

Texans For Public Justice

609 West 18th St., Suite E, Austin, Texas 78701 , PH:(512) 472-9770
FAX:(512) 472-9830 , E-Mail: tpj@tpj.org , http://www.tpj.org

October 14, 2008

State Commission on Judicial Conduct
300 W 15th Street, Ste 415
Austin, Texas 78711
(BY HAND)

RE: Complaint alleging potential misconduct by Third Court of Appeals Justice Alan Waldrop.

Dates of Alleged Misconduct: September 2006 to the Present.

Case NO. 03-05-00585-CR, NO. 03-05-00586-CR

Factual Details of Complaint: It appears that Third Court of Appeals Justice Alan Waldrop violated the Texas Code of Judicial Conduct by participating in an appeal when his impartiality might reasonably be questioned and when he had a prejudice or bias. See Texas Code of Judicial Conduct, Canons 1, 2(A), 2(B), 3(A), 3(B)(2), 3(B)(5), 3(B)(6),3(B)(9); Texas Rule of Appellate Procedure 16.2; Texas Rules of Civil Procedure 18b(2).

Since September 2006, Justice Waldrop participated in and wrote the Court's opinion on an appeal of the felony criminal indictments filed by James W. Ellis and John D. Colyandro. A Travis County Grand Jury indictment alleged that Ellis and Colyandro spent more than \$600,000 in illegal corporate contributions on the 2002 elections and laundered \$190,000 in illegal corporate funds for Texans for Republican Majority PAC (TRMPAC). On August 22, 2008, Justice Waldrop authored an opinion that held that the Texas Penal Code's money laundering statute in force at the time of the alleged crimes did not include laundering by check. This undermines the State's central allegation that TRMPAC laundered \$190,000 in illegal corporate funds through a check sent to the Republican National Committee.

Justice Waldrop should not have participated in this appeal because his impartiality might reasonably be questioned. In 2004, he made prejudicial comments as an attorney in civil legal pleadings involving the same money-laundering and corporate-contribution allegations contained in the criminal indictment. In Paul Clayton, et al v. Bill Ceverha and Texans for a Republican Majority PAC, Justice Waldrop represented Texans for Lawsuit Reform (TLR) in a third-party discovery dispute with the plaintiffs. Plaintiffs sought discovery from TLR because the organization had collaborated with TRMPAC in its 2002 election activities. As TLR's general counsel in 2002, Justice Waldrop may have given legal advice to TLR regarding this election activity or been a fact witness to the TRMPAC election activities in question.

On November 29, 2004, Justice Waldrop filed the enclosed TLR brief in the TRMPAC civil litigation entitled, Texans for Lawsuit Reform's Objections and Responses to Plaintiffs' Deposition by Written Questions with Subpoena Duces Tecum. Justice Waldrop objected to TLR producing any discovery arguing that TLR "has no information related to the allegations in this politically motivated lawsuit." Waldrop's brief added that TLR was resisting discovery designed to "harass political opponents." These strong, prejudicial statements about the civil litigation-- which contain the same factual allegations and legal issues involved in the criminal indictments--demonstrate that Justice Waldrop is biased and should not have been involved in the appeal. Justice Waldrop's statement in formal court pleadings that the TRMPAC civil litigation was "politically motivated," raises reasonable questions about Justice Waldrop's impartiality toward the TRMPAC criminal appeal.

Justice Waldrop's participation in the TRMPAC appeal undermines public confidence in the integrity of our judicial system. The Commission should fully investigate Justice Waldrop's conduct in this case and take any appropriate actions.

Respectfully submitted,

Craig McDonald
Director
Texans for Public Justice
609 W. 18th Street, Ste. E
Austin, TX 78701
512-472-9770

[Access a copy of Waldrop's TLR civil filing](#)