



Public Policy

Watch Dog?



...or Trial Lawyer

Attack Dog?

Texans for Public Justice...

Not Texan, Not Public, Certainly Not Just

A Report by **Texans for Lawsuit Reform**

SPRING 2003

TEXANS FOR PUBLIC JUSTICE...

Watch Dog or **Attack** Dog?

TABLE OF CONTENTS

INTRODUCTION	TPJ—Not Texan, Not Public, Not Just.....	1
CHAPTER 1	Misleading the Media.....	3
CHAPTER 2	Refusing to Practice What it Preaches.....	10
CHAPTER 3	Trashing Texas	11
CHAPTER 4	Oops! I Missed that One!	11
SUMMARY	TPJ: Powerful, Partisan Trial Lawyer Advocacy Organization	13

INTRODUCTION

**Texans for Public Justice:
Not Texan • Not Public • Not Just**

Texans for Public Justice (TPJ) bills itself as an independent, non-partisan, watchdog group dedicated to exposing a system of financial contributions that it says is corrupting Texas politics. In fact, TPJ is nothing that it claims to be. It is not Texan. Nothing about it is public. And, it is definitely not interested in justice.

A thorough look at TPJ’s activities reveals that this “watchdog” is just an attack dog. Although it describes itself as a watchdog public interest group, it appears to be little more than a de facto mouthpiece for plaintiff trial lawyers in this state and their statewide lobby organization, the Texas Trial Lawyers Association.

TPJ first appeared in Texas in 1997, when veteran operatives of leftist, out-of-state organizations – such as Ralph Nader’s Public Citizen – came to this state to set up the organization.

The TPJ version of justice is one-sided. Since its inception, TPJ – preying on the good intentions of media outlets across Texas and this nation – has used an array of slanted, self-published reports to criticize a select segment of this state’s political spectrum.

The targets of TPJ’s attacks are almost exclusively Republicans, business leaders and organizations, and those interested in the reform of Texas’ civil justice system. Within those categories, TPJ attacks all levels of state government, ranging from former Gov. George W. Bush to the Texas Supreme Court, the Texas Attorney General, and the Legislature.

While the subjects of the TPJ reports vary, the targets are always the same: Businesses, Republicans, Conservatives, Tort Reformers. Shockingly, this self-described watchdog group has never found anything worth reporting about the plaintiff’s trial bar, or the politicians funded by trial lawyers.

TPJ’s main mode of derision is a steady stream of reports targeting campaign contributions. Although there appears to be a growing recognition of the group’s partisan nature, the media generally treats TPJ as a public “watchdog” dedicated to documenting financial contributions and their role in political races.

Even a cursory review of TPJ reveals that its rancorous attacks are apparently motivated by a specific political agenda. Portraying a public persona that trades on good government and the public’s right to know, TPJ’s activities seem to indicate its unstated goal is to demonize business interests and any elected officials who support a pro-business agenda or who oppose frivolous lawsuits.

In all its actions, TPJ consistently fails to disclose the depth of plaintiff trial lawyer participation in Texas politi-

cal activities. The targets of TPJ attacks and the timing of those attacks are further evidence of the group’s attempt to further the political agenda of that well-funded, sliver-thin section of the trial bar.

In Texas, TPJ’s analyses, reports, press releases, and public statements all read like the Texas Trial Lawyers Association prepared them. They are anti-business and anti-job creation. Everything they do seems to share an overarching theme: Texas would be a better state if it were easier to file lawsuits and there were more and broader opportunities to bring legal action.

From its inception, one of TPJ’s prime targets has been Texans for Lawsuit Reform (TLR). TPJ’s inaugural report attacked Texans for Lawsuit Reform, people in the forefront of advocating a fair and balanced civil justice system, and individuals and businesses most closely associated with that bipartisan, non-profit, statewide public policy organization.

TLR, which commissioned this report, has over 11,200 supporters in 610 Texas cities and those members represent 1,110 different trades, professions, and businesses. TLR is proud of its supporters, its mission, and its transparency. TLR has become the state’s leading civil justice advocacy organization.

This report will document what we know about Texans for Public Justice, its origin, its supporters, its tactics, and its allies. The chapters include:

Chapter One: Misleading the Media

A close review of TPJ’s numerous reports peels away the group’s mask of impartiality and reveals the lengths it will go to criticize Texas businesses. Business PACs and their political supporters are peppered with a barrage of pejorative jargon criticizing every contribution made during an election cycle.

While the subjects of the TPJ reports vary, the targets are always the same: Businesses, Republicans, Conservatives, Tort Reformers. Shockingly, this self-described watchdog group has never found anything worth reporting about the plaintiff’s trial bar, or the politicians funded by trial lawyers.

Meanwhile, TPJ simply ignores the other side of the story, blatantly turning a blind eye to the political activity and contributions of plaintiff trial lawyers and their anti-business allies.

To the public's detriment, TPJ seems to have successfully hoodwinked the media. A detailed review of more than 600 articles citing TPJ as a resource reveals that a majority of the time the group is described as an independent watchdog group. However, TPJ's responses to public policy issues are anything but objective. TPJ is quoted consistently as speaking out against tort reform, against

pro-business objectives and against measures to improve the economy. In fact, TPJ is often quoted instead of the Texas Trial Lawyers Association, a powerful lobby group representing plaintiff trial lawyers. Everyone has the right to participate

in public discourse. However, when one position in a public debate is given undue credibility by the media and presented as an impartial source, the public is misled.

In all its actions, TPJ consistently fails to disclose the depth of plaintiff trial lawyer participation in Texas political activities.

Chapter Two: Refusing to Practice What it Preaches

The cloud of suspicion around TPJ's political agenda would begin to lift if TPJ revealed its list of donors. The non-profit group isn't required by law to name the individuals whose contributions make its work possible. But, without such disclosure, the public can only guess at who is behind these sustained attacks on Texas' business community.

Chapter Three: Trashing Texas

While most TPJ efforts focus on influencing the Texas Legislature and state courts, TPJ also attacks political candidates who are out of step with TPJ's unstated political agenda. In addition to inside-the-state trashing of our courts and Legislature, TPJ also trashes our state across the nation. The attack on former Governor George Bush, for example, sought to discredit one of Texas' most beloved governors, just as he prepared to seek this country's presidency.

Scrutiny of candidates and legitimate criticism of their records and policies is an integral part of the political process. But it is not unreasonable to question a group's motives when its public reports and statements do little more than belittle a candidate in the media – and the group consistently fails to offer legitimate solutions. At some point, such a group becomes merely a special-interest attack dog.

Chapter Four: Oops! I missed that one!

In the 18 months beginning January 1, 2000, a handful of plaintiff trial attorneys contributed more than \$7.3 million

into Texas politics through a network of political action committees (PACs) with names such as Texas 2000 and the Constitutional Defense Fund.

The Tobacco Five trial lawyers – Walter Umphrey and Wayne Reaud of Beaumont, John M. O'Quinn and John Eddie Williams of Houston, and Harold Nix of Dangerfield – collectively contributed more than \$3.3 million into Texas' political system, which does not even begin to count their federal contributions. These funds went into the pockets of candidates and plaintiff attorney PACs, such as the Texas Trial Lawyer Association PAC.

Although TPJ, a self proclaimed "political contribution watchdog group," published two consecutive reports on campaign finance and alleged impropriety, they have yet to mention the \$7.3 million contributed to the system by trial lawyers through the previously mentioned PACs. How can a group that claims to be on the side of fairness in the political system be blind to huge contributions from a concentrated, narrow-interest lobby power?

If it walks like a duck, talks like a duck, then...

This report seeks to expose TPJ for what it really is: a powerful and effective advocacy group for plaintiff trial lawyers. A close examination of TPJ's record and activities identifies the group as part of a pro-litigiousness, anti-corporation, anti-growth, anti-jobs movement. While such a perspective deserves a place in our public dialogue, it should be identified as such – not disguised as an impartial "public watchdog".

The media plays an important role in shaping how the public perceives a group, and it has a duty to recognize – and report – TPJ's true nature. The evidence paints a clear picture that TPJ is a partisan advocacy group with a clear legislative and political agenda. TPJ is a widely recognized group that has the power to shift public focus and to sway the electorate. It is the media's responsibility to inform the public that TPJ is speaking on behalf of a handful of politically aligned contributors.

Texans for Public Justice is an aggressive advocate for plaintiff trial lawyers. There is nothing wrong with that. But Texans for Public Justice most definitely is not non-partisan or impartial. That is a distinction of which the public should be made aware.

In Texas, TPJ's analyses, reports, press releases, and public statements all read like the Texas Trial Lawyers Association prepared them.



CHAPTER 1

Misleading the Media

In the media, Texans for Public Justice (TPJ) is routinely identified as an independent watchdog organization, ferreting out corruption and exposing influence in Texas politics. The Texas media treats the group as a reliable source for campaign finance information. A

detailed review of more than 600 articles reveals that a majority of the time TPJ is referenced in the press, its name is used in tandem with the title “watchdog.”

Despite the media’s designation, TPJ director Craig McDonald – when interviewed – is anything but impartial. He consistently speaks out in the press against business organizations and Republican candidates. Instead of supplying the public with impartial information, McDonald’s bashing of those entities can be viewed as a concerted effort to publicly tar those who differ with his supporters’ political philosophy.

A Texas Justice Witch Hunt

One of the most notorious of TPJ’s public assaults is its blistering attack on Texas Supreme Court Justice Priscilla Owen, President George W. Bush’s nominee for the 5th Circuit Court of Appeals. TPJ began its negative publicity campaign as it always does, issuing a report condemning Owen’s record – even though her record received a unanimous “well-qualified” rating from the American Bar Association.

TPJ’s report, *Texas Supreme Court Justice Priscilla Owen: An Extremist Jurist, Even By Texas Standards*, paints Owen as a renegade judge that favors business in the courtroom. The almost slanderous report calls Owen an “activist and extremist,” “anti-consumer,” “anti-jury,” and “tainted by contributor conflicts.”

The language in this report is anything but unbiased and non-partisan:

The Texas business lobby launched a major campaign in the late 1980s to push the state Supreme Court to the far right, an effort that bore its first fruit in 1988, when Chief Justice Tom Phillips and Justice Nathan Hecht both were elected to the court... After Owen joined the court in 1995, she and Justice Hecht formed an extreme, right-wing voting bloc.

The crux of this piece centers around two main ideas: that Justice Owen, like her fellow Supreme Court contemporaries, is conservative, and takes campaign donations in the electoral process.

Interestingly, Owen only became a TPJ target after it was announced she was being considered for appointment to the 5th Circuit Court of Appeals. This report is nothing more than character assassination to undermine Owen’s credibility as a jurist.

Waving the Banner

TPJ continued this character assault in the media. Director Craig McDonald is quoted a number of times in various articles around the country trashing Owen as a conservative and a poor Supreme Court Justice.

McDonald also seems eager to publicly lash out against any of Owen’s supporters, including the president:

‘I would just say,’ said Texans for Public Justice’s Craig McDonald, ‘that as far as those of us who have watched Priscilla Owen, Karl Rove and George W. Bush for a lot of years are concerned, this is the one that deserves to be controversial. This is not a Texas fight or a 5th Circuit fight; this is a struggle to determine whether a political operative, Karl Rove, and his crew are going to determine the make-up of the federal courts’.

Karl Rove is a respected political adviser to the president of the United States. His opinion is valued and solicited by the president on a variety of topics. Using flagrantly derogatory language such as “operative” and “crew” is simply thinly disguised criticism of President Bush’s right to nominate a conservative jurist to a federal court. One wonders how quickly TPJ would change its tune if Rove had advised Bush to select a liberal more aligned with the TPJ cause.

One of Owen’s most notable rulings was on the controversial subject of abortion. In Texas, a minor can appeal to the court to show why informing her parents before having an abortion would not be in the minor’s best interests. Owen, realizing the seriousness of the act, recommended also questioning why the abortion would be in the best interest of the minor.

Washington Times reporter John Nowaki came to Owen’s defense, saying that Owen:

...is supported by 15 past presidents of the Texas Bar, both home-state senators and numerous colleagues, past and present...[she] was re-elected to the state Supreme Court in a landslide two years ago, winning the endorsement of every major Texas newspaper in the process.

Nowaki continues with an answer for TPJ:

[Her critics] blame her for writing in the second bypass case that the court should consider whether the abortion was in the girl's best interest as well as whether the notification was not. But they ignore the U.S. Supreme Court precedent she followed, one that set that a standard for statutes with this language, a ruling handed down before Texas passed this statute.

Money \$\$

TPJ's second major criticism of Owen is that she has taken contributions during her campaign for the Texas Supreme Court. In Texas, all of the state Supreme Court Justices are elected to office, so they routinely accept campaign contributions from a variety of sources. However, TPJ's dual standard is perhaps best illustrated by its characterization of the Supreme Court candidacies of Owen and state district Judge Elizabeth Ray.

Justice Owen's campaign received three contributions from the Enron PAC totaling \$5,000. The largest was \$2,500. Her campaign also received seven individual contributions from Enron executives ranging from \$100 to \$1,000 that totaled \$3,800.

Since Justice Owen received more than 3,000 other contributions, the \$8,600 in contributions from Enron's PAC and executives amounts to less than 1 percent of the total amount she raised.

TPJ director Craig McDonald's reaction in the Jan. 22, 2002, *New York Times*: "Texas' high court judges are tainted by campaign-related conflicts of interest. Two months ago, Bush might have been able to put an Enron judge on the appeals court. But he's not likely to get away with it now."

Contrast TPJ's public assessment of Judge Ray.

For the 2002 primary and the initial runoff, Judge Elizabeth Ray's Supreme Court campaign received \$678,895, with \$525,680 contributed by personal injury plaintiff lawyers, according to Judge Dale Wainwright's campaign.

A finance report filed with the Texas Ethics Commission for the initial runoff shows Judge Ray's campaign collected \$241,475, with \$150,000 of that total received during March from plaintiff trial lawyers, including:

- \$30,000 – lawyers at Fleming and Associates
- \$25,000 – lawyers at Williams and Bailey
- \$20,000 – lawyers at John M. O'Quinn
- \$15,000 – lawyers at Baron & Budd
- \$15,000 – lawyers at Mithoff & Jacks

The reaction by TPJ director Craig McDonald: "The fact of the matter is that [Ray's] not knee-jerk, anti-consumer or pro-tort-reform like many of the judges bankrolled by TLR."

TPJ attorney Cris Felman's reaction to Ray's defeat, despite the generous contribution of trial lawyer money: "If you're not completely in line with their agenda, tort reformers won't hesitate to demonize you in their pursuit of a slanted judiciary."

Modest contributions from the Enron PAC and eight Enron employees make Priscilla Owen an "Enron judge." But massive contributions from personal injury trial lawyers merely show that Judge Ray is simply not "anti-consumer."

TPJ directs its wrath at Owen because she is a **conservative** jurist nominated by a **conservative** president for a federal judgeship.

Had TPJ truly been guided by its stated policy of impartiality, it would have found, according to Nowaki, "[Owen] believes elections should be nonpartisan, that the contribution system should be reformed, and [Owen] even pledged to limit campaign contributions during her first campaign."

Despite the media's designation, TPJ director Craig McDonald – when interviewed – is anything but impartial. He consistently speaks out in the press against business organizations and Republican candidates.

Even though Owen is in the mainstream of Texas contribution laws by any measure, TPJ played judge and jury in the media to try to tarnish Judge Owen's reputation.

Reporting from the Edge

The remainder of TPJ's unending stream of reports shares the same nonsensical twisting of the truth. As a baseline, all its reports condemn either business, conservative or Republican philosophy. TPJ has criticized Owen, U.S. Sen. John Cornyn and President Bush for collecting contributions from business PACs during an election, without once mentioning a pro-plaintiff's attorney candidate that accepted equal or more money from a plaintiff's bar PAC.

TPJ has attacked the Texas Supreme Court on numerous fronts. Four reports issued by TPJ target the justices for accepting contributions during their campaigns. Three of the reports – *Payola Justice*, *Pay to Play*, and *Checks &*

Imbalances – are practically one and the same and attempt to make a mockery of Texas’ highest civil court. Coincidentally, these reports surfaced only after Republicans became the majority on the Supreme Court. Where was this so-called watchdog group when the plaintiff’s bar controlled a Supreme Court in the 1980s that shocked the world by creating new causes of action and weird theories of damages out of whole cloth?

When the 2001 session of the Texas Legislature saw at least seven bills filed dealing with judicial selection or judicial campaign finance reform, Texans for Public Justice was nowhere to be found. TPJ never testified on any of the judicial selection legislation, it never appeared before the Legislature on the issue and it never issued a single press release or any study regarding altering or amending Texas’ judicial selection process.

How is it that when the issues TPJ claims are its core mission are discussed by the Texas Legislature, this “watchdog” group abandons the constituency it claims to represent – consumers – by going AWOL? TPJ has the energy to regularly attack conservatives, Republicans, lawsuit reformers and business groups, but the heavy lifting necessary for true civil justice reform appears to be of little interest.

Each barrage on the Supreme Court drips with sarcasm and is filled with quips that lash out against business groups. Subtitles in the *Payola Justice* report include: “Corporate Friends,” “Business and Trade Group Groupies,” “Raising a Bundle” and “War Chest Justices.” The use of such pejorative, slanted language typically has a single goal. It is not to paint an impartial, objective picture of the Supreme Court’s work, but to besmirch the reputation for honesty and equality that the justices have painstakingly restored to the Court during their years of service on the bench.

TPJ continually refuses to report activities on the other side of the equation. Who funded the candidates who ran against John Cornyn, Greg Abbott and George W. Bush? As for legislators who consistently vote against job creation, economic growth and civil justice reforms, how much in campaign contributions do they receive, and from whom? Which candidates, PACs and political parties end up with the millions of plaintiff trial lawyer dollars that are funneled into Texas’ political system?

TPJ is making a mockery of legitimate watchdog organizations by hiding behind a false front of impartiality, by focusing its criticism almost exclusively on businesses in Texas, and by using misdirection to divert the public’s eye away from the involvement of their trial lawyer allies in the political process.

Texans for Public Justice’s fig leaf is gone. It’s time for the media to correctly characterize TPJ as the front group for trial lawyers that it is. That way, the public will know how much credence to give to the outrageous charges routinely made by TPJ, and how to judge them.

BAITING THE HOOK...

How Texans for Public Justice describes itself on its website:

“Texans for Public Justice is a non-partisan, non-profit policy and research organization which tracks the influence of money in politics. Learn about the fight to protect citizen rights and enforce corporate accountability in Texas.”

TPJ news release, April, 2002:

“...an Austin-based consumer watchdog organization...”

TAKING THE BAIT...

How the media describes TPJ:

“A group that tracks the influence of money on Texas politics.” – *Austin American-Statesman*, April, 2002

“non-profit group that monitors judicial elections” – *Fort Worth Star-Telegram*, April, 2002

“An Austin-based campaign reform group.” – *Houston Chronicle*, March, 2002

“An Austin think tank” – *Texas Lawyer*, July, 1999

“a citizens’ group” – *Dallas Morning News*, August, 1998

“a group advocating campaign finance reform” – *Houston Chronicle*, August, 1998



Reports Issued by Texans for Public Justice

REPORT	TARGET	TARGET'S PHILOSOPHY	TPJ'S CLAIM	NOTABLE OMISSIONS
<i>Texas Supreme Court Justice Pricilla Owen: An Extremist Jurist Even By Texas Standards</i>	Supreme Court Justice Pricilla Owens	Conservative	Justice Owen is in favor of business issues and against frivolous lawsuits in her decisions. Owen took the second-highest amount and share from non-law firm businesses.	Justice Owen is a brilliant legal scholar who was endorsed by every major Texas newspaper. She was also given top rating by the American Bar Association
<i>Payola Justice: How Texas Supreme Court Justices Raise Money From Court Litigants</i>	Texas Supreme Court Justices (Justices Gonzales, Hecht, Phillips, Cornyn, Owen, Baker and Abbott), Business Litigants	Conservative	The seven Texas Supreme Court Justices received \$9.1 million in contributions during their most recent campaigns. Lawyers and parties with official business on the court's '94-'97 docket contributed 40 percent of the money raised.	State law requires Supreme Court Justices to run in statewide contested partisan elections, which require significant campaign contributions
<i>Pay To Play: How Big Money Buys Access To The Texas Supreme Court</i>	Texas Supreme Court Justices	Conservative	The 10 Supreme Court Justices who faced election from '94-'98 raised \$12.8 million for their campaigns. Donors to the Texas Supreme Court Justices were four times as likely to accept an appeal filed by a contributor than a non-contributor.	The Texas Supreme Court's constitutional responsibility is to review cases that are important to state jurisprudence. These major cases are most likely to be handled by Texas' leading law firms, who also contribute to judicial campaigns. TPJ's report is flawed on its face because it doesn't factor in the cases' jurisprudence significance.
<i>Texas Supreme Court Clerk Perks: Big Bucks Batter And Ethical "Wall"</i>	Texas Supreme Court Justices	Conservative	Leading Texas law firms pay subsidies of tens of thousands of dollars to the Texas Supreme Court clerks they recruit to work for them after their clerkship. This creates conflict for cases pending at the Supreme Court during their clerkship.	The system provided the Court with some of the finest and most qualified clerks in the state. Law firms paid market-driven bonuses to clerks based on their clerkship. Clerks are prohibited from working on cases involving potential employers. Since the Legislature barred the bonuses, applications for clerkships have fallen precipitously.
<i>Checks & Imbalances: How Texas Supreme Court Justices Raised \$11 Million</i>	Texas Supreme Court Justices	Conservative	The nine current Justices raised more than \$11 million for their most recent elections (from '94-'97). Justices took 48 percent from lawyers and law firms; 79 percent of this amount came from business and defense attorneys. Supreme Court Justices took 15 percent of their contributions from two of the largest tort reform PACs; Texans for Lawsuit Reform and the Texas Civil Justice League.	More often than not, Justices rule against their contributors. An independent analysis of Chief Justice Phillips by Faske Lay & Co., an Austin CPA, found no connection between contributions and rulings. TPJ also neglects to mention that many rulings are unanimous and many mirror decisions of other courts around the country.
<i>Cornyn's Corporate Sponsors</i>	John Cornyn	Pro-Business/Tort Reform	John Cornyn raised \$10.6 million for his attorney general campaign; 97% of checks over \$500 came from businesses, or business-aligned PACs. 27% of campaign contributions came from tort reform lobby groups.	There is no mention of the political contributions that Jim Mattox, Cornyn's 1998 opponent, collected from plaintiff attorneys.
<i>The State Of The Lone Star State: How Life In Texas Measures Up</i>	Former Governor George Bush	Pro-Business/Tort Reform	Texas falls short when measured against other states on socio-economic issues such as the environment, education, the economy, human services and public safety.	During George W. Bush's tenure as Texas governor he enjoyed bipartisan support, student test scores improved, air emissions dropped, and the state economy grew.
<i>Campaign Reform Heroes And Zeroes: How Members Of The Texas House Voted On Campaign Reform</i>	House members that voted for any of the 5 amendments to HB 2 (campaign finance reform bill)	Pro-Business 57 Republican 4 Democrats	Members of the Texas House that voted for any of the 5 amendments to HB 2 weakened its effect on full campaign finance disclosure. One amendment eliminated the requirement for large donors to disclose their employer and occupation.	Texans for Public Justice wants full disclosure from political candidates, but they refuse to disclose where their funding is coming from.

Reports Issued by Texans for Public Justice

REPORT	TARGET	TARGET'S PHILOSOPHY	TPJ'S CLAIM	NOTABLE OMISSIONS
<i>Governor Bush's Well-Appointed Texas Officials</i>	Former Governor George Bush	Conservative	Over two gubernatorial campaigns, then-Governor George W. Bush collected \$1.4 million from 413 individuals whom Bush appointed to 50 leading state boards and commissions. Large contributions over over \$1,000 came from 30 percent (122 people) of the 413 appointees studies.	These contributions only account for 3% of the \$41 million Bush raised during his campaigns.
<i>Toxic Exposure: How Texas Chemical Council Members Pollute State Politics & The Environment</i>	Texas Chemical Council (TCC)	Pro-Business/Tort Reform	TCC released 187 million pounds of toxic waste into the Texas environment in 1996. 20 TCC member PACs also contributed more than \$2 million in the '96-'98 election cycles and spent up to \$8 million on lobbyists in 1999. Three of Texas' top five polluters are TCC members.	TPJ claims to be a champion of campaign finance reform, not environmental advocacy. Lobbying for environmental activism is totally outside their stated mission.
<i>The Gated Community: How Texas Incumbents Locked Out Challengers In 1998</i>	Business PAC contributors to House members	Pro-Business/Tort Reform	Texas House incumbents use fundraising as a means to deter challengers from entering the election. 1998 general election House winners raised \$17.8 million. In the 52 contested general elections in 1998, winners outspent losers 2:1. The 52 incumbents who faced a challenge in either the 1998 primary election, general election or both, raised \$8.7 million, while their opponents raised \$3.6 million	In the 1998 primary elections, only 14 percent of the 132 House incumbents seeking reelection faced a challenger. 26 percent of challengers defeated an incumbent.
<i>Dirty Air, Dirty Money: Grandfathered Pollution Pays Dividends Downwind In Austin</i>	Industrial Business, Former Governor George Bush	Pro-Business	PACs affiliated the 30 worst corporate polluters spent more than \$2.5 million in political contributions between December 1995 and March 1998. Former Governor Bush took \$193,500 in contributions from these corporations between 1995 and 1998.	The contributions former Governor Bush took accounted for only 0.5% of the \$41 million raised for his campaigns.
<i>Mortgaged House</i>	Business PACs contributing to Texas House members	Pro-Business PACs/Tort Reform	Texas House members raised \$14.6 million in campaign contributions from July 1995 through year-end 1996. House members raise 80% of their \$100 or larger contributions from outside their home district. 37% of contributions came from contributions of \$1000 or more. Out of 66 general elections, the least-funded candidate prevailed in seven races. Businesses and PACs contributed 62% of all contributions; 21 House members raised more than 80% of their money from PACs and businesses.	Where were trial lawyer contributions? PACs are often funded by hundreds of contributions from individual, everyday voters.
<i>Smoke In The Mirror: How Texas House Members Voted On Tobacco-Control Legislation</i>	Texas House Members that voted in favor of pro-tobacco legislation	Pro-Business, 16 Republican, 1 Democrat	TPJ attacked House members that voted against the two tobacco control bills: Cigarette Ingredients Disclosure Bill (HB 119) and Children's Access to Tobacco Bills (SB 55). Also targeted were members that supported any of the four amendments to the tobacco control bills. 17 legislators voted in favor of all four amendments, 16 of which were Republican.	Again, TPJ is targeting House members that refused to vote in favor of TPJ's agenda. They are using their publications to advocate tobacco legislation, not campaign finance reform as is their stated mission.
<i>Tort Dodgers: Business Money Tips The Scales Of Justice</i>	Business PACs, Texans for Lawsuit Reform	Business Groups Tort Reform	22 business PACs spent \$3.1 million on winning candidates in the last election cycle (1996). TLR contributed \$1.5 million of this total. Four Senators received contributions of over \$100,000 from TLR's PAC. TLR spent 73% of its contributions on Republicans.	TPJ makes no mention of the trial lawyer money flooded into the same election cycle. Nor do they detail the \$7.3 million in trial lawyer cash that flooded Texas politics in the 2002 election cycle.
<i>Texans for Lawsuit Reform: How The Texas Tort Tycoons Spent Millions In The 2000 Elections</i>	Texans for Lawsuit Reform	Conservative/Tort Reform	TLR raised \$1.5 million in the 2000 election cycle, making it Texas' fifth-largest PAC. TLR contributed 92% of its PAC money towards Republican candidates.	TPJ refuses to acknowledge trial lawyer contributions, including the \$7.3 million in trial lawyer contributions that were poured into the 2002 election cycle by only a handful of trial lawyers.

CHAPTER TWO

Refusing to Practice What it Preaches



TPJ, a non-profit organization, isn't required by law to name the individuals that help finance the group's work. TPJ has no problem, however, demanding complete financial transparency from any one or any group involved in the Texas political process, a policy that amounts to a complete opening of the financial books – but a policy that TPJ itself refuses to follow. As Clay Robison, Austin bureau chief for the *Houston Chronicle*, points out, “[TPJ] preaches...full, public disclosure of candidates' political contributions. But, unfortunately, on this point it is being hypocritical, because it doesn't fully make public its own list of donors.”

TPJ has repeatedly asked countless public officials, including then-Gov. George W. Bush and former Texas Attorney General John Cornyn, to publicly identify supporters that pledged to contribute funds during the election season. Yet when confronted with the same request for financial disclosure, TPJ director Craig McDonald remains silent, saying he “doesn't want [his funders] to fear intimidation from public officials.”

McDonald continues to declare that he “sees no hypocrisy in demanding full disclosure of contributions to officeholders and political candidates because those individuals have or are seeking powers the group doesn't have.”

But, according to Robison, “Texans for Public Justice, however, is an active player in state politics. It is promoting change in public policy, and every time it criticizes the Texas Supreme Court, the attorney general or another officeholder or candidate, it is affecting a political race...secrecy in politics breeds suspicion.”

Where does the money come from? We don't know.

What little that is publicly known about the source of TPJ's funding comes largely from the group itself. According to Director McDonald, “There are some wealthy liberal individuals, including trial lawyers, who have given to me over the years.”

Also uncovered is a plethora of liberally aligned foundations that contribute to TPJ's war chest. Most of these contributors are national organizations based in New York City and Washington D.C. These groups donate hoping to restructure Texas politics from outside our state lines.

One contributor, the Arca Foundation, has donated \$225,000 (as of 2001) to TPJ's endeavors. Arca's grant money supports groups working on population policy, environmental issues and “the urgent need to curb corporate domination of our politics through genuine campaign reform.” Other recipients of Arca's money include: the ACLU, the Center for a Changing Workforce, Earth Island Institute, and the Project on Government Insight.

A close examination of Arca's other grant recipients shows the group is politically active and supportive of associations that use advocacy tools to spread a narrow, anti-business agenda. TPJ chastises all levels of Texas government for inadequately coming to the aid of the environment and lashes out against the oil industry and other corporate interests in Texas.

Another generous contributor to TPJ is the Open Society Institute (OSI), whose Soros Research Grant provided TPJ with \$50,000 in funding in December 2001. Based in New York, OSI's self-proclaimed goal is to promote the development of open societies throughout the world through the support of educational, social and legal “alternative approaches to complex and controversial issues.” Other recipients of OSI's grants include activists for gun control and supporters of a moratorium on the death penalty.

Serving the Cause

TPJ knows how to put its funding to good use. In the media, TPJ is referred to as an independent watchdog group, committed to exposing corruption in campaign finance. But, TPJ also takes an activist role lashing out against big business and criticizing tort reformers. TPJ has continually eluded media scrutiny using an age-old tactic. It deflects attention from its own politics by exaggerating the movements of its opponents.

“[TPJ] preaches...full, public disclosure of candidates' political contributions. But, unfortunately, on this point it is being hypocritical, because it doesn't fully make public its own list of donors.” – Clay Robinson, Austin Bureau Chief, Houston Chronicle

CHAPTER THREE Trashing Texas

Besides misleading the media, TPJ also appears to lend its services to anti-business funders for attacks on political candidates that support an opposing agenda. One of TPJ’s most blatant political assaults was entitled the *State of the Lone Star State*. Its sole discernable purpose was apparently to discredit former Gov. George W. Bush as he began his campaign for the presidency and to ridicule Texas in the national press.

TPJ released *State* as an “annual report” assessing Texas’ progress in areas such as education, the environment and manufacturing. However, in the five years of TPJ’s operations, it has issued only one of these “annual” reports, coincidentally during Bush’s presidential campaign.

It can be argued that the *State* report reveals TPJ’s true political colors. The report criticizes the governor on more

than 150 indicators in the fields of education, the environment, public safety and the economy. This TPJ report delves into an area outside of campaign finance. What does the governor’s effectiveness on education have to do with the political finance system in Texas?

TPJ’s eagerness to venture into education and public safety reform leaves many to wonder if *State* is nothing more than a strident attack on one of its more despised political opponents. After all, TPJ released several reports criticizing Bush’s campaign contributions from business interests in Texas. *State* is an extension of the smear campaign TPJ began in Texas, but it was customized for national consumption.

Why would a group named Texans For Public Justice seek to sabotage our state’s reputation in the national press?

CHAPTER FOUR Oops! I Missed that One!

Money Changing Hands

Over an 18-month period beginning on January 1, 2001, a smattering of plaintiff lawyers contributed at least \$7.3 million into the Texas political system through a convoluted web of vaguely named political action committees.

The largest contributors in this group were the “Tobacco Five” trial lawyers Walter Umphrey and Wayne Reaud of Beaumont, John M. O’Quinn and John Eddie Williams of Houston, and Harold Nix of Dangerfield, who are collecting \$3.3 billion in legal fees in our state’s lawsuit against the tobacco industry. Collectively, these five men contributed \$3.3 million of their litigation profits to Texas politicians and PACs. The amount does not include their separate federal contributions, much of which was cycled right back to Texas.

Every group has the right to make contributions to organizations supporting their political persuasion. However, this small – but politically and financially potent – cadre of plaintiff trial lawyers shuffled their contributions through a chain of as many as three or four PACs with names like Texas 2000 and the Constitutional Defense Fund before the money finally reached specific candidates.

Asleep at the wheel

This campaign finance shuffle, which appears to disguise politically tainted trial lawyer contributions, went virtually unnoticed in the media and political circles, despite two consecutive TPJ reports on campaign finance and alleged corruption. With these “unbiased,” “watchdog” reports in

circulation, how could one of the largest political contribution efforts in Texas, exercised by such a small, politically aligned force, seep undetected through TPJ’s watchful eye?

It is impossible to believe that a legitimately unbiased group, one that proclaims itself a public “watchdog” and produces a series of campaign finance reports for public consumption, would ignore the Tobacco Five’s huge contributions to Texas politicians and PACs. After all, these wealthy men have a large and well-publicized stake in the policies and actions of Texas government. This begs the question: Are the Tobacco Five and other plaintiff’s lawyers significant funders of TPJ? Certainly, TPJ’s failure to expose or comment on plaintiff lawyer funding of political campaigns is strong evidence that TPJ’s publications are mere political polemics rather than objective policy reports.

Reporting on what they want you to see

TPJ has issued several reports outlining campaign finance spending in Texas. The latest, *Texas PACS: 2000 Election Cycle*, is riddled with inconsistencies, inaccuracies and fact-shifting to draw attention away from the amount of money plaintiff lawyers are contributing to Texas politics.



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For example, *Texas PACS 2000* cites “Business Interests” as this state’s most formidable spenders, contributing more than \$34.4 million during the 2000 election cycle. “Single Issue” PACs rank second with \$16.8 million in contributions. While the report focuses on business-oriented contributors, there is only a minor mention

that lawyers and lobbyists made up the largest portion (\$8 million) of the “Business Interest” PACs investigated.

Also, while the report mentions that plaintiff lawyers contributed only \$3.3 million, plaintiff lawyer firms and PACs actually gave \$7.3 million during that election cycle (see *Hiding Their Influence*, a report by Texans For Lawsuit Reform). TPJ’s incomplete report also included totals from defense lawyer’s firms, but neglected to account for the plaintiff lawyer firms.

How can any campaign finance “report” be given a shred of credibility if it ignores the contributions of the plaintiff’s bar and focuses exclusively on the actions of the defense bar? Why would any credible journalist report such “findings”?

The main purpose behind placing lawyers and lobbyists in a “Business Interest” category instead of in the “Single Issue PAC” category is to highlight the spending of TPJ’s main adversary, tort reform associations. The “Single Issue” section of *Texas PACS 2000* centers around Texans for Lawsuit Reform PAC, holding it up as the largest single-issue PAC in Texas with \$1.4 million in contributions. However, \$1.4 million pales in comparison to the \$7.3 million that plaintiff lawyers contributed to Texas politics during that same election cycle.

Plaintiff lawyers advocate a political agenda that is in direct opposition to measures recommended by civil justice reform proponents. Highlighting one group while ignoring the other group’s significantly larger contributions is patently unbalanced and definitely not non-partisan.

It is the responsibility of any credible watchdog organization to accurately portray the facts that are available in a fair and equitable way. By combining lawyers with the “Business Interest” category, TPJ has not only inflated the business community’s reported numbers – presumably in an attempt to paint it as a corrupting influence and to discredit the candidates it supports – but it has also distorted any measurable comparison between the contribution levels of tort reform advocates and plaintiff trial lawyers.

Crying Wolf

TPJ used the information contained in *Texas PACS: 2000* to produce a series of press releases chiding the amount of money contributed by lawsuit reform advocates. One TPJ press release, “Tort Tycoons Poured Millions into 2000 Texas Elections,” rails against the Texans for Lawsuit Reform PAC for spending \$1.4 million to “influence Texas politics in the 2000 election cycle.” In that same election cycle, however, the Texas 2000 PAC, funded 97% by plaintiff trial lawyers, contributed more than \$2 million to the Texas political system (almost 50 percent more than any tort reform PAC).

The Texas 2000 PAC, just one of the plaintiff trial lawyer PACs, failed even to be mentioned by the “watchdogs” at TPJ. Is TPJ a watchdog or a lapdog?

Plaintiff trial lawyers represent a unified lobby body that opposes lawsuit reform and works to expand the legal liability, enlarge the damages, and increase the penalties that companies and individuals face. This group has an agenda counter to everything TLR stands for and they are spending significantly more money to influence political elections. However, TPJ’s apparent alliance with plaintiff lawyers allows it to seemingly interpret the facts in a manner that presents the public with an inaccurate, misleading and unbalanced picture regarding campaign contributions and Texas politics.

TPJ’s release also cites \$3.1 million contributed to political candidates and PACs by 24 of TLR’s supporters with widely diverging business and policy interests. TPJ proclaims these leading Texas citizens to be “king makers who can determine the outcome of close races.” TPJ director Craig McDonald says of TLR contributors that, “Rarely have so few spent so much to counter the interests of so many Texans.”

Interestingly, during that same election cycle, 15 top plaintiff trial lawyers – an exceedingly small, tightly aligned political group with a narrow, pro-litigiousness agenda – contributed more than \$5 million into Texas politics during that cycle.

Stunningly, the watchdogs at TPJ just couldn’t seem to sniff out the \$5 million that poured in to the political process by this tiny group of trial lawyers.

TPJ has not issued a single report highlighting the fact that no single business or industry comes close to matching trial lawyer participation in the business of funding politics.

The oversights are so egregious that it calls into question the validity of every report ever published by TPJ.

It’s time for accountability and accuracy from this organization that wants to be known as an impartial watchdog. It’s time for truth in labeling. These are not campaign finance reports: they are trial lawyer propaganda pieces.

SUMMARY

**TPJ: Powerful, Partisan Trial Lawyer
Advocacy Organization**

Texans for Public Justice (TPJ) has proven itself to be a very effective and powerful lobby tool for the plaintiffs’ bar and other groups that want to assault business interests in Texas. TPJ’s reports to the media are replete with harsh, slanted jargon that attack the corporate sector and advocate the expansion of the lawsuit industry. TPJ is, in fact, a highly partisan organization on a mission to influence the Legislature and government agencies to attack and undermine small and large businesses – the very entities that create new products, improve communications and services, and add jobs to the Texas economy.

It is troubling and perplexing that TPJ is touted in countless news articles as a watchdog group, the last bastion of hope in the corrupt world of political contributions. But in reality, the TPJ reports themselves reveal the organization to be anything but non-partisan or objective. Rational, independent analysis of the political system in Texas would probably find shortcomings on both sides of the political spectrum – but the non-Texans at Texans for Public Justice can only find fault with those trying to bring about a more rational and balanced civil justice system.

That alone disqualifies TPJ’s claim to independence. The group’s self-anointed “consumer watchdog” label appears to be a direct attempt to mislead the media and the public.

Contrast TPJ’s public record with their favorite target: Texans for Lawsuit Reform – the organization that commissioned this report.

Texans for Lawsuit Reform (TLR) is the leading advocacy organization in this state dedicated to restoring fairness and balance to our civil justice system. All of Texans for Lawsuit Reform’s documents clearly identify its mission. Its proposed legislation is widely published. TLR operates a political action committee and its PAC contributors are an open book; their political contributions are on file and available to the public through the Texas Ethics Commission and are totally transparent.

TPJ should be as honest about its mission. While TPJ claims political impartiality on public policy issues, it consistently and persistently advocates the views and adopts the purposes of the personal injury plaintiffs’ bar. TPJ has proven itself to be a leading spokesman for the plaintiff trial lawyer agenda and it should be identified as such.

The media is a credible source for non-partisan information, and with that designation comes a heavy responsibility. The media should demand accountability from so-called watchdog groups. Any organization seeking to establish itself as non-partisan and objective should bear a burden of proof with the media that it is what it bills itself to be.

Texans for Public Justice has every right to participate in the political debate in this state. But the media should label TPJ for what it really is: an advocacy organization for the Texas Trial Lawyers Association.

Texans for Lawsuit Reform

In 1994, a small group of volunteers banded together in Houston to form Texans for Lawsuit Reform in order to take on what has been described as the most powerful and well-funded special interest group in Texas: the plaintiff lawyer's lobby.

Since then, thousands of Texans from every walk of life and in nearly every county in the state have helped make common sense reform of our civil justice system part of Texas law. Once described as the "Lawsuit Capital of the World," Texas legislators have responded to the voice of the people and have taken giant steps toward bringing fair and balanced reforms to our civil justice system.

Texas tort reform seeks to eliminate abuses in our civil justice system while protecting the individual's right to bring legitimate lawsuits forward. The 1995 reforms were directly responsible for more than \$3 billion dollars in consumer and business insurance rate reductions in the ensuing 5 years and have caused economic development benefits of at least \$8 billion. As significant is the restoration of predictability and fairness in a legal system that was once known around the world as exorbitantly expensive and wildly unfair.

While much work remains to be done to both improve our system and protect the reforms already enacted, Texas has gone far in returning "justice" to the civil justice system.

Texans for Lawsuit Reform is a bipartisan coalition whose over 11,200 supporters reside in 610 different towns and cities throughout Texas and represent 1,110 different businesses, professions and trades. For further information visit www.tortreform.com.