public Justice, April 2000).

### Petitioning Party Contributions

Petitioner Contributions	No. of Parties	Petition Filings	Accepted Filings	Acceptance Rate (%)
More than \$100,000	3	3	1	33%
\$10,000-\$100,000	32	57	19	33%
\$1,000-\$10,000	67	127	36	28%
\$1-\$1,000	46	60	16	27%
\$0	1,618	1,830	349	19%
<b>TOTALS</b>	<b>1,766</b>	<b>2,077</b>	<b>421</b>	<b>20%</b>

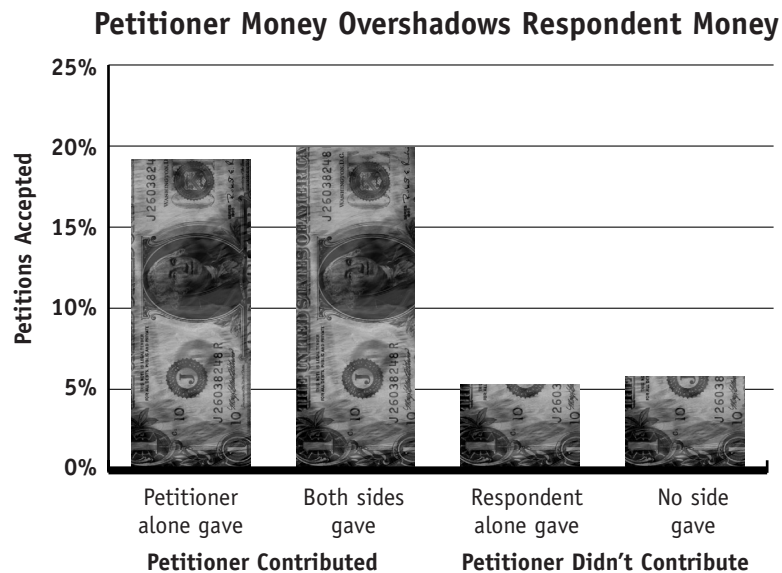
**Data Note:** In this section—as in the previous one on petitioning law firms—the analysis shifts from the 3,942 *individual petitions* studied in this report to *each filing made by every petitioner*. There are many more *petitioner filings* than *petitions* because a single petition can involve multiple attorneys, law firms and parties.

## E. RESPONDENT MONEY DID NOT HAVE MUCH IMPACT

No significant correlation was found between the court's petition-acceptance rate and the contributions that the justices received from petition *respondents*. These respondents wanted the court to reject their opponents' petitions because they already were prevailing over the petitioners in a lower court.

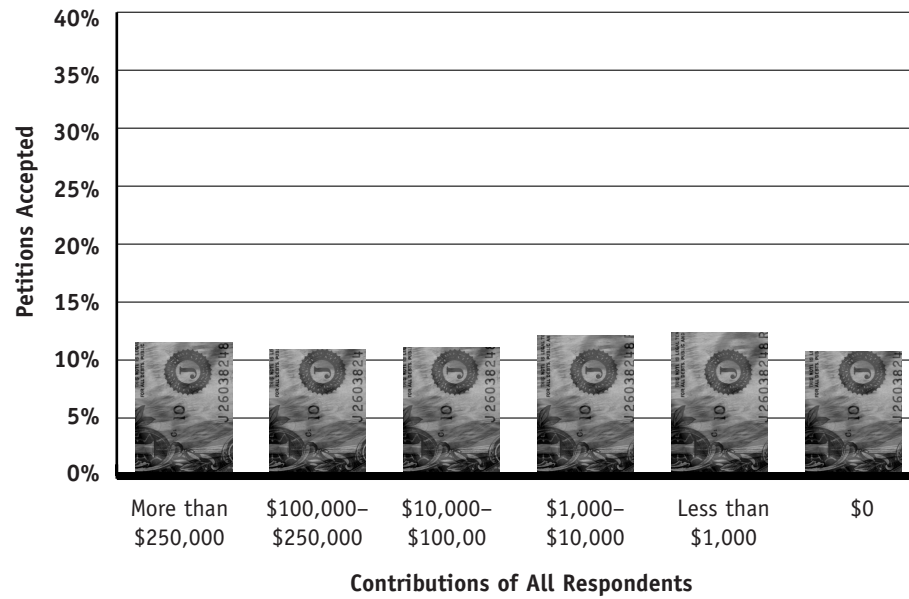
The accompanying graph shows that it was petitioner—not respondent—contributions that correlated with the court's

petition-acceptance rate. The left two bars show that the court accepted a high percentage (19–20 percent) of all petitions filed by petitioners who contributed money to the justices campaigns (regardless of whether or not the opposing respondents also contributed). In contrast, the graph's right two bars show that the court petition-acceptance rate plummets (to 5–6 percent) when the petitioner did not contribute to the justices (regardless of whether or not the opposing respondents contributed).



The accompanying graph shows that the court's petition-acceptance rate stays within two percentage point of its overall rate of 11 percent regardless of how much money the justices received from respondents.

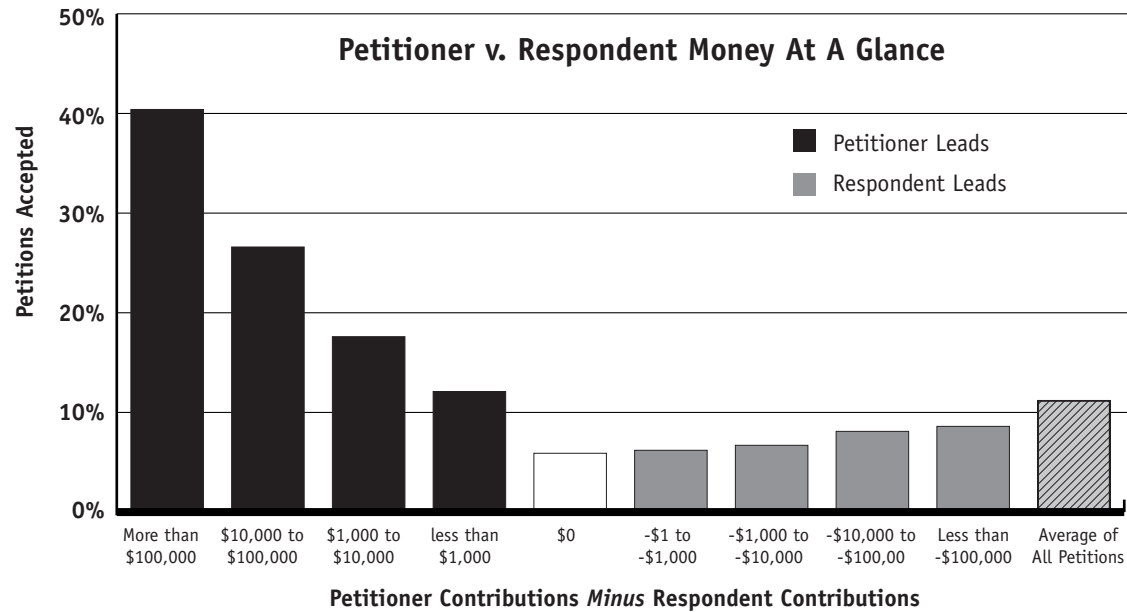
### Respondent Money Showed Little Impact on Petition-Acceptance Rates



This last graph reveals what happens to petition-acceptance rates depending on the extent to which the petitioners or the respondents contributed more money to the justices. To obtain these figures, *respondent* contributions were subtracted from *petitioner* contributions for each petition. This created three groups of petitions:

- Those in which respondents contributed more money;
- Those in which petitioners contributed more money; and
- Those in which there was no difference because both sides contributed equally or—more commonly—because neither side contributed anything to the justices.

The court accepted 22 percent of the petitions in which the petitioners contributed the most money (or twice the court’s overall average rate of 11 percent). The court’s average acceptance rate dropped to just 7 percent when petitioners contributed less than respondents.



The respondent-advantage data to the right of the center “\$0” bar are much less dramatic. These data show that the court’s acceptance rate of petitions *gradually rises* as respondent contributions outpace petitioner contributions. Note that this trend is the opposite of what might be expected, given that respondents do not want the court to review these petitions. A closer look, however, reveals that the court’s acceptance rate for petitions rises a total of just three percentage points. Again, there is little correlation between respondent contributions and the court’s petition-acceptance rate.



# CONCLUSION

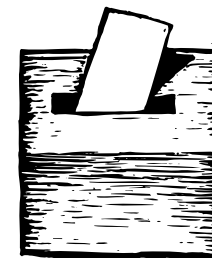
## VI.

**This study finds a strong,** undeniable correlation between campaign contributions and access to the Texas Supreme Court. The more political money that lawyers and litigants contribute to the justices, the more likely they are to have their day in the high court. These findings do not link specific campaign contributions to the way that the court handled a particular petition or case. Rather, they reveal a general, institutionalized pattern in which the court's big donors enjoy vastly greater access to the court than do lawyers and litigants who do not contribute to the justices.

The strong relationship between political contributions and access to the Texas Supreme Court mirrors what goes on in our legislative and executive branches of government—where money buys access to politicians even when it may not buy guaranteed support for a given policy. The difference, however, is one of expectations. The American system of government holds out the promise of an independent judiciary that will treat everyone alike, be they rich or poor, contributors or non-contributors. The strong relationship between campaign contributions and access to the Texas Supreme Court is further evidence that Texas courts fall woefully short of this ideal.

The beneficiaries of the current system (those who give and receive judicial contributions) have long denied that campaign contributions influence the court's official actions. Yet the data plainly demonstrate a powerful relationship between campaign contributions and the likelihood that the court will agree to accept an appeal.

Defenders of the *status quo* may still argue that campaign contributions do not fully explain why petitions filed by the biggest donors are 10 times more likely to be accepted than petitions filed by non-donors. They may argue that it is a coincidence that the firm that racked up a record 74 percent petition-acceptance rate was one of just two firms that gave more than \$250,000 to the justices. To be sure, contributions are not the only factor that influences petition-acceptance rates. Baker Botts' acceptance rate of 74 percent may also reflect such factors as the number and caliber of its appellate lawyers or its practice of paying large, pre-employment bonuses to sitting Supreme Court clerks.



Nonetheless, given the powerful relationship between political contributions and the court's acceptance of cases, it asks too much to argue that political contributions have no influence on which petitioners get a foot in the courtroom door. Rather than asking the public to suspend disbelief, Texas' political leaders should institute fundamental reforms to create a judiciary that is politically and financially independent in both reality and appearance.

# APPENDICES

## VII.

### A. TOP-DONOR PETITIONS

The accompanying table lists 20 petitions filed by the petitioners who contributed the most political money to the justices. The petitioning parties and legal counsel that filed each of these petitions contributed totals ranging from \$375,522 to \$881,709 to the justices. These justices, who accept 11 percent of the petitions that they receive, agreed to accept a remarkable 65 percent of these top-dollar petitions.

Petition	Case No	Petitioner Donations	Respondent Donations	Petition Accepted?
<i>Coastal Corporation v. Garza, et al.</i>	96-1208	\$881,709	\$188,645	No
<i>Aetna Casualty Co. v. Union Pacific Resources Co.</i>	95-0473	\$791,147	\$29,647	No
<i>Quintana Petroleum Corp. v. Kenley</i>	96-0805	\$632,857	\$6,200	No
<i>Tenneco Oil Co., Fina Oil Co. v. Galveston Terminals, Inc.</i>	95-0949	\$568,204	\$0	Yes
<i>Southwestern Electric Power Co. v. Burlington Northern RR</i>	96-0684	\$542,695	\$34,134	Yes
<i>Cook v. Fingold</i>	95-0572	\$524,345	\$0	No
<i>General Motors Corp. v. Bloyed</i>	94-0777	\$520,167	\$1,600	Yes
<i>Schlumberger Technology Corp. v. Swanson, et al.</i>	95-0355	\$516,318	\$354,774	Yes
<i>HEB Grocery Co. v. Moody's Quality Meats, Inc.</i>	97-0940	\$444,320	\$300	No
<i>Transamerican Natural Gas v. Nancy Rodriguez Fuentes</i>	96-1243	\$427,601	\$1,000	Yes
<i>U.S. Brass Corp. v. Andraus, et al.</i>	94-0123	\$404,822	\$5,000	Yes
<i>S &amp; A Restaurant Corp. v. Leal</i>	94-0844	\$401,772	\$500	Yes
<i>Owens Corning v. Cole, et al.</i>	98-0180	\$401,322	\$24,408	No
<i>Hyundai Motor Co. v. Alvarado, et al.</i>	95-0969	\$391,610	\$5,150	Yes
<i>El Paso Electric Co. v. Texas Dept. of Insurance</i>	95-0943	\$390,323	\$2,225	Yes
<i>Minnesota Mining &amp; Manufacturing Co. v. Nishika Ltd.</i>	94-1124	\$380,372	\$429,320	Yes
<i>Black v. Martin</i>	95-1260	\$379,772	\$14,670	No
<i>McCamish Martin Brown &amp; Loeffler v. FE Appling Interests</i>	97-0970	\$377,422	\$1,000	Yes
<i>Maritime Overseas Corp. v. Ellis</i>	94-1057	\$376,242	\$163,075	Yes
<i>Standard Fruit &amp; Vegetable Co. v. Johnson</i>	97-0976	\$375,522	\$0	Yes
				<b>Yes: 65%</b>

## **B. TEXAS' JUDICIAL ELECTIONS LAW**

### **Who May Contribute and What Are The Limits?**

Corporations and labor unions may not contribute to Texas Supreme Court elections directly, although their PACs can contribute, as can other kinds of business entities such as legal partnerships. Prior to 1995, the amount an individual could give to any candidate for a judicial election was unlimited. The Judicial Campaign Fairness Act (JCFA), which took effect on June 16, 1995, limits contributions by individuals to \$5,000 to each Texas Supreme Court candidate in each election.

The JCFA also imposes a \$30,000 limit on law firms. Once a Supreme Court candidate receives a total of \$30,000 from a single law firm (including individual contributions from the firm's attorneys), employees of that firm cannot contribute more than \$50 apiece to that candidate for that election.

A Supreme Court candidate can take a total of \$300,000 from PACs.

Contribution limits are calculated separately for each election, not for each election cycle. As such, a contributor may give a Texas Supreme Court candidate \$5,000 for the primary election, \$5,000 more for any runoff election, and an additional \$5,000 for the general election.

### **When May A Candidate Accept A Contribution?**

Judicial candidates may begin soliciting contributions approximately seven months (210 days) before their deadline for applying to have their names put on the ballot. They can continue to solicit money until approximately four months (120 days) after the last election (primary, runoff, or general) in which the candidate has an opponent.

An exception to this rule involves a justice who is appointed by the governor to fill an unexpired term. New appointees may accept contributions for 60 days once their official duties commence. The appointed justice need not be involved in an election cycle to raise funds during this time.

### **Must Justices Recuse Themselves From Cases Involving Big Campaign Contributors?**

No. Large contributions from lawyers and litigants with matters before Texas courts are not subject to any such limitation.