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- \$25,000-\$100,000 Fortune 500** | Benefits: all below, plus Executive Committee eligibility
- \$15,000 Business Council** | Benefits: all below, plus Strategic Planning Committee, Board eligibility
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- \$5,000 Partner Council** | Benefits: all below, plus Amicus Brief Program, Candidate Forums
- \$1,000 Associate** | Benefits: Annual Meeting, All mailings, Issue updates, Political updates



# Back The Pac, Too

Yes, I want to personally support the TCJL PAC and help restore fairness and stability to the state's civil justice system. Sign me up as an Individual Member at:

- \$25,000    \$15,000    \$10,000    \$5,000    \$2,500
- \$1,000    \$500    \$250    \$100    \$\_\_\_\_\_ other



PAC members include individuals, entrepreneurs, partnerships, and other PACs.

### CONTACT INFORMATION: (confidential membership information)

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**METHOD OF PAYMENT:** If paying by credit card, fax your completed form to 512-474-4334. For more information, please call 512-320-0474 or e-mail info@tcjl.com.

**CHECK** Payable to Texas Civil Justice League  Corporate Check  Personal Check

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Corporate funds can be accepted for administrative purposes only. If this is a corporate contribution, please indicate name of corporation here.

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If this contribution is from a political action committee, please provide PAC name here, and FEC ID if applicable.

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**PLEASE RETURN TO: Texas Civil Justice League, 400 West 15th Street, Suite 1400, Austin, Texas 78701**  
You can also join or contribute online at [TCJL.com](http://TCJL.com) and [TCJLPAC.com](http://TCJLPAC.com)

The 2012 election will include 51 appellate justices and all 181 members of the Texas Senate and House of Representative. Please consider contributing to the TCJL PAC efforts to support judicial and legislative candidates who share our commitment to a fair and balanced civil justice system.



# The Journal

ISSUES, NEWS, AND INFORMATION FROM THE TEXAS CIVIL JUSTICE LEAGUE

400 WEST 15TH STREET, SUITE 1400, AUSTIN, TEXAS 78701

CALL 512 320-0474

EMAIL [INFO@TCJL.COM](mailto:INFO@TCJL.COM)

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SPRING 2012

**TCJL PAC ENDORSEMENTS AND RACES INSIDE**



Former TCJL President Ralph Wayne and TxOGA's Rob Looney

# David Dewhurst For The U.S. Senate

The Texas Civil Justice League is proud to support Lieutenant Governor David Dewhurst and his campaign for United States Senate. Having worked with Lt. Governor Dewhurst for the last nine years to pass historic tort reform legislation and create the best business climate in the United States, the League believes that Lt. Governor Dewhurst is the best candidate to represent the interests of the Texas business community in Washington.

Under the leadership of Governor Perry, Lt. Governor Dewhurst, and former House Speaker Tom Craddick, the Texas Legislature enacted historic tort reform legislation that has become the model for the rest of the nation. In his first legislative session in 2003, Lt. Governor Dewhurst helped send to the voters a constitutional amendment limiting noneconomic damages in medical liability cases and increasing access to critical health care services. In 2005, Lt. Governor Dewhurst led the fight in the Texas Senate to eliminate abusive asbestos and silica lawsuits and to establish medical criteria for determining asbestos-related injury. This legislation has helped Texas attract and retain manufacturing jobs and strengthen the Texas economy.



The continuing expansion of the Texas economy and enormous job growth in the state are a testament to the Lt. Governor's leadership in the Texas Senate. He has earned the support of the Texas business community for his election to the United States Senate.

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## How The Journal Can Help You Do Your Job

One of the perks of Texas Civil Justice League membership is subscription to *The Journal*. It's not just another newsletter. It's useful!

Employ the information in the articles for corporate, national or departmental reports. The expert TCJL legal, legislative and political team has first-rate knowledge of the issues and writes the articles to keep you, your clients, and your companies up to date on pressing issues. You can count on the fact that the information is accurate and spot-on.

Texas has something else many other places in the nation do not have: a strong and balanced judicial and regulatory system that distributes liability fairly and does not impose excessive compliance costs on Texas businesses. In fact, Texas' civil justice system is frequently cited as one of the primary reasons businesses and health care providers move here. Making this happen starts right here with this newsletter. Read and act on the information and keep Texas in the enviable position it enjoys today.

As always, we appreciate your membership and participation.

-CAROL SIMS

# Board of Directors

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# Fracking Litigation: New Mass Tort?

Judging from the number of recent continuing legal education and other national litigation conferences, hydraulic fracturing appears to be generating more than an exponential increase in oil and gas production in the U.S. Engineers, hydrogeologists, health care professionals, insurance executives, state regulators, municipal officials, and litigation attorneys from both sides of the docket gather at these events to share information and trends in liability arising from fracking operations.

Fracking-related lawsuits have been filed in a number of states, including Texas. Many of these cases involve common law theories of liability: strict liability in tort, negligence, private nuisance, or physical trespass. Medical monitoring and emotional distress suits have also been prominent. Damage claims run from the gamut from bodily injury, lost property value, breach of quiet enjoyment of property, loss of business, and punitive damages. In Arkansas ten class actions alleging air, water, and land contamination, as well as damages from seismic activity, have been filed, and several mass tort actions claiming illnesses and other injuries have likewise appeared.

**JOIN NEWLY FORMED FRACKING SUBCOMMITTEE**  
Email [info@tcjl.com](mailto:info@tcjl.com)

Because most of the litigation is in its early stages, little guidance from the courts with respect to pretrial discovery, expert testimony, or summary judgment evidence has yet to surface. Moreover, the level of proof that will be necessary to establish an injury and causation largely remains to be seen. It will be interesting, for example, whether the Texas Borg-Warner decision will make it more difficult for plaintiffs to establish substantial causation in personal injury claims for exposure to various chemicals used in the fracking process. What kind of epidemiological evidence will be necessary, for example, to prove exposure to a particular substance at a particular place and time? In any event, there can be no question that with the sheer volume of fracking fluid being used in drilling operations all over the state, liability questions will continue to arise in the courts, regulatory agencies, and, eventually, the legislature.

Acknowledging this trend, on March 1 House Speaker Joe Straus charged the House Committee on Energy Resources "to study the implications of hydraulic fracturing for the state's energy needs, environmental policy, economic development, and other related priorities" and to "[E]xamine ways to ensure appropriate state and local regulation of hydraulic fracturing that matches the needs and conditions of Texas." The Committee will also coordinate with the House Natural Resources Committee with respect to water issues in oil and gas production.

## A list of issues on the agenda for a recent conference reveals the potential liability issues associated with fracking:

- Personal injuries resulting from pre-drilling and exploration activities;
- Exposure to hazardous chemicals used in fracking fluid (e.g., benzene, methane, formaldehyde);
- Human health risk assessments for individuals and communities in close proximity to fracking operations;
- Devaluation of private property;
- Contamination of water supplies;
- Air emissions;
- Property damage from spills;
- Federal, state, and local regulatory liability and enforcement actions;
- Private property rights issues (eminent domain, access easements, etc.);
- Third-party liability insurance coverage for entities subject to alleged fracking liability;
- First-part property and business interruption coverage for entities engaged in fracking operations
- Contribution and indemnity for entities engaged in production, transportation, and use of fracking materials;
- Available regulatory, contract, and tort remedies for landowners and others allegedly harmed by fracking operations.

## COURT WATCH

# Texas Supreme Court Reaffirms Decision in Pipeline Condemnation Case

In a decision that could have far-reaching effects on the Texas oil and gas industry, the Texas Supreme Court has reaffirmed its initial ruling in *Texas Rice Land Partners Ltd. v. Denbury Green Pipeline-Texas, LLC*. Last fall the Court held that a landowner may challenge the constitutionality of a common carrier pipeline's exercise of eminent domain authority on the basis of whether the pipeline will be used for public purposes. Under prior law Railroad Commission certification of the pipeline's common carrier status was sufficient to establish public use.

Along with a number of other *amici*, including the Texas Pipeline Association and Texas Oil & Gas Association, TCJL asked the Court to reconsider its decision to address industry concerns that existing and future pipeline projects could be subject to costly and time-consuming litigation in local courts along the pipeline right-of-way. If this type of expensive bottleneck indeed develops, it could significantly affect the burgeoning production of oil and gas from Texas' shale formations by making it more difficult and expensive to acquire the necessary right-of-way for the variety of liquids necessary to tertiary recovery operations.

While the Court modified its opinion when it reissued its decision on March 2, it did not change the basis of the original holding: landowners may mount a constitutional challenge in local courts to pipeline common carrier status. Although the Denbury case itself concerned a carbon dioxide pipeline and the Court's decision deals specifically with the section of the Natural Resources Code governing such pipelines, the Court's reasoning is not so limited. It remains to be seen whether and to what extent additional challenges to the eminent domain authority of common carriers will result from the *Denbury* decision.

# House Committee Takes Up Texas Asbestos Issues

The House Judiciary & Civil Jurisprudence Committee held a public hearing on February 8 to consider two interim charges related to asbestos and silica litigation. The Committee invited Kay Andrews, partner-in-charge of the Austin office of Hawkins Parnell Thackston & Young LLP and George Christian, TCJL's Senior Counsel, to present oral and written testimony. Also providing testimony was Lee Parsley on behalf of Texans for Lawsuit Reform; Mark Behrens; partner in the Washington office of Shook Hardy & Bacon LLP, on behalf of the U.S. Chamber of Commerce Institute for Legal Reform; and Bryan Blevins, a partner in the Beaumont law firm of Provost Umphrey.

Most of the committee's questions were centered on the issues related to the transparency of bankruptcy trust claims (as opposed to the inactive docket, the other of the two charges). Subsequent to the hearing, Chairman Jim Jackson appointed a working group composed of Vice-Chair Tryon Lewis, Sarah Davis, and Representative Richard Raymond to conduct further information gathering and discussions with the interested parties. Chairman Jackson will serve ex-officio on the working group as well. Judge Lewis followed up with a request for information, with which TCJL complied. Due to the nature of the bankruptcy trust issues, however, some of the specific information requested by the working group is difficult to obtain, such as specific details regarding settlements in asbestos cases and trust claims submitted after cases have been resolved. Nevertheless, we are currently working on constructing representative examples from actual cases that will illustrate the problem in concrete terms.

Representative Davis also convened a meeting pertaining primarily to bankruptcy trusts with asbestos MDL plaintiffs' and defense counsel in Houston on March 9. A second meeting will follow in April with counsel in the silica MDL, though that meeting is expected to focus on the inactive docket. Kay Andrews and Nathan Horne, a partner in the Austin office of Segal McCambridge Singer & Mahoney, spoke on behalf of defendants.

If you are interested in joining us on the asbestos issues during the interim, please contact Carol Sims or George Christian. The larger TCJL Mass Torts Committee will convene again in the near future to discuss this and other issues, so be on the lookout for a meeting announcement.

# Getting Ready For The 83rd Legislative Session

BY LISA KAUFMAN

Hard to believe that the 2013 legislative session is a mere nine months away. With the primaries just around the corner, now is an opportune time to get to know the candidates, forge new relationships, and continue educating seasoned veterans and emerging leaders about our issues. We at the League are doing just that.

By January 2013, leaders at the federal and state level will be very different than they are today. Even though Governor Perry is not up for re-election until 2014, we could have a new Lt. Governor and we will have a new U.S. Senator with the retirement of Kay Bailey Hutchison. There are expected to be at least four new state senators. With newly drawn redistricting lines and all House members up for re-election, we can expect a bevy of new House members. Of the state representatives returning to the House, nearly half will be junior members. All told, there are more than 400 candidates running for a variety of offices at the state level.

Governor Perry is as energized as ever for the session and focusing some of his agenda around civil justice issues that were the foundation for his emergence on the national political stage. Continuing to extend Texas's business friendly environment is a top priority for both the Legislature and the Perry administration. The House and Senate both have interim charges highlighting the importance of economic development, manufacturing, vocational education and low taxes. The Governor's office is soliciting input on what legal issues to review and the League did put forth some suggestions for consideration. Stay tuned on how these conversations evolve in the coming months.

Next session's look and feel will likely be gauged on how quickly the state's economy recovers. Many lawmakers at the Capitol are being encouraged to revisit the impact of last session's work in dealing with the \$27 billion budget gap. The rate of recovery will determine the tenor, tone and atmosphere under the dome. With budget issues continuing to drive the agenda, at the forefront will be debate on how to pay for our growing population without stymying growth in our business community.

Just as the Capitol will be different, so will the Texas Civil Justice League's approach. Next session, we will transition from tort issues alone to more general business and regulatory issues. The League will continue to have our traditional committees, but we are also adding two others to our portfolio: Regulatory & Administrative and Business Law. We will continue to keep you abreast of important judicial decisions, monitor the activities of the Sunset Commission, and closely watch the debate in the U.S. Supreme Court on health care.

As the session grows near, expanding our reach and influence remains the top priority of the League. We encourage you to participate in the process of meeting with the state's elected officials, both new and returning, and look forward to working with you in the coming months.



Mark Your Calendar for Texas  
Civil Justice League Ethics  
Seminar (CLE credit available)  
& Judicial Candidates Forum

SEPTEMBER 10 AUSTIN  
SEPTEMBER 18 DALLAS  
OCTOBER 02 HOUSTON

NOVEMBER 08  
ANNUAL MEETING

For more information  
email [info@tcjl.com](mailto:info@tcjl.com)



Representative Larry Taylor



ExxonMobil's Sara Tays, Representative Kelly Hancock, Texas Chemical Council's Hector Rivero



Dr. Marsha Farney, SBOE Member and Representative-elect HD 20



Agriculture Commissioner Todd Staples



TCJL's George Christian and Justice Dale Wainwright

# Texas Civil Justice League 2012-13 Policy Committees

## REGULATORY & ADMINISTRATIVE

**OBJECTIVE:** To study and make recommendations to streamline and simplify regulations and penalties. The issues to be considered by this committee include:

- sunset
- conflicting regulations
- burdens of proof
- rulemaking
- excessive penalties

## GENERAL LIABILITY

**OBJECTIVE:** To study and recommend appropriate policies governing the liability of for-profit businesses, state and local governments, non-profit entities, and health care providers. Subjects to be considered by this committee include:

- premises liability
- sovereign immunity
- health care liability
- professional liability
- hydraulic fracturing

## STATE AND FEDERAL COURTS

**OBJECTIVE:** To monitor state and federal courts and develop recommendations for improvements to the civil justice system. The subjects and issues to be considered by this committee include:

- court rulemaking projects, including expedited trial procedures and motion to dismiss practice, as mandated by HB 274
- state court reorganization
- alternative dispute resolution
- paid or incurred (procedural)
- E-discovery (at state and federal level)
- qui tam expansion (procedural)
- judicial selection
- attorney discipline

## MASS TORTS

**OBJECTIVE:** To monitor ongoing mass tort actions in Texas and nationally, to craft appropriate legislative and judicial responses, and to study emerging trends in mass tort litigation. The subjects to be considered by this committee include:

- MDL courts & inactive cases
- natural disasters
- climate change
- bankruptcy disclosure
- class certification
- asbestos and silica medical criteria
- environmental issues

## RISK MANAGEMENT

**OBJECTIVE:** To develop appropriate responses and recommendations with respect to the ability of entities to allocate risk in a fair and cost-effective manner. Subjects to be considered by this committee include:

- construction law
- insurance
- subrogation

## BUSINESS LAW

**OBJECTIVE:** To monitor and recommend policies encouraging free market opportunities. Issues to be considered by this committee include:

- business organizations
- corporate governance
- eminent domain
- contract law
- litigation financing
- employment law

TCJL members are invited to participate in any or all policy committees. Email contact info and committee selections to [info@tcjl.com](mailto:info@tcjl.com) or call 512-320-0474.

## House Committee Holds Hearing on Alternative Litigation Financing

The House Judiciary & Civil Jurisprudence Committee met on Wednesday, April 18 to hear invited testimony on the committee's charge to study the public policy implications of lawsuit lending and its effects on the civil justice system. The committee also took testimony on its charge relating to the confidentiality of information provided by an employee to an employer's ombudsman and whether additional steps are needed to protect the confidentiality of that information.

TCJL General Counsel Lisa Kaufman testified at the hearing, and TCJL submitted an extensive briefing paper on the subject. We plan to convene a conference call of the Third Party Litigation Finance Committee to review and discuss TCJL's appearance on April 18.

The written testimony and a report on the hearing will be available on our website [TCJL.com](http://TCJL.com).

# TCJL PAC 2012 Primary Endorsements & Races

The TCJL PAC has announced its initial endorsements for the party primaries now scheduled for May 29. We expect another round of endorsements in the coming weeks, as we process the list of candidates who filed for election by the March 9 deadline.

*TCJL PAC Judicial Primary Endorsements as of April 24, 2012 (more endorsements to follow for November)*

## TEXAS SUPREME COURT

Don Willett\* R, Texas Supreme Court, Plc 2  
David Medina\* R, Texas Supreme Court, Plc 4  
Nathan Hecht\* R, Texas Supreme Court, Plc 6

## COURTS OF APPEALS

Jeff Rose\* R, 3rd COA-Austin, Plc 2  
Scott Field R, 3rd COA-Austin, Plc 3  
David Puryear\* R, 3rd COA-Austin, Plc 5  
Bob Pemberton\* R, 3rd COA-Austin, Plc 6  
Marialyn Barnard\* R, 4th COA-San Antonio, Plc 2  
Rebecca Simmons\* R, 4th COA-San Antonio, Plc 3  
Steve Hilbig\* R, 4th COA-San Antonio, Plc 4  
Karen Angelini\* R, 4th COA-San Antonio, Plc 5  
Phylis Speedlin\* R, 4th COA-San Antonio, Plc 7  
Jim Moseley\* R, 5th COA-Dallas, Plc 5  
Martin Richter\* R, 5th COA-Dallas, Plc 9  
Douglas Lang\* R, 5th COA-Dallas, Plc 11  
Robert Fillmore\* R, 5th COA-Dallas, Plc 12  
Bailey Moseley\* R, 6th COA-Texarkana, Plc 2  
Ann Crawford McClure\* D, 8th COA-El Paso, CJ unexp  
Tom Gray\* R, 10th COA-Waco, CJ  
Jaime Tijerina R, 13th COA-Corpus Christi, Plc 4  
Gina Benavides\* D, 13th COA-Corpus Christi, Plc 5  
Brett Busby R, 14th COA-Houston, Plc 3  
Jeff Brown\* R, 14th COA-Houston, Plc 4  
Martha Jamison\* R, 14th COA-Houston, Plc 5  
Bill Boyce\* R, 14th COA-Houston, Plc 6

Erwin Cain R, State Dist. Court 62, Judge

*\*incumbent*

## CONTESTED RACES FOR THE MAY 29 PARTY PRIMARIES

The interim House and Senate redistricting maps are finally in place and candidates who have shuffled between potential races are settling into the new Districts. The TCJL PAC is looking at a significant number of competitive, contested primary elections. Some of the key races around the state pitting incumbents against one or more challengers include:

## TEXAS HOUSE OF REPRESENTATIVES

**HD 4:** Rep. Lance Gooden\* (R-Terrell) v. Kaufman physician Stuart Spitzer  
**HD 5:** Rep. Bryan Hughes\* (R-Mineola) v. Mineola school superintendent Mary Lookadoo  
**HD 7:** Rep. David Simpson\* (R-Longview) v. former Rep. Tommy Merritt  
**HD 9:** Rep. Wayne Christian\* (R-Center) v. Marshall Mayor Chris Paddie  
**HD 11:** Rep. Chuck Hopson\* (R-Jacksonville) v. Nacogdoches lawyer Travis Clardy  
**HD 15:** Rep. Rob Eissler\* (R-The Woodlands) v. Woodlands business owner Steve Toth  
**HD 19:** Rep. Mike Hamilton\* (R-Mauriceville) v. Incumbent James White (R-Hillister) (incumbents pair in new district)  
**HD 43:** Rep. J.M. Lozano\* (R-Alice) v. former Ingleside Mayor Willie Vaden v. Portland architect Bill Wilson  
**HD 47:** Rep. Paul Workman\* (R-Austin) v. Austin lawyer Ryan Downton  
**HD 52:** Rep. Marva Beck\* (R-Centerville) v. Lufkin ISD President Trent Ashby  
**HD 56:** Rep. Doc Anderson\* (R-Waco) v. former SREC member Chris DeCluitt  
**HD 80:** Rep. Tracy King\* (D-Batesville) v. Laredo TV anchor Jerry Garza  
**HD 83:** Rep. Charles Perry\* (R-Lubbock) v. former Rep. Delwin Jones  
**HD 88:** Rep. Jim Landtroop\* (R-Plainview) v. Canadian businessman Ken King v. Pampa businessman Mac Smith v. former Rep. Gary Walker  
**HD 90:** Rep. Lon Burnam\* (D-Fort Worth) v. school board consultant Carlos Vasquez  
**HD 93:** Rep. Barbara Nash\* (R-Arlington) v. former Tarrant GOP chair Pat Carlson v. Fort Worth attorney Matt Krause  
**HD 94:** Rep. Diane Patrick\* (R-Arlington) v. Arlington nurse Trina Lanza  
**HD 96:** Rep. Bill Zedler\* (R-Arlington) v. ISD Police Chief Mike Leyman  
**HD 98:** Rep. Vicki Truitt\* (R-Keller) v. Southlake investor Giovanni Capriglione  
**HD 107:** Rep. Kenneth Sheets\* (R-Dallas) v. Dallas lawyer Jonathan Boos  
**HD 114:** Rep. Bill Keffer\* (R-Eastland) v. attorney Jason Villalba v. businessman David Boone  
**HD 117:** (D primary) attorney Tina Torres v. former city councilman Philip Cortez v. businessman and former staffer Ken Mireles  
**HD 121:** Speaker Joe Straus\* (R-San Antonio) v. San Antonio businessman Matt Beebe  
**HD 131:** Rep. Alma Allen\* (D-Houston) v. Houston City Councilmember Wanda Adams  
**HD 133:** Rep. Jim Murphy\* (R-Houston) v. Houston lawyer Grant Johnston v. Houston business owner Ann Witt  
**HD 138:** Rep. Dwayne Bohac\* (R-Houston) v. former Houston school board member Whet Smith  
**HD 146:** Rep. Borris Miles\* (D-Houston) v. former Rep. Al Edwards  
**HD 150:** Rep. Debbie Riddle\* (R-Tomball) v. Tomball insurance agent James Wilson

## NOW FOR THE OPEN HOUSE SEATS

**HD 3:** Former Rockwall HD judge Jim Pruitt v. Frisco business executive Scott Turner (new R district)  
**HD 12:** rancher Kyle Kacal v. businessman Chris Scotti v. attorney Tucker Anderson v. attorney Josh Tetens v. RN Tim Delasandro  
**HD 24:** Friendswood physician Greg Bonnen v. Friendswood business owner Ryan Sitton v. League City business owner Heidi Theiss (Rep. Larry Taylor)  
**HD 26:** Fort Bend school board president Sonal Bhuchar v. Sugar Land city councilmember Jackquie Chaumette v. Sugar Land real estate broker Diana Miller v. Sugar Land consultant Rick Miller (Rep. Charlie Howard)  
**HD 35:** Edcouch city manager Joseph Campo v. Mission lawyer Oscar Longoria v. Harlingen attorney Gus Ruiz (new D district)  
**HD 40:** energy consultant Robert Pena v. attorney Terry Canales v. businessman T.C. Betancourt v. Agustin "Auggie" Hernandez  
**HD 41:** pastor Armando Vera v. tv/radio executive Miriam Martinez v. attorney Robert Pena  
**HD 65:** insurance agent David Loerwald v. investment firm owner Mike Hennefer v. financial consultant Ron Simmons  
**HD 67:** Former Plano mayor Jeran Akers v. Richardson business owner Roger Burns v. Plano attorney Jon Cole v. Plano attorney Jeff Leach v. Plano business owner John Pitchford (Rep. Jerry Madden)  
**HD 68:** Forestburg rancher Paul Braswell v. Valley View engineer David Isbell v. Throckmorton rancher Trent McKnight v. Wichita Falls businessman Fred Skeen v. Muenster financial planner Drew Springer (Rep. Rick Hardcastle)  
**HD 70:** McKinney accountant Scott Sanford v. McKinney charter school businessman Bracy Wilson (Rep. Ken Paxton)  
**HD 74 (D primary):** Eagle Pass attorney Alfonso Nevarez v. former Del Rio mayor Efrain Valdez (Rep. Pete Gallego)  
**HD 74 (R primary):** former Del Rio Mayor Dora Alcalá v. Fort Stockton rancher Thomas Kincaid (Rep. Pete Gallego)  
**HD 75:** businessman Hector Enriquez v. consultant Mary Gonzales v. precinct chair Tony San Roman  
**HD 91:** Investor Ken Sapp v. Tarrant County GOP chair Stephanie Klick (new R district)  
**HD 92:** businessman Jonathan Strickland v. businessman Roger Fisher  
**HD 95:** Fort Worth lawyer Nicole Collier v. Forest Hills public relations consultant Dulani Masimini (Rep. Mark Veasey)  
**HD 97:** Fort Worth consultant Craig Goldman v. former TMA Alliance President Susan Todd (Rep. Mark Shelton)  
**HD 101:** Former Rep. Paula Pierson (D-Arlington) v. former Rep. Chris Turner (D-Arlington) v. Arlington business owner Vickie Barnett (new Democratic district)  
**HD 106:** Frisco city councilmember Pat Fallon v. Lewisville school board member Amber Fulton (new R district)  
**HD 110:** Balch Springs law enforcement officer Cedric Davis v. Dallas mental health worker Toni Rose v. Dallas lawyer Larry F. Taylor (Rep. Barbara Mallory-Caraway)  
**HD 115:** Coppell Engineer Bennett Ratliff v. Irving attorney Matt Rinaldi v. Irving optometrist Steve Nguyen v. Farmers Branch lawyer Andy Olivo (Rep. Jim Jackson)  
**HD 125:** business owner Delicia Herrera v. attorney Justin Rodriguez

## THERE ARE ALSO AN UNUSUAL NUMBER OF CONTESTED SENATE SEATS THIS CYCLE.

**HD 136:** city councilman Tony Dale v. CPA Paul Matthews  
**HD 137:** consultant Joseph Carlos Madden v. consultant Jamaal Smith v. community activist Sarah Winkler  
**HD 144 (D primary):** insurance agent Mary Ann Perez v. radio marketer Kevin Risner v. police officer Orinaldo Ybarra  
  
**SD 4:** Sen. Tommy Williams\* (R-The Woodlands) v. former Sen. Michael Galloway (R-Magnolia)  
**SD 5:** Rep. Charles Schwertner (R-Georgetown) v. Huntsville businessman Ben Bius (Sen. Steve Ogden retiring)  
**SD 9:** Rep. Kelly Hancock (R-North Richland Hills) v. Rep. Todd Smith (R-Bedford) (Sen. Chris Harris retiring)  
**SD 11:** Clear Lake law enforcement officer Daniel McCool v. Seabrook insurance agent Dave Norman v. Rep. Larry Taylor (R-Friendswood) (Sen. Mike Jackson retiring to run for Congress)  
**SD 25:** Sen. Jeff Wentworth\* (R-San Antonio) v. former Railroad Commissioner Elizabeth Ames Jones v. New Braunfels physician Donna Campbell  
**SD 30:** Sen. Craig Estes\* (R-Wichita Falls) v. Prosper accountant Jim Herblin  
**SD 31:** Sen. Kel Seliger (R-Amarillo) v. Odessa oil company manager Randy Rives

*(retiring member or new district in parentheses)*



Chevron's Steve Perry, HD 136 Candidate Tony Dale, and ConocoPhillip's Tom Sellers

# You Be The Judge on May 29

The Texas Civil Justice League PAC has helped elect qualified candidates to the state's highest courts and legislature since 1988. From the courthouse to the statehouse, personal injury trial lawyers and their "front groups" will wage a pitched battle for the hearts and minds of Texans this spring and fall. The plaintiffs' bar needs judges and lawmakers who will roll back reform and return the state to its days as the "world's courtroom." Over twenty-five years of landmark legal reform is in jeopardy. If they win, Texas loses.



## Texas voters will go to the polls May 29, 2012, to decide:

- Three places on the Texas Supreme Court
- 40 places on the Court of Appeals
- All 31 seats in the Texas Senate
- All 150 seats in the Texas House of Representatives

The statewide judicial slate card program is one of the most effective tools for voter education. The PAC slate cards provide endorsements in races for the Texas Supreme Court and Courts of Appeals. For more information or to order slate cards, contact TCJL at 512.320-0474 or carol@tcjl.com

<p><b>Texas Supreme Court</b></p> <p>Place 2 ..... <b>Don Willett (R)*</b></p> <p>Place 4 ..... <b>David Medina (R)*</b></p> <p>Place 6 ..... <b>Nathan L. Hecht (R)*</b></p> <hr/> <p><b>3rd Court of Appeals (Austin)</b></p> <p>Includes Austin and twenty-three Central and West Texas counties.</p> <p>Place 2 ..... <b>Jeff Rose (R)*</b></p> <p>Place 3 ..... <b>Scott Field (R)</b></p> <p>Place 5 ..... <b>David Puryear (R)*</b></p> <p>Place 6 ..... <b>Bob Pemberton (R)*</b></p> <p><a href="http://www.tcjlpac.com">www.tcjlpac.com</a> *incumbent</p> <p><small>Paid for by the Texas Civil Justice League PAC, 400 W. 15th St, Suite 1400, Austin, TX 78701, 512-320-0474, Carol Sims, Treasurer.</small></p>	<p><b>Texas Supreme Court</b></p> <p>Place 2 ..... <b>Don Willett (R)*</b></p> <p>Place 4 ..... <b>David Medina (R)*</b></p> <p>Place 6 ..... <b>Nathan L. Hecht (R)*</b></p> <hr/> <p><b>6th Court of Appeals (Texarkana)</b></p> <p>Includes Texarkana and nineteen surrounding Texas counties.</p> <p>Place 2 ..... <b>Bailey Moseley (R)*</b></p> <hr/> <p><b>State Dist. Court 62</b></p> <p>Includes four Texas counties.</p> <p>Judge ..... <b>Erwin Cain (R)</b></p> <p><a href="http://www.tcjlpac.com">www.tcjlpac.com</a> *incumbent</p> <p><small>Paid for by the Texas Civil Justice League PAC, 400 W. 15th St, Suite 1400, Austin, TX 78701, 512-320-0474, Carol Sims, Treasurer.</small></p>	<p><b>Texas Supreme Court</b></p> <p>Place 2 ..... <b>Don Willett (R)*</b></p> <p>Place 4 ..... <b>David Medina (R)*</b></p> <p>Place 6 ..... <b>Nathan L. Hecht (R)*</b></p> <p><a href="http://www.tcjlpac.com">www.tcjlpac.com</a> *incumbent</p> <p><small>Paid for by the Texas Civil Justice League PAC, 400 W. 15th St, Suite 1400, Austin, TX 78701, 512-320-0474, Carol Sims, Treasurer.</small></p>	<p><b>Texas Supreme Court</b></p> <p>Place 2 ..... <b>Don Willett (R)*</b></p> <p>Place 4 ..... <b>David Medina (R)*</b></p> <p>Place 6 ..... <b>Nathan L. Hecht (R)*</b></p> <hr/> <p><b>10th Court of Appeals (Waco)</b></p> <p>Includes Waco and eighteen Texas counties.</p> <p>Chief Justice ..... <b>Tom Gray (R)*</b></p> <p><a href="http://www.tcjlpac.com">www.tcjlpac.com</a> *incumbent</p> <p><small>Paid for by the Texas Civil Justice League PAC, 400 W. 15th St, Suite 1400, Austin, TX 78701, 512-320-0474, Carol Sims, Treasurer.</small></p>
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# Justice Gray: Proven

When 10th Court of Appeals Chief Justice Tom Gray first ran in 1998 TCJL supported him based upon the strength of his qualifications to hold judicial office, and a personal interview in which he stated his belief that strict adherence to the rule of law would lead to more predictable results. The PAC board felt that he would strictly enforce the tort reform statutes passed by the legislature.



Justice Gray's judicial philosophy was tested when he dissented from his colleagues on the Waco Court of Appeals in a medical liability case involving the sufficiency of an expert report. In *Langley v. Jernigan*, Justice Gray's dissent stated that an expert report (which is necessary to maintain a malpractice claim against a physician) must meet the mandatory statutory guidelines in order for the claim to proceed. Ultimately, the Texas Supreme Court agreed with Justice Gray and dismissed the claim. Justice Gray has also dissented in other cases that have gone on to the Texas Supreme Court, where they, too, have been reversed, confirming Justice Gray's opinions.

Tom has been tested in this and in similar fashion many times now and he has proven that he has the fortitude and resolve to resist efforts to judicially modify or weaken the tort reform statutes. He has proven to be the type judge that Texas needs. While we previously identified this court as a potential problem TCJL helped solidify it as a conservative court with the election of Al Scoggins in 2010. But elections for these courts have to be monitored closely because just one defeat can change the balance on the court.

Tom Gray's opponent in the Republican Primary has no proven record as a conservative jurist or an appellate judge. While in law school the challenger worked for TTLA, and recently publicly stated that he believes judges should be elected in non-partisan elections. TCJL is very concerned that the election of Tom Gray's opponent would be a reversal of the significant improvements we have seen accomplished on this court. TCJL must be vigilant in making certain that Tom Gray is re-elected Chief Justice of the Tenth Court of Appeals.

## What can you do to elect fair-minded judges and pro-business legislators?

Join the Texas Civil Justice League PAC and get involved today.  
(Please complete and return the enrollment form included in this newsletter.)