

**How Texas Trial Lawyers  
Are Attempting to Dump  
Millions of Dollars into  
Texas Political Campaigns...  
Without Leaving any Fingerprints**

# Hiding Their Influence

**EXPOSING**

- *Top Trial Lawyer PACs*
- *Top Trial Lawyer Donors*
- *Top Trial Lawyer Front Groups*

## 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. These reforms are directly responsible for more than \$3 billion dollars in consumer and business insurance rate reductions and have caused economic development benefits of more than \$8 billion during the past five years. As significant is the restoration of predictability and fairness in a 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 10,634 supporters reside in 599 different towns and cities throughout Texas and represent 1,101 different businesses, professions and trades. For further information visit [www.tortreform.com](http://www.tortreform.com).

### Methodology

The political contribution and expense figures contained in Hiding Their Influence are based solely on financial reports on file at the Texas Ethics Commission and cover the time period from January 1, 2000 to June 30, 2002.

The goal of making this report's information available to the public in advance of the November 2002 general election necessitated its publication and release at this time. However, this publication and distribution schedule makes it impossible to include financial activity occurring during the final five months of the 2002 campaigns.

Using the 1998 general election as a template—it shows that the trial lawyers identified in this report inject the bulk of their money into political races in the closing days—reserving their largest contributions for the final weeks.

Subsequent reports will track those last-minute contributions and identify new contributory sources. This report and its successors can be viewed at [www.txtriallawyerwatch.org](http://www.txtriallawyerwatch.org) or at [www.ttlwatch.org](http://www.ttlwatch.org).

# Hiding Their Influence

**THE PUBLIC GUIDE TO TRACKING  
TEXAS TRIAL LAWYER CONTRIBUTIONS**

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## Amassing a War Chest

While only a small portion of the funds had been spent heading into the fall of 2002, a handful of Texas trial lawyers raised \$7.4 million by the end of June to fund political activities in the 2002 general election.

### Top Trial Lawyer Political Contributions January 1, 2000 – June 30, 2002

Top 15 Trial Lawyer Firms:		
The Tobacco Five	\$1,141,030	
Walter Umphrey	\$644,750	
John M. O'Quinn	\$606,770	
John Eddie Williams	\$425,280	
Harold Nix	\$387,680	
Wayne Reaud		\$3,205,510
Next 10 Aggregate Trial Lawyer Firms (6-15)*		\$1,800,273
Top Texas Trial Lawyer PACs Political Fundraising**		
Texas Trial Lawyer Association – PAC	\$1,013,608	
Texas 2000	\$1,372,417	
		\$2,386,025
<b>Total:</b>		<b>\$7,391,808</b>

\* This total excludes the amount the firms contributed to the top trial lawyer PACs in Texas. That amount is reflected in the PAC totals.

\*\* These totals exclude the amount contributed by the Tobacco Five trial lawyers that are already reflected in the Top 15 Trial Lawyer total. Not included are PACs funded exclusively by the Tobacco Five, since those dollar amounts are included in the Tobacco Five totals.

CHAPTER 1

# Executive Summary

*Campaign finance is an important part of Texas politics. Individuals and political action committees (PACs) contribute significant sums of money to Texas political campaigns. While campaign contributions are technically “public information,” it unfortunately takes a lot of digging to uncover the truth about exactly who is giving how much, when there is an attempt to hide or disguise contributions.*

*This report is an examination of the massive influence that a small group of plaintiff lawyers—known commonly as trial lawyers—exert on Texas’ political system through their injection of millions of dollars in contributions. In just the last 18 months, since Jan. 1, 2000, a handful of trial lawyers poured over \$7.3 million into Texas politics, with \$3.3 million ending up in the hands of the Texas State Democratic Party.*

### Covert Operations

The research involved in compiling the financial contributions detailed in this report required extensive unraveling of reports on file at the Texas Ethics Commission. Accurately tracking the monetary influence of Texas’ most prominent trial lawyers is extremely difficult. While it is possible to search state records for contributions by a single individual, simply reporting those financial totals would seriously understate the extent of that person’s contributions.

It is clear that the wealthiest and most politically active trial lawyers in Texas carry out the bulk of their million-dollar campaign finance work quietly: creating a series of PACs with noble or innocuous names; dumping massive

contributions into those PACs—often extremely late in a campaign cycle to avoid pre-election public disclosure; and

then shuttling the money among those front PACs—and even the Texas State Democratic Party—before it ends up in the hands of their favored candidates.

Why do trial lawyers find it necessary to go to such lengths to conceal the source of their money? Is it because they know that their cause of encouraging litigation is unpopular, and will injure those very candidates they are attempting to help? Or do the candidates themselves not

want to bear the taint of an avalanche of trial lawyer money? This report examines the lengths to which a handful of wealthy trial lawyers will go to hide their extraordinary financial contributions, which are far more extensive than a cursory glance at state campaign finance reports would indicate.

### The “Tobacco Five”

The driving force behind these special interest contributions is the “Tobacco Five”—the trial lawyers that former Texas Attorney General Dan Morales hired in 1996 to handle the state’s lawsuit against this nation’s largest tobacco companies.

Chapter 3 introduces the “Tobacco Five” and outlines how these wealthy lawyers have been re-investing in Texas politics the \$3 billion contingency fee they received from the lawsuit.

Chapter 4 and Chapter 5 detail the PACs through which the “Tobacco Five” distribute their political contributions and how the “hide-the-money” ruse is one part of a two-part operation. While these lawyers have craftily constructed numerous conduits for their contributions, the concealment is abetted by “consumer watchdog” organizations that piously claim to represent the public’s interest, while actually providing cover and distractions for the trial lawyers’ activities.

The most misleading of the groups is Texans for Public Justice (TPJ). Touting itself as a non-partisan research and policy organization, TPJ routinely publishes reports that almost exclusively criticize Republican candidates, tort

## Why do trial lawyers find it necessary to go to such lengths to conceal the source of their money?

reform groups and business organizations. While claiming these entities are corrupting influences on our political system, TPJ diverts attention away from this core group of trial lawyers whose contributions far exceed those of the business and tort groups.

**Conclusion**

The activities outlined in this report are by and large within the letter of Texas law governing campaign finance. But they are far outside the spirit of the law. Moreover, they point out the ultimate hypocrisy—while the trial lawyers complain about the influence of business on politics, they themselves are exerting many times more influence on the very same system.

The apparent concealment of financial contributions is an egregious abuse of our system, which relies on transparency.

If some of Texas' wealthiest individuals are intent on bringing millions of dollars to bear on our political system,

**If some of Texas' wealthiest individuals are intent on bringing millions of dollars to bear on our political system, the public has a right to know about their involvement.**

the public has a right to know about their involvement. It shouldn't take weeks of research or specialized expertise for voters to discern who is giving how much money to which candidates. Since this cadre of trial lawyers shows no inclination for open and honest disclosure, it is incumbent

on the Texas Legislature to protect the public's right to know by considering the adoption of the campaign finance reforms discussed in Chapter 6.

**Tracking the Trial Lawyers**

This report—which examines only the financial subterfuges in which the trial lawyers have engaged in at the state level of politics (not local or national)—represents the first step in an ongoing campaign to bring public scrutiny to the political activities of trial lawyers. Since the self-declared "ethics watchdogs" and consumer advocates have adopted a double-standard and simply pretend that these multi-million dollar campaign contributions do not take place in Texas, business and tort reform groups have undertaken the task of unraveling the trial lawyer scheme and are maintaining a public web site on the Internet to update those activities.

The next installment of this effort will be an examination of the trial lawyers' favorite political game—one that makes it even more difficult to follow the money.

Texas trial lawyers make huge contributions to national PACs—the Democratic National Committee, the Democratic Congressional Campaign Committee, the Democratic Senate Campaign Committee—and then those national PACs funnel the money back to the Texas State Democratic Party, which can then make direct cam-

aign contributions to individual candidates or purchase television advertising or perform other political advocacy on behalf of those candidates.

It would be much easier for these trial lawyers to simply write \$100,000 checks to their favorite political candidates instead of going through the Six-PAC-Shuffle.

But then the public would know who is funding a particular candidate. It appears neither the trial lawyers giving the money, nor the candidates accepting the money, want you to know that.

*Texas Trial Lawyer Watch* is going to change that. We're going to monitor the flow of trial lawyer funds this fall and make certain that Texans know who is giving and who is taking trial lawyer money.

## CHAPTER 2

# Trial Lawyer Money Floods Texas Political System

*Since Jan. 1, 2000, a handful of wealthy Texas plaintiffs' lawyers have flooded our state's political system with over \$7.3 million of identified contributions. Some of this money went to candidates for various state and federal offices, from the Texas Legislature to judicial office-seekers. More than three million dollars of that \$7.3 million ended up in the hands of the Texas Democratic Party, but only after much of it had been laundered through a multi-layered spider web of political action committees with innocuous sounding names.*

*Contributing large sums of money to political campaigns and concealing its source is nothing new for the dozen richest trial lawyers in Texas. Over the years, millions of dollars have traveled the same path. No matter how circuitous the money trail, the objective never varies: influence elections and elect legislators and judges friendly to plaintiff lawyers and their personal, narrow agenda, and block reforms that will restore fairness and balance to our civil justice system.*

### The Money Trail

A clear, straightforward system for reporting campaign finance contributions is essential to the public's ability to participate knowledgeably in elections. The Texas Legislature has established the framework for such a system and the Texas Ethics Commission maintains it. When transparency is missing, or the contributions and disclosures are concealed, the public is not aware of the significant contributions impacting a particular race ... and the public *should* know.

This report focuses exclusively on contributions by plaintiff lawyers to state officeholders and candidates. These lawyers, however, are major players in federal elections and local and county races. As such, a broad discrepancy exists between the influence trial lawyers wield in our political system and their revealed financial activities.

Further complicating any attempt to chronicle the size and scope of political involvement by plaintiff lawyers is a myriad of political action committees through which they funnel money. Innocent sounding names disguise the fact that these PACs are actually additional trial lawyer conduits. Several of their surrogates include: Texas 2000, Constitutional Defense Fund, the Carl A. Parker PAC, and the Lone Star Fund.

These PACs serve a dual purpose for the plaintiffs' bar: They conceal from the public and the

casual observer that the funding for specific campaigns originated with trial lawyers. And, they make it almost impossible for researchers to definitively link the source of contributions with its ultimate recipient.

### A Single Interest

The plaintiffs' bar consistently portrays itself as the champion of "the little guy." The advocate of the average citizen who has been injured, swindled or taken advantaged of by business and without whose legal assistance grievous wrongs would remain uncompensated and harmful corporate practices would continue.

This characterization is inaccurate because it conveniently paints an incomplete picture.

In reality, plaintiffs' attorneys look to file lawsuits against large corporations—they invariably go after the "deep pockets." The hysteria over mold—and its consequential increase in home insurance rates—is the latest in a long line of trial lawyer targets. Next in their sights: fast food restaurants.

The wealthiest plaintiff lawyers hunt constantly for new areas of litigation, and the more potentially lucrative the better. With "the little guy" out in front, these trial lawyers use the law and our courts to mine corporations for personal financial gain.

## The Dallas Morning News

### Trial lawyers accused of donation deceit; PAC names called vague; group denies impropriety

The leader of a group that wants to limit lawsuits against businesses said Tuesday that a few powerful Texas trial lawyers are masking large political contributions by donating to two vaguely named political action committees.

An official with one of the PACs denied that anything improper has occurred.

Jon Opelt, executive director of Citizens Against Lawsuit Abuse of Houston, said the Texas 2000 PAC and the Constitutional Defense Fund violate the spirit of state election laws, which require PAC names to include the names of the people or organizations who control them.

Although he acknowledged that the contributions were not illegal, Mr. Opelt said he would file a complaint with the Texas Ethics Commission this week.

'The public is left in the dark when PACs are able to craft their name so as to hide the driving force behind the money,' he said.

Five trial lawyers who helped the state wage its successful multibillion-dollar lawsuit against tobacco companies gave nearly \$2 million to the two PACs in the first six months of the year, according to state records provided by Mr. Opelt.

The lawyers' names appear on state campaign finance forms as contributors to the PACs. But candidates who receive money from the two groups won't have to list the lawyers as contributors — only the vaguely named PACs, Mr. Opelt said.

'If these trial lawyers are proud of their self-proclaimed role as 'champions of the little guy,' why do they funnel donations through obscure political action committees?' Mr. Opelt asked. 'Are they trying to hide their political might?'

He suggested changing the groups' names to the Texas Trial Lawyer 2000 PAC and the Personal Injury Lawyers' Constitutional Defense Fund.

—Christopher Lee, Aug. 23, 2000

### A Privileged Class

In order to keep the litigation money-go-round turning their way, plaintiff trial lawyers long ago recognized the importance of the Texas Legislature and judicial officeholders. They concentrate their financial contributions on legislative and judicial candidates who they expect will protect and promote their special interests.

And Texas's campaign finance statutes accord law firms special privileges. Trial law firms can give cash directly to their favorite candidates if they wish. Texas law, however, prohibits businesses and corporations from making direct contributions to any candidate for state office, deeming it as too corrupting an influence.

What is the difference between corporations who provide goods and services, and the law firms who sue these corporations? Why are corporations prohibited from making political contributions, but the trial lawyer industry is not? We explore this issue more thoroughly in Chapter 6.



# The Tobacco Five

*From January 2000 to June 2002, the “Tobacco Five” and 10 of the top trial lawyer contributors have put in excess of \$5.5 million into Texas’ political system. While a fraction of this total went directly to candidates, the majority of contributions have been shuffled through various ambiguously named PACs to hide their true origin.*

## A Pound of Flesh

In 1996, Texas Attorney General Dan Morales sued the nation’s largest tobacco companies alleging violation of racketeering and conspiracy laws as well as fraud and other offenses. Less than two years later, the state of Texas secured one of the largest settlements in legal history.

For its lawsuit against big tobacco—litigation modeled after almost identical lawsuits in other states—Dan Morales Texas turned to a handpicked group of trial lawyers including: Walter Umphrey and Wayne Reaud, of Beaumont; John M. O’Quinn and John Eddie Williams, of Houston; and Harold Nix of Daingerfield. This group is known as the “Tobacco Five.”

After the initial lawsuit, Texas agreed on Jan. 16, 1998, to settle its lawsuit against the tobacco industry for \$17.3 billion.

The “Tobacco Five” exacted a pound of flesh worth \$3.3 billion in legal fees, well over their original agreed contingency fee of \$2.3 billion.

These trial lawyers are now investing their windfall. But they didn’t turn just to traditional investments—stocks, bonds, mutual funds or real estate. **The “Tobacco Five” are spending a huge chunk of their wealth to seek influence at the Texas Capitol, and in Texas courtrooms, by quietly slipping millions of dollars into political campaigns.**

The philosophical divide between trial lawyers and working Texans is well documented. Texas voters in the 1990s rejected trial-lawyer backed candidates for the Supreme Court, electing a reform slate of judges, and have voted consistently for conservative and competent

**In the 2000 election cycle, the “Tobacco Five” spent more than \$3.3 million funding Texas politicians and political action committees supporting Democratic candidates and issues.**

Supreme Court justices ever since. In addition, trial-lawyer backed candidates for statewide office were consistently rejected by the voters in the last decade. Trial lawyer contributions are, in fact, a negative for the candidate receiving those contributions. That means the “Tobacco Five” have had to disguise their contributions if they were to be effective.

## Giving Back to the State

In the 2000 election cycle, the “Tobacco Five” spent more than \$3.3 million funding Texas politicians and political action committees supporting Democratic candidates and issues. Employing a Byzantine money trail, they are the major contributors to at least five PACs that are prominent in Texas politics.

## The Check is in the Mail

### The Dallas Morning News

#### Trial Lawyers Give Heavily to Democrats; Tobacco attorneys among biggest donors

Every three months, like clockwork, another \$25 million arrives for the five Texas tobacco lawyers...[As of May 2000], the trial lawyers who represented Texas have contributed more than \$2.2 million in unrestricted soft money to the Democratic Party this election. And they’re promising more.

Trial lawyers—who make their money in suing businesses in cases where people say they have been injured or wronged—are among the biggest givers to the Democratic Party... Because personal-injury lawyers typically take a percentage of awards that can total millions of dollars, the battle to curb such suits can put a pinch on their pocketbooks.

Business interests say the attorneys are making millions while clogging court dockets and driving up consumer costs for everyone. The lawyers say they are forcing corporations to take responsibility for their actions.

“I have given and I will continue to do so,” said Walter Umphrey of Beaumont.

“One of the biggest things that money buys is inaction,” said Mr. Makinson of the Center for Responsible Politics. “For years, just as the doctors kept pouring money in to keep national health insurance off the agenda, lawyers have been pouring in money to keep tort reform from ever rising to consideration.

—Wayne Slater, May 14, 2000

## MEET THE FAMILY...

*In total, the “Tobacco Five” have contributed over \$3.2 million to Texas politics. While a chunk of that total—over \$630,000—went directly to candidates, the remaining sum shuffled through various ambiguously named PACs before their final destination.*

THE “TOBACCO FIVE”:	Umphrey	Nix	Reaud	Williams	O’Quinn	Total
Texas Democratic Party	\$677,500		\$25,000	\$5,000	\$406,000	\$1,113,500
County Dem Parties	\$22,500			\$86,500	\$12,000	\$121,000
Candidates	\$113,600	\$121,250	\$58,000	\$211,500	\$126,750	\$631,100
Texas Trial Lawyers Assn..	\$1,430	\$4,030	\$4,680	\$3,770		\$13,910
Carl A. Parker	\$13,500					\$13,500
Constitutional Defense Fund	\$112,500	\$100,000	\$100,000	\$100,000	\$100,000	\$512,500
Texas 2000	\$200,000	\$200,000	\$200,000	\$200,000		\$800,000
<b>Total:</b>	<b>\$1,141,030</b>	<b>\$425,280</b>	<b>\$387,680</b>	<b>\$606,770</b>	<b>\$644,750</b>	<b>\$3,205,510</b>

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### Houston Chronicle

**Witness tells of phony probe;  
O’Quinn tried to hide unethical practice,  
a former associate says**

—Ron Nissimov, December 11, 1998—

### The Dallas Morning News

**Attorney fights disbarment in  
ambulance-chasing case**

—Bruce Nichols, December 6, 1998—

## Walter Umphrey

Texas' tobacco litigation along with asbestos class-action lawsuits made Walter Umphrey, founder of Beaumont's Provost and Umphrey law firm, an extremely wealthy man. Questionable contributions to the Democratic National Committee in 1995, when anti-lawsuit legislation was being considered, clearly illustrate Umphrey's notoriety as a prominent plaintiffs' attorney, as well as one of this nation's biggest financial players in Democratic Party politics.

In a Sept. 13, 2000 article ("A dinner, a memo and a gusher of Texas law money"), *Time* magazine recounts the incident that occurred in the fall of 1995, "when Republicans, in fresh control of both houses of Congress, were fashioning such tort-reform legislation. President Clinton, trying to position himself between the GOP and liberal Democrats as he prepared for his 1996 reelection campaign, alarmed the trial bar with talk of compromise..."

"At the time, Clinton and Gore had committed themselves to raising \$3 million for an end-of-the-year burst of campaign TV ads. On November 28, 1995, Gore flew to Houston for an intimate fund-raising dinner ... His guests included attorneys who have made fortunes representing individuals claiming harm from asbestos, tobacco and other products.

"Two days later, the vice president was given memos by a Democratic National Committee staffer, Erica Payne, suggesting follow-up calls to some of the Texas lawyers who attended the dinner.

"Among the names was Walter Umphrey of Beaumont, who made his fortune suing asbestos manufacturers and was the lead lawyer for the state of Texas in his suit against the tobacco industry ... The memo suggested asking Umphrey for \$100,000 to help pay for the TV buys, noting that 'Walter is closely following tort reform.'"

Two weeks later, party staffer Payne sent a similar memo to DNC chairman Don Fowler. According to *Time*, the memo contained a script for Fowler to use in his call to Umphrey:

**"Sorry you missed the Vice President: I know [you] will give \$100K when the President vetoes tort reform, but we really need it now. Please send ASAP if possible."**

Flowler's lawyer claims, "Don does not recall placing

the call to him, talking to him or seeing the call sheet." Although Umphrey did not immediately contribute, *Time* reported:

"He waited until the tort reform bill reached a crucial moment—the day the legislation went to Clinton's desk. His firm, Provost & Umphrey, contributed \$7,500 on April 30, 1996. The President vetoed the legislation two days later, May 2. On July 17, the firm gave another \$30,000 to the DNC, with \$10,000 more coming in the fall."

Shortly after President Clinton vetoed the tort reform bill, which would have limited excessive monetary awards in personal injury lawsuits, Umphrey and his "Tobacco Five" cohorts collected \$3.3 billion in legal fees in their lawsuit against the tobacco industry.

Instead of openly contributing to candidates, a la the Gore episode, **Umphrey has concentrated on channeling more than \$300,000 through various obscurely named Texas PACs. Such efforts blur the true origin of the money, making it easier for many candidates to accept because it lacks the controversial "trial lawyer" taint.**

### UMPHREY'S CONTRIBUTIONS

Texas Democratic Party	\$677,500
County Democratic Parties	\$22,500
Individual Candidates	\$113,600
Texas Trial Lawyers Assn.. PAC	\$1,430
Carl A. Parker PAC	\$13,500
Texas 2000	\$200,000
Constitutional Defense Fund	\$112,500
<b>Total</b>	<b>\$1,141,030</b>

01/01/00 - 06/30/02

Umphrey has given Democratic Party candidates and party-affiliated PACs in Texas with \$1,141,030. This total does not reflect the hundreds of thousands of dollars he contributed to national Democratic Party candidates and party PACs.

## John M. O'Quinn

John M. O'Quinn amassed his personal wealth suing tobacco companies and silicon manufacturers. O'Quinn and his "Tobacco Five" trial lawyer associates pocketed \$3.3 billion in fees for themselves in the process.

O'Quinn has often faced accusations of barratry when, according to the *Houston Chronicle*, "prominent Houston attorney John O'Quinn hired 'runners' who went uninvited to a hospital and funeral home to solicit clients soon after a 1994 airplane crash in North Carolina."<sup>1</sup>

A previous reprimand for similar charges meant this allegation could cost O'Quinn his license to practice law. According to the *Houston Chronicle*, "the disbarment suit, filed in February, accuses O'Quinn of funneling more than \$100,000 to the Musslewhites, who allegedly worked with O'Quinn associate Shaw to hire non-attorneys to solicit families of the victims of the July 2, 1994, USAir crash near Charlotte. The group is accused of unethical solicitation, barratry and conspiracy to commit unethical conduct."<sup>1</sup>

According to a *Dallas Morning News* article, "the Texas Disciplinary Rules of Professional Conduct forbid lawyers to solicit clients in person, on the telephone or through an agent. Only written communication is permitted, and that is strictly limited..."

"In the current case, the bar charges that Mr. O'Quinn violated ethics rules by organizing and financing aggressive efforts to sign contingency-fee contracts with victims of a 1994 airliner crash in North Carolina. Under such agreements, clients agree to pay a lawyer a percentage if they win a judgment..."

"Thirty-seven people died and 20 others were hurt in the July 2, 1994, crash of USAir Flight 1016 as it tried to land at the Charlotte, N.C., airport..."

"Mr. O'Quinn ended up representing several victims or families of victims and won several settlements."<sup>2</sup>

According to testimony from Charles Musslewhite, reported in the *Houston Chronicle*, "The story was that we were performing an investigation. It was a pretext to knock on the door and see if they (families of crash vic-

tims) were going to hire us," Musslewhite said. Musslewhite went to the crash area on July 15, 1994, with Betty Edward and George Dillard, whom Musslewhite claims were hired as case-runners under his supervision. The trip was financed by O'Quinn, who would get two-thirds of any attorneys' fees from any lawsuits filed on behalf of crash victims of relatives, Musslewhite said...

"The South Carolina Attorney General's Office conducted its own investigations of the USAir allegations. O'Quinn, Shaw and Benton Musslewhite pled guilty to practicing law without a state license in exchange for dropping of more serious charges. O'Quinn also agreed to pay \$250,000 and Shaw \$100,000."<sup>3</sup> O'Quinn is pouring impressive chunks of his lawsuit millions into Texas politics. Between January 2000 and June 30, 2002, O'Quinn contributed \$644,750 to various state PACs and candidates.

### O'QUINN'S CONTRIBUTIONS

Texas Democratic Party	\$406,000
Constitutional Defense Fund	\$100,000
David Fisher	\$25,000
Texas Young Democrats PAC	\$12,000
Individual Texas Candidates	\$101,750
<b>Total:</b>	<b>\$644,750</b>

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At the same time O'Quinn openly criticizes business interests for contributing to political action committees and campaigns, he has single-handedly—and in some cases directly—blanketed Texas politicians with more than half a million dollars.

O'Quinn is even more generous nationally. In September 2000, O'Quinn gave \$175,000 to support Democratic candidates, contributed another \$400,000 on October 26, and threw in an extra \$23,000 the following week.

1 *Houston Chronicle*, "State Bar Accuses O'Quinn of Hiring Runners," December 9, 1998, Ron Nissimov

2 *Dallas Morning News*, "Attorney fights disbarment in ambulance-chasing case," December 6, 1998, Bruce Nichols

3 *Houston Chronicle*, "Witness tells of phony probe; O'Quinn tried to hide unethical practice, a former associate says," December 11, 1998, Ron Nissimov

4 *Mother Jones Magazine*, "The Mother Jones 400", [http://www.motherjones.com/web\\_exclusives/special\\_reports/mojo\\_400/10\\_oquinn.html](http://www.motherjones.com/web_exclusives/special_reports/mojo_400/10_oquinn.html)

**John Eddie Williams, Jr.**

Another of the "Tobacco Five" trial lawyers who earned a \$3.3 billion fee in the tobacco settlement, official campaign contribution reports make it clear John Eddie Williams and his litigation colleagues are pouring hundreds of thousands of dollars in lawsuit profits back into the political arena.

Williams is the subject of allegations that he paid \$1 million to represent the state of Texas in suit against the tobacco industry. According to an article by *Houston Chronicle* reporter Clay Robison, "former Texas Attorney General Dan Morales wanted \$1 million from one or more of the lawyers eager to represent the state in its lucrative suit against the tobacco industry, the former wife of one of the lawyers testified.

"Dawn Nelson, the former wife of John Eddie Williams Jr. of Houston, said Williams told her about the payment the day Morales hired him and four other high-powered Texas trial lawyers to take on the cigarette companies in 1996.

"Nelson said Williams told her the payment was in addition to the \$2 million that Morales required each of the lawyers and their law firms to commit to spend for litigation expenses.

"Morales denied Nelson's statement, saying he never solicited money for any personal or political use...

"Nelson's statement about the \$1 million payment to Morales was made in August in a sworn deposition take by Williams' lawyers in the domestic suit. The *Houston Chronicle* obtained a copy...

"In those written comments, which were part of an attachment to the deposition transcript, she recounted the following exchange with Williams on the day that Morales hired the private lawyers.

"He (Williams) said, 'We got the case.' And I said, 'great.' He said, 'Yeah, the only thing is that we're gonna have to give him a million dollars for it.' And I said, 'for expenses, right?'"

"He said, 'No, we're gonna have to give him a million dollars just to get the case.'

"Nelson also wrote that later that same evening she asked her then-husband if it was ethical to 'pay someone like that for a case.'

"He said, 'Sure, we do it all the time,' she added...

"Nelson's testimony is similar to allegations raised last year by famed Houston trial lawyer Joe Jamail, who has testified under oath that he believes that Morales solicited \$1 million from each of several lawyers he considered hiring for the tobacco suit.

"The money, according to memos prepared by Jamail, purportedly was for a fund to help Morales defend himself against political or public relations attacks from cigarette companies during the litigation."<sup>5</sup>

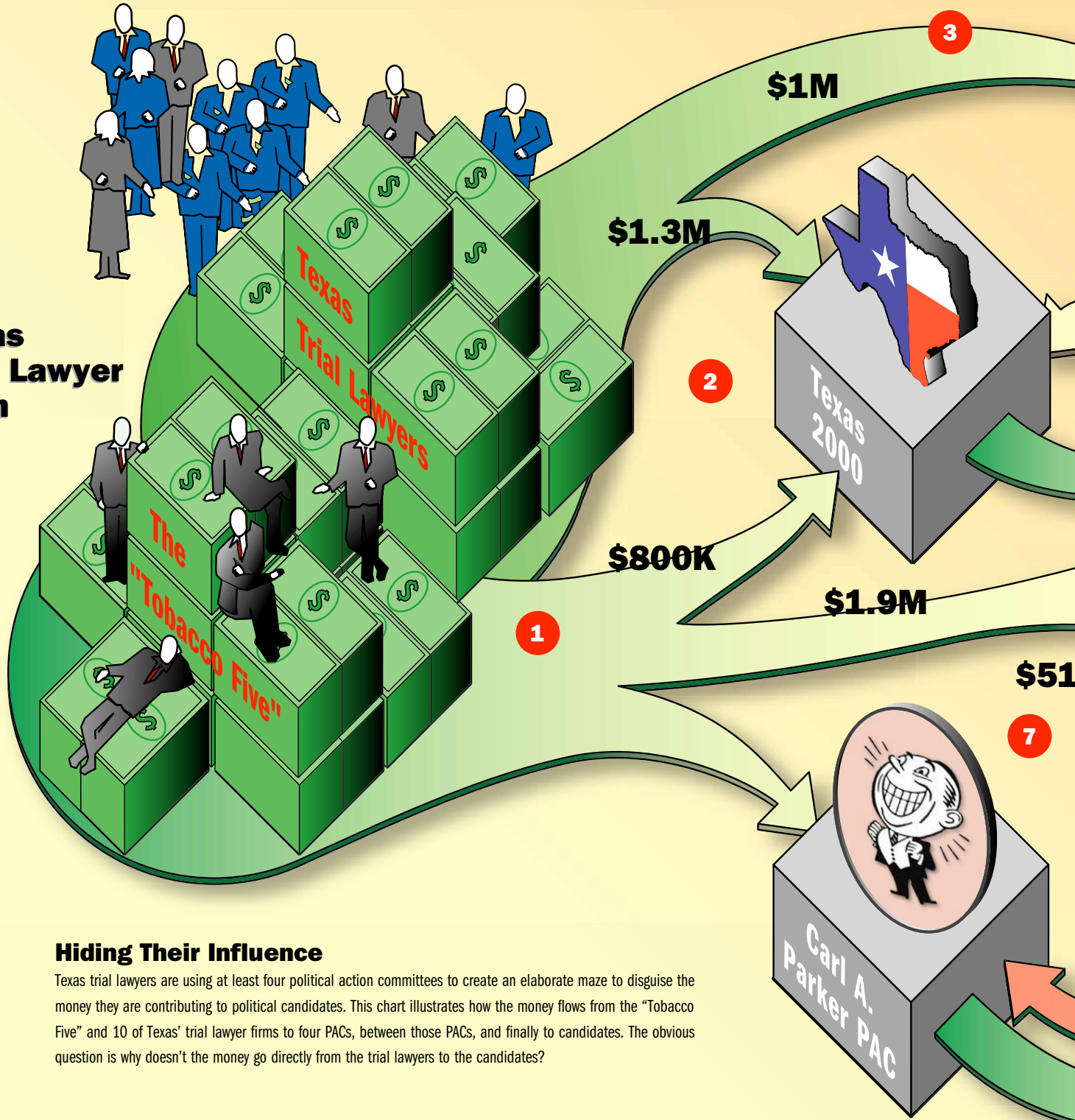
Williams has contributed more than \$600,000 to Texas PACs and Democratic candidates. He is a major funder of Texas 2000, and a long-time contributor to local Democratic Party PACs. Williams has skillfully camouflaged more than \$300,000 that he injected into state politics by shuffling money through ambiguously named PACs, attempting to fuzz up the origin of the funds before it landed in the hands of favorite candidates.

WILLIAMS'S CONTRIBUTIONS	
Texas Trial Lawyers Assn.. PAC	\$3,700
Texas 2000	\$200,000
Texas Democratic Party	\$5,000
Democratic Party PACs	\$86,500
Individual Contributions	\$211,500
Constitutional Defense Fund	\$100,000
<b>Total:</b>	<b>\$606,770</b>

01/01/00 - 06/30/02

5 *Houston Chronicle*, "Tobacco suit lawyer's ex-wife: Morales asked for \$1 million," November 22, 1999, Clay Robison

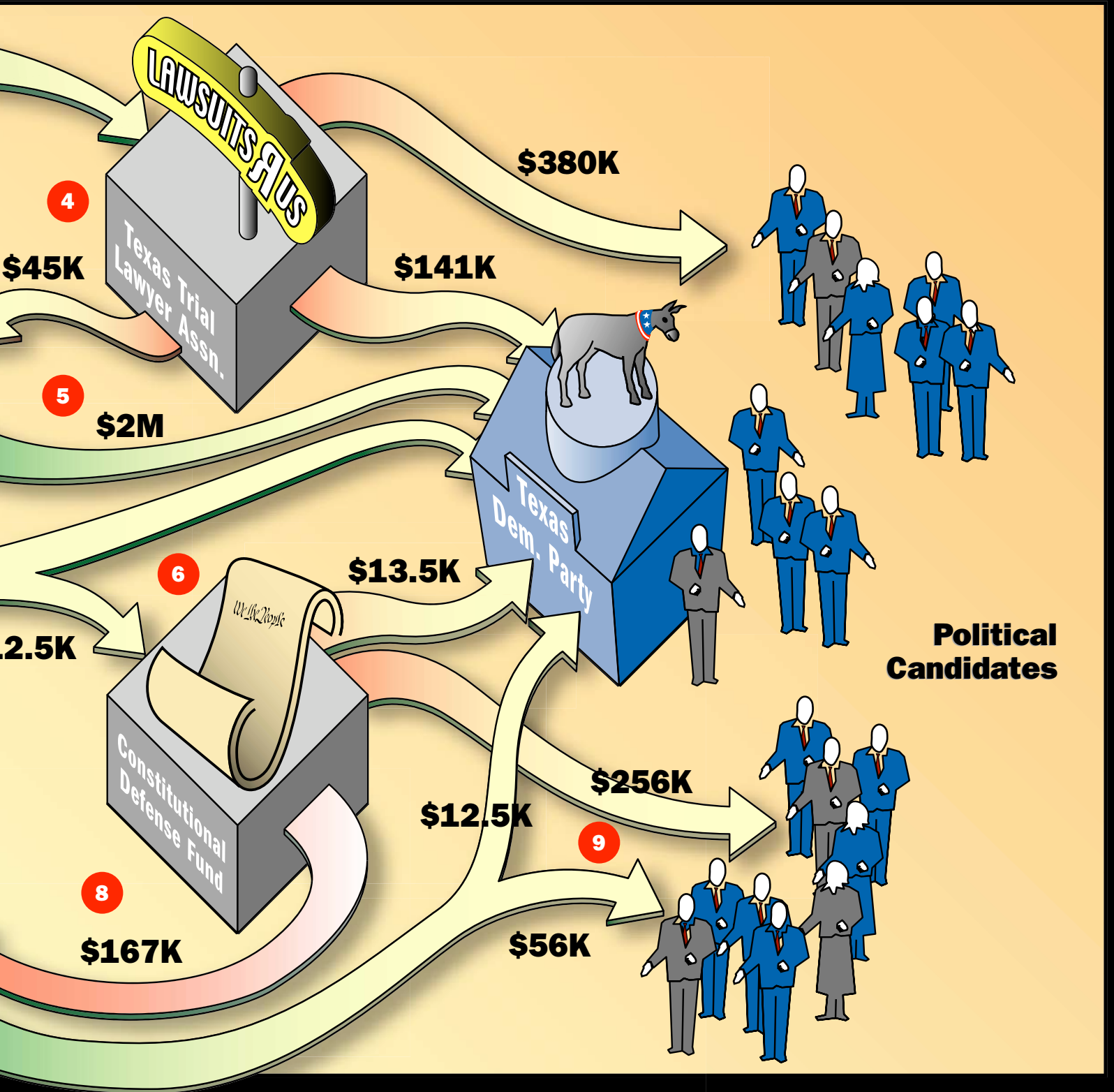
## Texas Trial Lawyer Cash



### Hiding Their Influence

Texas trial lawyers are using at least four political action committees to create an elaborate maze to disguise the money they are contributing to political candidates. This chart illustrates how the money flows from the "Tobacco Five" and 10 of Texas' trial lawyer firms to four PACs, between those PACs, and finally to candidates. The obvious question is why doesn't the money go directly from the trial lawyers to the candidates?

- 1 Of the \$2.7 million that flowed through three little-known trial lawyer-funded Texas PACs in the 2000 election cycle, 49 percent - \$1.3 million is directly from a single source, the "Tobacco Five"
- 2 Although its name doesn't reflect it, the Texas 2000 PAC is entirely funded by trial lawyers. Texas 2000 PAC received over \$1.3 million, 97 percent directly from Texas trial lawyers. Four of the top-tier contributors to Texas 2000 are the "Tobacco Five" lawyers. Walter Umphrey, John Eddie Williams, Wayne Reaud and Harold Nix each contributed \$200,000 to Texas 2000 in just eighteen months.
- 3 The Texas Trial Lawyer Association PAC received over \$1 million from Texas trial lawyers from January 1, 2000 to June 30, 2002.
- 4 Trial lawyer PACs also got into the act. Democratic PACs such as the Texas Trial Lawyers Association PAC and the Democratic National Committee contributed over \$45,000 to Texas 2000.
- 5
- 6
- 7



**5** Where does the trial lawyer money go next? Over 91 percent of the \$2.2 million contributed to the Texas 2000 PAC is funneled directly into the Texas Democratic Party. In total, trial lawyers contributed over \$2 million to the Texas Democratic Party under the camouflaged name of Texas 2000.

**6** The “Tobacco Five” contributed over \$1.9 million directly to the Texas Democratic Party.

**7** The Constitutional Defense Fund PAC collected \$512,500 from its sole contributors, the “Tobacco Five.”

**8** The Constitutional Defense Fund shifts \$167,000 back to the Carl A. Parker PAC. Of the \$192,500 taken in by the Carl A. Parker PAC 87 percent came directly from the Constitutional Defense Fund. An additional \$13,500 was contributed from “Tobacco Five” trial lawyer Walter Umphrey.

**9** Once the contributions are filtered through this maze of ambiguously named PACs, the Carl A. Parker PAC and Constitutional Defense Fund—both primarily funded by the “Tobacco Five”—divide their money among individual candidates and the Texas Democratic Party.

## Wayne Reaud

Unlike most entrepreneurs, Wayne Reaud made his millions suing large companies, not running them. In the 1970s and 1980s, Reaud filed asbestos lawsuits for his clients, before moving on to join the "Tobacco Five" in the 1990s.

After taking his cut of the \$3.3 billion contingency fee the tobacco lawyers received, Reaud trained his litigation crosshairs on the computer industry.

In September 1999, Toshiba submitted to a settlement when faced with a \$9.5 billion, corporation-crippling, class-action lawsuit in Reaud's hometown of Beaumont, alleging that their laptops might lose or spoil data while transferring it to a floppy disk.

"It came to the attention of Wayne Reaud, one of the king pirates of the Texas plaintiffs bar, that a decade ago a geek at IBM discovered a logic flaw in the chip that controls the floppy drive. When the machine works too hard, sometimes it corrupts or loses data when shipping it to a floppy..."

"Toshiba has agreed to cut [Reaud] a check for \$174.5 million, a reward that will no doubt send lawyers scurrying though the technical literature for evidence of other assaults on 'data integrity.'..."

"Meanwhile, Toshiba's shareholders will swallow a \$1 billion charge against earning, wiping out their profits for

the year, to help them appreciate the joys of doing business in America."<sup>6</sup>

As of January 2000, Reaud contributed \$83,000 to Democrats and more than \$300,000 to two political action committees funded exclusively by trial lawyer dollars.

Reaud is a founding father of the Texas 2000 PAC, contributing \$200,000 during the first six months of 2000 to the committee that 50 of Texas' richest lawyers use strictly as a conduit for their political donations. His band of friends in this undertaking—not surprisingly—includes his fellow "Tobacco Five" lawyers. Reaud has spread at least \$387,680 throughout the Texas political system.

REAUD'S CONTRIBUTIONS	
Texas Democratic Party	\$25,000
Texas Trial Lawyer Assn.. PAC	\$4,680
Texas 2000	\$200,000
David Fisher	\$50,000
Individual Candidates	\$8,000
Constitutional Defense Fund	\$100,000
<b>Total:</b>	<b>\$387,680</b>

01/01/00 - 06/30/02

## Harold Nix

Harold Nix teamed up with fellow "Tobacco Five" lawyer John O'Quinn in filing a landmark breast implant class-action lawsuit against Dow Corning (the breast implant lawsuits have often been often criticized as being based on "junk science"). His law firm, Nix Patterson & Roach, is a long-time contributor to the Texas Democratic Party.

In just two years, from January 2000 to June 2002, **Nix injected a staggering \$425,280 into the Texas political system.** While Nix did not contribute directly to the Texas Democratic Party during this election cycle, Nix's law firm was the second-largest soft money contributor to the Democratic Party in 1996.

Nix's top-shelf contributions include \$100,000 to the Constitutional Defense Fund and the obligatory "Tobacco Five" title of \$200,000 to Texas 2000.

Nix also contributed over \$120,000 separately to individual Democratic candidates in Texas during this period.

NIX'S CONTRIBUTIONS	
Individual Candidates	\$51,250
David Fisher	\$50,000
Texas 2000	\$200,000
Texans for John Sharp	\$20,000
Constitutional Defense Fund	\$100,000
Texas Trial Lawyers Assn.. PAC	\$4,030
<b>Total</b>	<b>\$425,280</b>

01/01/00 - 06/30/02

6 *Wall Street Journal*, "Lap Top Illogic? The Wall Street Journal's Reaction to Toshiba's Settlement," November 3, 1999

In addition to the over \$3.2 million spent by the "Tobacco Five," this report has identified 10 other top plaintiff's attorney contributors. Our "Top Ten Trial Lawyers" and their law firms have put a total of \$2.3 million into Texas politics, divided among candidates and trial lawyer conduit PACS. [See Appendix]



# Hiding the Money

*The “Tobacco Five” and 10 other trial lawyer firms in Texas are doing much more than directly handing out hundreds of thousands dollars to political candidates. In fact, a side project of their creation dwarfs the above-board contributions that are easily traceable through records on file at the Texas Ethics Commission. In what*

**Four of the trial lawyer PACs that this report was able to uncover— Texas Trial Lawyers Association, Texas 2000, Constitutional Defense Fund and Carl A. Parker PAC—received \$3,725,935.08. And the “Tobacco Five” alone accounted for 36 percent of the total.**

*appears to be an attempt to erase their fingerprints, the “Tobacco Five” have concocted a series of generically named political action committees through which they are slipping—largely unnoticed—millions of dollars into scores of political campaigns.*

More than \$2.7 million flowed through just three of the little-known trial lawyer-funded Texas PACs in the 2000 election cycle. Of that, 49 percent—\$1.3 million—is directly from a single source, the “Tobacco Five.”

Once deposited in one of the innocuous-sounding PACs, the disguised tobacco money is safely shifted back and forth through other PACs in the campaign finance system before finally ending up in the hands of individual candidates and the Texas Democratic Party.

Another conduit for trial lawyer money is less devious. The Texas Trial Lawyers Association PAC (TTLA) took in more than \$1 million since March 2000. While this PAC is honest in name, the magnitude of their influence in Texas politics is largely overlooked and underreported.

The four trial lawyer PACs that this report has covered—Texas Trial Lawyers Association, Texas 2000, Constitutional Defense Fund and Carl A. Parker PAC—received \$3,725,935.08. And the “Tobacco Five” alone accounted for 36 percent of the total.

## Texas 2000

Looking at PAC names alone will not always help the public determine who is actually the financial force behind them. In fact, if PAC names bore any correlation to who funds them, Texas 2000 would be renamed ‘Trial Lawyers 2000.’

The latest 2000 PAC data reveals the truth. Texas 2000 is 97 percent trial lawyer contributions. Texas 2000 is made up of 163 trial lawyers and law firms contributing significant sums of money for the purpose of passing a plaintiffs’ bar agenda.

The top 50 Texas 2000 donors each chipped in \$10,000 or more to Texas 2000, accounting for 80 percent of the \$2.2 million collected in the 2000 election cycle. The average contribution among this top 50 was almost \$40,000 per contribution.

TEXAS 2000			
Reporting Period	Contributions	Trial Lawyer Contributions	% Trial Lawyer Contributions
1/1/00-6/30/00	\$1,650,892	\$1,650,892	100%
7/1/00-9/28/00	\$189,550	\$189,050	99.7%
9/29/00-10/28/00	\$150,475	\$119,475	73.4%
10/29/00-12/31/00	\$66,650	\$41,650	64%
1/1/01-6/30/01	\$1,000	\$1,000	100%
7/1/01-12/31/01	0	0	
1/1/02-6/30/02	\$175,350	\$175,350	100%
<b>Total:</b>	<b>\$2,233,917</b>	<b>\$2,177,417</b>	<b>97%</b>

Closer inspection uncovers that Texas 2000’s top five donors account for almost half (45 percent) of the funds raised since January 2000.

Four of these top-tier contributors are, of course, the “Tobacco Five.” Walter Umphrey, John Eddie Williams, Wayne Reaud and Harold Nix each contributed \$200,000 to Texas 2000.

Trial lawyer PACs also got into the act. The Texas Trial Lawyers Association and the Democratic National Committee contributed over \$45,000 to Texas 2000.

Where does the trial lawyer money go next? Over 91 percent of the \$2.2 million contributed is funneled directly into the Texas Democratic Party.

In total, trial lawyers contributed over \$2 million to the Texas Democratic Party under the camouflaged name of Texas 2000.

TEXAS 2000	
Reporting Period	Contributed to Texas Dem. Party
1/1/00-6/30/00	\$0
7/1/00-9/28/00	\$550,112.13
9/29/00-10/28/00	\$1,200,025.44
10/29/00-12/31/00	\$240,034.75
1/1/01-6/30/01	\$0
7/1/01-12/31/01	\$4,000
1/1/02-6/30/02	\$46,000
<b>Total</b>	<b>\$2,040,172.32</b>

### The Constitutional Defense Fund

Although its name suggests a broad kinship with the American Civil Liberties Union’s fight to protect constitutional rights, the Constitutional Defense Fund is another PAC that fronts for trial lawyers.

In total—since its inception in 1998—the Constitutional Defense Fund has collected over \$850,000.

From the period between December 1, 1999 and June 30, 2002, the Constitutional Defense Fund collected \$512,500 from five contributors, the “Tobacco Five.” Lawyers John Eddie Williams, Wayne Reaud, John O’Quinn and Harold Nix each contributed \$100,000 to this PAC, while John Umphrey threw in another \$112,500.

Treasurer Carl A. Parker has said in the August 23, 2000, *Austin American-Statesman* article entitled *Trial lawyers accused of deceit for PAC contributions*, “the contributors figured they could get ‘more bang for their buck’ by acting together.”

**These five trial lawyers are the only contributors to the Constitutional Defense Fund.**

CONSTITUTIONAL DEFENSE FUND		
Reporting Period	Contributor	Amount
7/1/99-12/31/99, 10/23/00	Walter Umphrey	\$112,500
1/1/00-2/3/00	John Eddie Williams	\$100,000
2/4/00-3/4/00	Wayne Reaud	\$100,000
3/5/00-6/30/00	John O’Quinn	\$100,000
7/1/00-9/28/00	Harold Nix	\$100,000
<b>Total:</b>		<b>\$512,500</b>

Once filtered, the now anonymous funds are divided among candidates and Democratic PACs. Half of the money (\$256,000) went directly to 61 candidates in donations of \$1,000 or more. Eighty percent of these candidates are Democrats. Democratic-affiliated PACs such as the

Texas Democratic Party and the Senate Democratic Caucus also received \$83,500.

The remaining \$117,000 was donated to the Carl A. Parker PAC, still another trial lawyer-funded group.

CONSTITUTIONAL DEFENSE FUND			
	Individual Candidates	Democratic PACs	Carl A. Parker PAC
<b>Total Contributed</b>	\$226,000	\$83,500	\$167,000
<b>Total</b>			<b>476,500</b>

01/01/00 - 06/30/02

### The Carl A. Parker PAC

Out of the \$192,500 taken in by the Carl A. Parker PAC between January 1, 2000 and June 30, 2002, **87 percent—or \$167,000—came directly from the Constitutional Defense Fund.**

It’s interesting to note that both the Carl A. Parker PAC and the Constitutional Defense Fund have more in common than contributions, both PACs have the same treasurer, Carl A. Parker. “Tobacco Five” trial lawyer Walter Umphrey contributed an additional \$13,500 to the Carl A. Parker PAC on top of his already hefty contribution to the CDF.

CARL A. PARKER PAC		
Contributor	Amount	Percentage of Total
Constitutional Defense Fund PAC	\$167,000	86.8%
Walter Umphrey	\$13,500	7.0%
Carl A. Parker & Client	\$12,000	6.2%
<b>Total</b>	<b>\$192,500</b>	

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Once filtered through these two PACs, the “Tobacco Five” trial lawyers’ dollars are ready for distribution to candidates and Democratic-based PACs. A total of \$56,000 in contributions of more than \$1,000 each went to fund 26 Texas candidates in the 2000 election cycle.

In some PACs these contributions shift hands daily. On October 23, 2000, for example, Walter Umphrey contributed \$12,500 to the Carl A. Parker PAC. The following day, the Carl A. Parker PAC contributed \$12,500 to the Texas Democratic Party.

While an almost equal number of Democrat and Republican candidates received Carl A. Parker PAC contributions, the amount of money given to Democratic candidates was 70 percent greater than that received by Republicans. The remaining \$24,000 went to Democratic PACs, including a \$12,500 contribution to the Texas Democratic Party.

CARL A. PARKER PAC		
Democratic Candidates	Republican Candidates	Democratic PACS
\$34,000	\$22,500	\$24,000
14 candidates	12 candidates	
70% of Candidate Contributions	30% of Candidate Contributions	

01/01/00 - 06/30/02

### Texas Trial Lawyers Association

The Texas Trial Lawyers Association-PAC, as its name describes, is made up of contributions by trial lawyers from across the state. What often goes unsaid is how powerful a force the TTLA-PAC has become.

Between March 2000 and June 2002, TTLA-PAC raised \$1,027,518.08 in contributions from a wide array of Texas trial lawyers. From here, almost \$850,000 trickled out to candidates and Democratic Party PACs in contributions of \$1,000 or more. Over a two-year period, 72 percent—or \$380,200—was contributed to 90 candidates.

TEXAS TRIAL LAWYERS ASSN..		
Total Contributed	\$1,027,518.08	
Candidate Contributions	\$380,200	90 Candidates (87% Dem.)
Dem. PAC Contributions	\$151,027	
Favorite PAC	Texas Dem. Party	\$141,000

01/01/00 - 06/30/02

### Texas Democratic Party

During the 2000 election cycle, the Texas Democratic Party received more than \$3.3 million in contributions from seven trial lawyers and firms, along with the top four trial lawyer PACs. Of that amount, \$1.9 million came from just five of the state’s wealthiest men, The “Tobacco Five” lawyers.

The Texas Democratic Party, in turn, spends the cash on activities such as television advertising, voter registration drives, and get-out-the-vote drives in both state and federal campaigns in Texas.

### The Lone Star Fund-Texas

The Lone Star Fund-Texas PAC is yet another trial lawyer front PAC, but with a significant distinction from those discussed above. This PAC is the Texas branch of a national political action committee and it clearly illustrates the machinations trial lawyers employ to infiltrate state politics undetected. U.S. Rep. Martin Frost, a Dallas Democrat, chairs the PAC, and **it has broken the rules** in Texas.

Since its seemingly innocuous beginnings in 2000, the Lone Star Fund-Texas PAC has morphed into an unruly problem child of Texas politics, being fined at least four times by the Texas Ethics Commission for failure to file the required political contribution reports on time. On two occasions, the violations were so severe that the Ethics

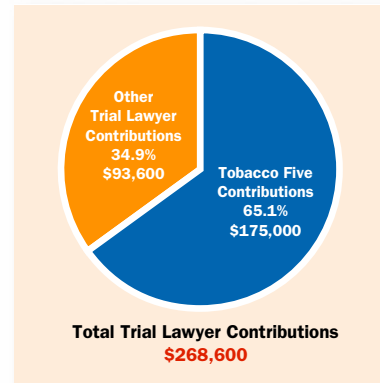
Commission referred them to the Texas Attorney General’s Office for enforcement action.

What does this PAC have to hide? Perhaps they didn’t want the public to know that since May 2000, the Lone Star Fund-Texas PAC has received over \$268,000 in trial lawyer contributions, accounting for almost 70 percent of the PACs contribution total.

This trial lawyer intermediary goes one step further to hide from public view. Instead of filing their reports online and on time, the Lone Star Fund-Texas PAC mails in its contribution and expenditure reports, preventing the public from accessing their records easily.

The Lone Star Fund-Texas PAC goes out of its way to make it difficult for voters to view its contribution records, records showing the \$175,000 given to it by the “Tobacco Five” trial lawyers. Because Lone Star’s records are not filed electronically, they are essentially hidden from public view in normal computer contribution searches. To access the records requires a personal appearance at the Ethics Commission, or a payment to the Ethics Commission staff to retrieve the financial documents.

THE LONE STAR FUND-TEXAS PAC



01/01/00 - 06/30/02

In fact, the only way to view these “hidden” contributions is to go—in person—to the Texas Ethics Commission office in downtown Austin and wade through a mountain of paper filings, or pay the Ethics Commission staff to retrieve the financial documents for you at a “per page” cost.

But in the case of the Lone Star Fund-Texas PAC, even official expense reports filed with the state don’t guarantee accuracy. For example, the Lone Star Fund-Texas PAC contributed a total of \$50,000 to IMPAC 2000, the national Democratic redistricting effort. This amount was not included in the totals on the cover pages of the expenditure reports as required by law.

Given its track record, the Lone Star Fund-Texas PAC merits close scrutiny in the upcoming election. It is unclear to what other lengths this PAC might be going to, to hide its trial-lawyer base from the public eye.

**Austin American-Statesman**

August 23, 2000

**Trial Lawyers Accused of Deceit for PAC contributions**

**Houston Chronicle**

August 23, 2000

**Lawyer PACs Cloaked in Vague Names**

**THE WALL STREET JOURNAL.**

November 3, 1999

**Laptop Illogic? The Wall Street Journal's Reaction to Toshiba's Settlement**

**The Dallas Morning News**

August 18, 2000

**High-rolling trial lawyers keeping a low profile; Watchdogs say lobbyists live in fear of Texas-style reform if Bush wins**

## CHAPTER 5

# How do they get away with it?

*More than \$7 million of trial lawyer money has been funneled into Texas political races in the last 18 months with scant notice. How is it that the activities and influence of these kingmakers of Texas politics—whose six-figure contributions define them as the financial elite among political insiders—goes virtually unreported to the public?*

Part of the answer is that these trial lawyers go to extraordinary lengths to conceal their political contributions by using a variety of innocuous-sounding political action committees. Another part of the answer is that accurately following this twisting money trail is a colossal undertaking requiring an inordinate amount of research time.

This is where research and public policy organizations step in to monitor the contribution and expense reports that state election laws require almost all candidates for public office to regularly file with the Texas Ethics Commission. These resource organizations, known commonly as “watchdog” groups, analyze and interpret contribution and expense data and routinely report their findings to the press. In their reporting, media outlets often rely heavily on these sources of information.

**These trial lawyers apparently go to extraordinary lengths to conceal their political contributions by using a variety of political action committees.**

Unfortunately, some of these watchdog groups have their own agenda and are not at all impartial as they publicly hold themselves out to be. In those cases, groups can

subtly—but intentionally—steer the media toward their point of view through a selective analysis of candidates and contributors. This shrouding of the truth leaves the public with a distorted picture of who actually wields much of the financial clout in Texas politics.

Using such a smokescreen, at least one so-called “watchdog” group continually maligns contributions by business and lawsuit reform groups while diverting attention away from the huge inflows of trial lawyer money in Texas politics.

In reality, trial lawyer contributions significantly overshadow those of the other groups, but reports by Texans for Public Justice are cleverly designed to leave the public with exactly the opposite impression.

### Texans for Public Justice

To all who will listen, Texans for Public Justice (TPJ) claims to be a non-partisan organization dedicated to ferreting out the corrupting influence of money in Texas politics. Since its inception in 1997, TPJ has openly criticized the Legislature, the Texas Supreme Court and the Attorney General for accepting political contributions from business interests or defense-oriented law firms.

Under the guise of neutrality, TPJ periodically publishes reports on issues of the day, always emphasizing campaign contributions. In the media, TPJ proclaims itself a watchdog for the public, lying in wait to blow the whistle

when it detects large sums of money changing hands in political races.

But dig below the claims of impartiality and you will find that TPJ appears to be little more than a hack for plaintiff trial lawyers. Using clever distractions and distortions, TPJ reports unfailingly focus on business and tort reform groups while ignoring even greater contributions to Texas races from a far more concentrated source: a handful of wealthy, well-connected trial lawyers.

The group's numerous reports are replete with pejorative jargon that criticizes business on every level. Business PACs and any politician philosophically aligned with busi-

**Reports published by TPJ unfailingly focus on business and tort reform groups while ignoring even greater contributions to Texas races from a far more concentrated source: a handful of wealthy, well-connected trial lawyers.**

ness interests are vilified in minute detail for every contributory move they make during an election cycle.

Meanwhile, TPJ turns a blind eye to financial contributions made by some of the biggest movers and shakers in Texas politics. While TPJ is busy condemning business organizations and their allies, it blatantly omits the other side of the story. The state's wealthiest trial lawyers funneling millions of dollars to political candidates through a myriad of back-channel PACs don't even rate a footnote—much less exposure—in TPJ's voluminous reports. How can an organization claim—with a straight face—to be neutral when it intentionally disregards information that would shed light on a narrow and powerful group's political movements?

The stigma of fronting for trial lawyers would be eased if TPJ revealed its list of contributors. The truth is, the public has no way of knowing who is funding the organization. What does TPJ have to hide? Clay Robison, Austin bureau chief for the *Houston Chronicle*, writes that 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.”

The non-profit group isn't required by law to name the individuals whose contributions makes its work possible. Craig McDonald, the group's director, claims he is shielding contributors from political backlash. But in reality, TPJ is evading the very same questions it asks business groups to answer.

McDonald grudgingly acknowledges that, “There are some wealthy liberal individuals, including trial lawyers, who have given to me over the years.”<sup>7</sup> Who knows how

much of the \$326,200 TPJ put in its pocket in 2000 alone is from plaintiff trial attorneys?

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

While TPJ is not seeking office, it exists to issue biased reports during election cycles—reports whose sole aim is to influence voters to elect candidates supported by plaintiff trial lawyers and to reject candidates who believe in the free enterprise system and tort reform. TPJ's unstated goal appears to be to change the political landscape by using its slanted reports to target for defeat officials and candidates for public office from one segment of the political spectrum.

TPJ has shown its partisan colors by repeatedly failing to report on the millions of dollars plaintiff trial lawyers contribute to Texas political races. The group admits to taking trial lawyer funding, but refuses to admit how much money it takes. Meanwhile, TPJ continues to lambaste candidates who dare to accept legal and transparent political contributions from business and tort reform PACs while at the same time refusing to scrutinize the candidates and causes favored by TPJ's backers—an elite cadre of high-profile plaintiff trial lawyers.

## Houston Chronicle

August 23, 2000

### Maybe It's Time to Watch the “Watchdog”

[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 Robison,  
Austin Bureau Chief

<sup>7</sup> “Maybe its time to watch the ‘Watchdog’; Clay Robison, *Houston Chronicle*

CHAPTER 6

# Reforming the System

Candidates, as well as the public, have a right to know the source of the money used to operate campaigns for elective office. This report uncovered loopholes in current state campaign finance laws that are being purposely and aggressively exploited. Consequently, voters are denied the full and transparent disclosure the system was created to provide them.

The difficulty in today's campaign finance system is that the public is unable to follow the convoluted paths trial lawyer have created for their funding as it flows through the system to its final destination. As with any contributor, trial lawyers must be required to have accurate, identifiable disclosure of their campaign contributions.

To date, trial lawyer contributions have been intentionally hidden from the public eye. The funds contributed to candidates have complied with the letter of Texas law, but not with the spirit of that law. Millions of dollars have been showered onto Texas' political landscape cleverly disguised.

As officeholders, Texas lawmakers recognize that candidates require financial contributions in order to campaign effectively in today's political system and they have set up a system to accommodate that reality. But just as importantly, the reporting requirements recognize that it is not the money itself that stands to skew the system, but the intentional concealment of the source of those funds from voters that will corrupt the system.

To ensure that the campaign finance system safeguards the public interest, the Texas Legislature should address the problems exposed in this report with the goal of making full disclosure the hallmark of Texas politics.

The findings in this report demonstrate clearly how easy it is to deceive the public. That should not be the case. The House and Senate committees with oversight of election issues should appoint task forces during the 2003 leg-

islative session to examine ways to halt deceptive campaign finance practices by:

1. **Adopting a regulatory framework to prohibit PAC-to-PAC contributions**
2. **Strengthening existing laws on electronic filing and the immediate reporting of significant contributions**
3. **Requiring honesty in PAC names / titles**
4. **Considering legislation to treat law firm contributions in the same fashion as corporate contributions**

### Prohibition on PACs giving to PACs

Political action committees (PACs) are intended to unite groups of like-minded people that share similar ideology. In its purest form, PACs allow people to pool their resources and give to candidates of their choice.

Although their purpose is noble, PACs can become conduits for hiding the true source of campaign contributions. PAC-to-PAC contributions can shield the original backers' identity behind an ambiguous sounding name.

Like scores of existing political committees, Texans for Lawsuit Reform's PAC has made contributions to other PACs, which is a legitimate function. But when PACs are set up exclusively to contribute money to other PACs – and abandon all pretense of distributing money directly to candidates—the law needs to be changed.

Trial lawyers have capitalized on this loophole and are dumping millions into Texas politics without the public's knowledge. By using various PAC names and methods of

moving money from one source to another, trial lawyers have been able to finance their favorite candidates, essentially in secret.

Texas 2000 is the poster child for this issue. During the past 18 months, trial lawyers accounted for 97 percent of this PACs income, giving it \$2,172,417 of the \$2.2 million it received in contributions. Texas 2000 then turned around and gave \$2 million – or 91 percent of its total contributions – to the Texas State Democratic Party. The remainder went to PAC operating expenses.

Texas 2000 didn't directly contribute a single cent to any candidate. Why didn't the trial lawyers donate directly to their favorite candidates?

Shuffling money from one PAC to another does nothing more than hide the identity of the contributor. Campaign finance law is written with the public in mind. Its intent is to keep voters informed and reveal a candidate's true funding sources. PAC-to-PAC contributions create a barrier between the public and the truth and should be stopped.

A constitutionally compliant mechanism should be developed that prohibits contributions by PACs that are created solely to give to other PACs. If these PACs are not contributing to candidates, why do they exist, other than to conceal the true source of money? It is common knowledge among the politically savvy that they serve no purpose in Texas politics, except to add another step in an already complex process of identifying who is really funding Texas political races.

**Strengthening electronic filing, immediate reporting requirements**

One objective of requiring the reporting of campaign finances is to provide the public a quick and easy system for determining which individuals and organizations are giving money to which candidate. Three changes will improve the current system. They are:

- **Require all PACs to electronically file their reports with the ethics commission.** In the computer age, there is no legitimate excuse for PACs that are handling hundreds of thousands of dollars to dodge this requirement.

The Lone Star Fund-Texas is a prime example. Chaired by a Texas Congressman, this PAC is a branch operation of a national PAC. It is inconceivable that the Lone Star Fund, like the majority of businesses today, doesn't use computers for its everyday office tasks. But it refuses to file its campaign finance reports in Texas electronically, making it more difficult for the public to analyze these "public" records.

- **Require PACs to immediately report to the Texas Ethics Commission any contributions of \$5,000 or more that occur during the 30 days prior to an election.** A similar requirement is currently in place for candidates and the public has a right to know which PACs are writing significant checks to candidates in a campaign's final days.

The 1998 general election in Texas illustrates the need for this reform. In that cycle the trial lawyers identified in this report infused hundreds of thousands of dollars into select political races in the last month, and even

the final days of the campaigns. These contributions, which can be telling for both their size and their source—and are sometimes the bulk of a candidate's war chest—are often lost to public attention in the frenzy leading up to election day.

- **Require PACs and candidates to list the occupation of contributors.** This information is already required in some races and it should be expanded to all candidates and PACs. Accurate identification of contributors is the bedrock of a full and open disclosure system and it can help make it clear to the public who is supporting which candidate.

**Honesty in PAC names / titles**

Participation in politics comes with a heavy responsibility. Contributors to the political system carry an even bigger weight, because the money they add to the system can also bring doubts about influence. PACs that are formed with a common goal in mind have a responsibility to demonstrate what their contributions represent.

Single-issue PACs, such as those funded dominantly or entirely by trial lawyers, are huge depositors into Texas politics. Trial lawyer PACs in particular are contributing over \$7.3 million into the system.

In the spirit of campaign finance law, the public and the candidates have the right to know where these large sums of money are coming from, especially if it is from such an isolated group, such as plaintiffs' lawyers.

If the Legislature cannot find a practical and constitutional method of regulating PAC names, then the other reforms listed in this report would take the first step towards maintaining transparency in the political contribution system.

**Law firms should be treated as Texas corporations**

According to Texas law, a corporation organized under the Texas Business Corporation Act, the Texas Non-Profit Corporation Act, the federal law, or law of another state must comply with certain contribution restrictions. This also includes the following, whether incorporated or not: banks, trust companies, savings and loan associations, insurance companies, railroad companies, cemetery companies, stock companies, government-regulated cooperatives and abstract and title insurance companies.

These corporations are restricted from contributing directly to candidates. Law firms, however, do not have the same impediments to contributions, leaving trial lawyer firms free to contribute as much as possible to their favorite candidates.

The Legislature should examine regulating the political contributions of law firms in the same way as Texas corporations.



APPENDIX

# Beyond the Tobacco Five: The Top 10 Texas Trial Lawyer Political Contributors

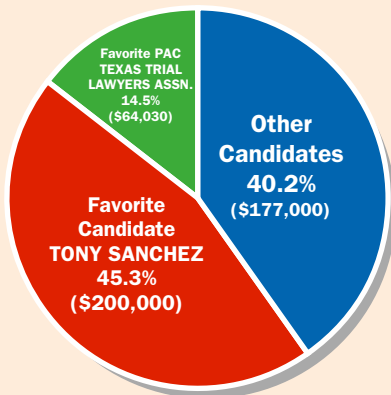
Texas Trial Lawyers	Political Contributions
The Tobacco Five	\$3,205,510
Gallagher Lewis Downey & Kim	\$441,030
Baron & Budd, P.C.	\$362,640
Watts & Heard, Watts & Harris	\$294,591
Branson & Branson	\$266,682
Fleming & Associates, L.L.P.	\$211,530
Maloney & Maloney	\$205,090
Whitehurst, Harkness, Ozmun & Archuleta	\$166,355
Howie & Sweeney	\$125,860
Mithoff & Jacks, L.L.P.	\$124,915
Fibich & Garth	\$101,340
<b>Total:</b>	<b>\$5,505,543</b>

01/01/00 - 06/30/02

**GALLAGHER LEWIS DOWNEY & KIM**  
DALLAS, TEXAS

**Total Contributions:** \$441,030  
**Candidate Contributions:** \$377,000  
**Favorite Candidate:** Tony Sanchez for Gov.  
**PAC Contributions:** \$64,030  
**Favorite PAC:** Texas Trial Lawyers Assn.

**Contributions**

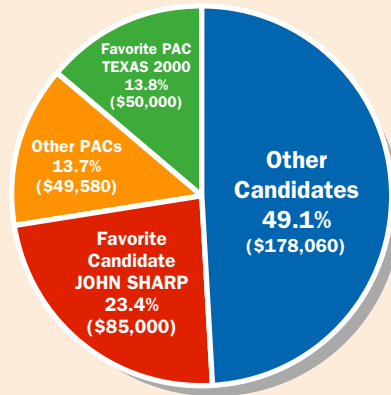


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**BARON & BUDD, P.C.** DALLAS, TEXAS

**Total Contributions:** \$362,640  
**Candidate Contributions:** \$263,060  
**Favorite Candidate:** John Sharp for Lt. Gov.  
**PAC Contributions:** \$99,580  
**Favorite PAC:** Texas 2000

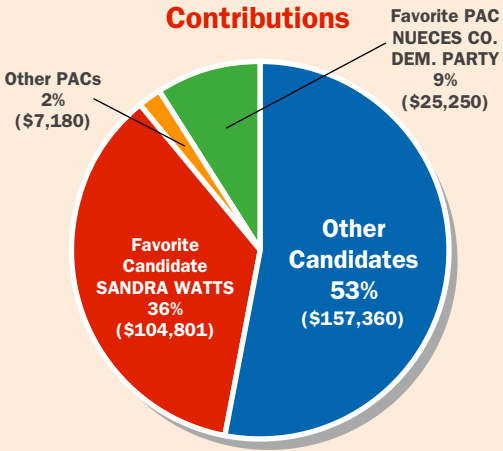
**Contributions**



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**WATTS & HEARD; WATTS & HARRIS**  
HOUSTON; CORPUS CHRISTI, TEXAS

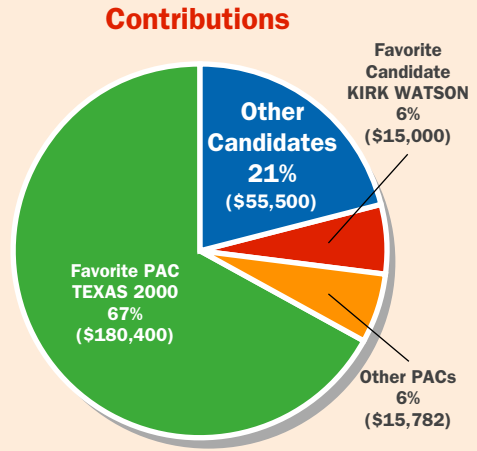
**Total Contributions:** \$294,591  
**Candidate Contributions:** \$262,161  
**Favorite Candidate:** Sandra Watts  
 for 117<sup>th</sup> District Court Judge  
**PAC Contributions:** \$32,430  
**Favorite PAC:** Nueces Co. Dem. Party



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**BRANSON & BRANSON**  
DALLAS, TEXAS

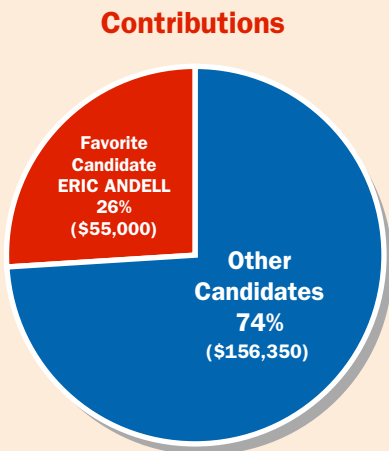
**Total Contributions:** \$266,682  
**Candidate Contributions:** \$70,500  
**Favorite Candidate:** Kirk Watson  
 for Texas Attorney General  
**PAC Contributions:** \$180,400  
**Favorite PAC:** Texas 2000



01/01/00 - 06/30/02

**FLEMING & ASSOCIATES, L.L.P.**  
HOUSTON, TEXAS

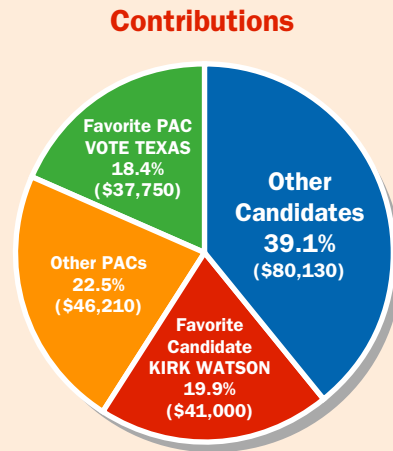
**Total Contributions:** \$211,530  
**Candidate Contributions:** \$210,750  
**Favorite Candidate:** Eric Andell for  
 First Court of Appeal for Texas  
**PAC Contributions:** \$780  
**Favorite PAC:** Texas Trial Lawyers Assn.



01/01/00 - 06/30/02

**MALONEY & MALONEY**  
SAN ANTONIO, TEXAS

**Total Contributions:** \$205,090  
**Candidate Contributions:** \$121,130  
**Favorite Candidate:** Kirk Watson  
 for Texas Attorney General  
**PAC Contributions:** \$83,960  
**Favorite PAC:** Vote Texas

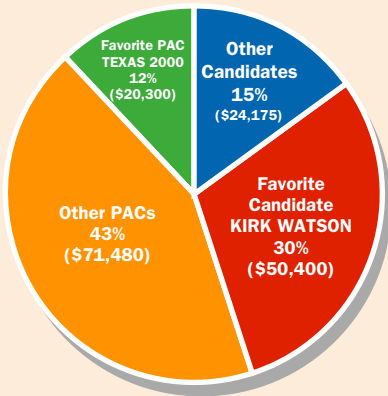


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**WHITEHURST HARKNESS OZMUN & ARCHULETA**  
AUSTIN, TEXAS

**Total Contributions:** \$166,355  
**Candidate Contributions:** \$74,575  
**Favorite Candidate:** Kirk Watson  
 for Texas Attorney General  
**PAC Contributions:** \$91,780  
**Favorite PAC:** Texas 2000

**Contributions**

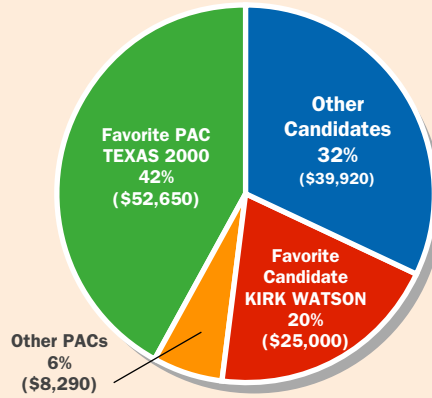


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**HOWIE & SWEENEY**  
DALLAS, TEXAS

**Total Contributions:** \$125,860  
**Candidate Contributions:** \$64,920  
**Favorite Candidate:** Kirk Watson  
 for Texas Attorney General  
**PAC Contributions:** \$60,940  
**Favorite PAC:** Texas 2000

**Contributions**

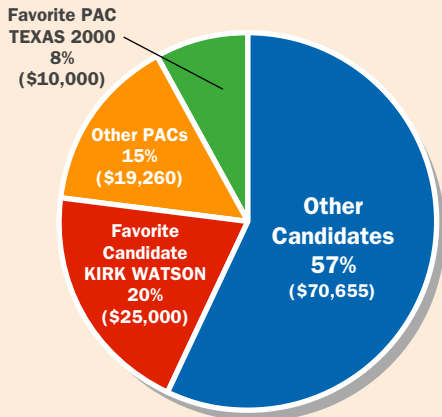


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**MITHOFF & JACKS, L.L.P.**  
HOUSTON, TEXAS

**Total Contributions:** \$124,915  
**Candidate Contributions:** \$95,655  
**Favorite Candidate:** Kirk Watson  
 for Texas Attorney General  
**PAC Contributions:** \$29,260  
**Favorite PAC:** Texas 2000

**Contributions**

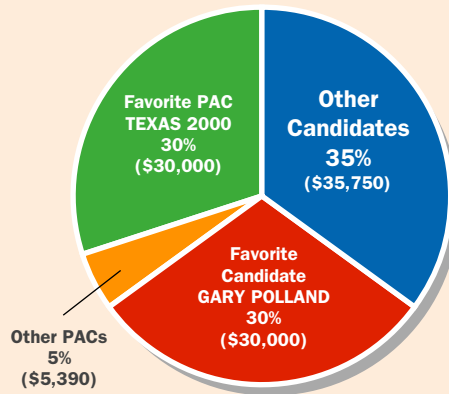


01/01/00 - 06/30/02

**FIBICH & GARTH**  
HOUSTON, TEXAS

**Total Contributions:** \$101,340  
**Candidate Contributions:** \$65,750  
**Favorite Candidate:** Gary Polland  
 for Texas Senate, District 17  
**PAC Contributions:** \$35,390  
**Favorite PAC:** Texas 2000

**Contributions**



01/01/00 - 06/30/02

**Texas Trial Lawyer Watch** monitors the flow of trial lawyer funds through the Texas political system, making certain that Texas voters know who is giving and who is receiving trial lawyer money.

This report and future reports are available online at:

**[txtriallawyerwatch.org](http://txtriallawyerwatch.org)**