



Rainmakers:

November 14, 2012

Bartlit Beck is Outside Counsel To Attorney General Abbott *and* To Abbott Patron Harold Simmons

Simmons Donated \$745,000 to Abbott, Who Paid Bartlit Beck \$385,795.

A Chicago-based law firm that collected the biggest payout as outside counsel in Texas Attorney General Greg Abbott's redistricting fight has unusually close ties to one of Abbott's top political patrons: Dallas billionaire Harold Simmons. Abbott has paid [Bartlit Beck Herman Palenchar and Scott](#) at least [\\$385,795](#) in tax funds for redistricting work.

A group of attorneys left Chicago's Kirkland & Ellis in 1993 to form Bartlit Beck, which pioneered alternatives to billing legal services by the hour.¹ A longtime Kirkland & Ellis client, Simmons recruited one of that firm's attorneys, J. Landis Martin, to run his NL Industries (formerly National Lead).² Martin and NL championed Bartlit Beck from the start. Six Simmons companies accounted for half of the fledgling firm's revenues in the 1990s.³

As a corporate raider, octogenarian Simmons specialized in amassing companies with toxic liabilities. Consistent with this exposure, Simmons has given \$2.4 million to Texans for Lawsuit Reform since 2000, making him the No. 2 contributor to Texas' biggest PAC. Texans for

Lawsuit Reform and Simmons both rank among tort warrior Greg Abbott's top patrons. Indeed, Abbott's top contributors all contributed to Texans for Lawsuit Reform (see table below).

Abbott's dependence on the anti-tort lobby has not prevented him from filing 20 lawsuits against the federal government.⁴ In June he summarized his job for attendees at the Texas GOP convention. "I go to the office," he said. "I sue the federal government. Then I go home."⁵

NL Industries was a major producer of the toxic lead added to paint until 1978. In 1994 Bartlit Beck successfully defended NL industries from a class-action lawsuit involving the company's Philadelphia lead factory ([Wagner v. Anzon](#)). It helped NL win a 2000 victory in the first trial of lead-paint health claims.⁶ In 2008 the firm helped convince Rhode Island's Supreme Court to reverse a multi-billion-dollar [ruling](#) against NL and other lead-paint makers.⁷

In 1997 Bartlit Beck personally defended Simmons from a lawsuit filed by two of his kids. The plaintiff daughters sought to remove their

Greg Abbott's Top Contributors (2001 Through June 2012)

Abbott Amount	Contributor	Company/Identification	Texans for Lawsuit Reform Amount
\$1,657,765	*Bob Perry	Perry Homes	\$2,831,000
\$825,000	Kenny Troutt	Mt. Vernon Investments (telecom)	\$35,000
\$745,000	*Harold C. Simmons	Contran Corp.	\$2,400,000
\$425,000	Stevan Hammond	Marketing Investors Corp.	\$127,000
\$401,904	*T. Boone Pickens	BP Capital (energy investments)	\$1,287,000
\$389,622	John L. Nau III	Silver Eagle [beer] Distrib.	\$186,000
\$360,000	Texans for Lawsuit Reform	PAC pushing liability limits	NA
\$327,926	Robert Rowling	TRT Holdings (Oil; Omni Hotels)	\$100,000
\$309,239	Lonnie A. 'Bo' Pilgrim	Pilgrim's Pride Poultry	\$50,000
\$286,932	James R. Leininger	Kinetic Concepts, Inc. (hospital beds)	\$840,000
\$5,728,388		TOTALS	\$7,856,000

Note: Texans for Lawsuit Reform PAC amounts cover 2000 through Sept. 2012.

*Major funder of Swift Boat Veterans for Truth.

father as overseer of a \$1.5 billion tax-shelter trust that Simmons ostensibly created to benefit his four kids. Two of them alleged that Simmons abused the trust to bankroll GOP candidates and to buy homes and jewelry for himself and his third wife.

Dallas jurors found that Simmons breached his fiduciary duty to the trust. Yet they deadlocked on other issues, prompting a mistrial.⁸ Simmons maintained control of the trust after paying the estranged daughters settlements estimated at \$50 million apiece.⁹

The Chicago firm gained national recognition in 2000 for its role in the Florida recount case that put George W. Bush into the White House.¹⁰ Partner Philip Beck got a Yale statistician testifying for the Gore Campaign to admit that his projections of undercounted ballots were wrong.¹¹

To less effect this summer, an Abbott-hired Bartlit Beck attorney similarly tried to impeach the testimony of a Harvard statistician who found

that Texas' new voter ID law would disproportionately harm racial minorities.¹² A federal court struck down the law in August, holding that its burdens "will fall most heavily on the poor" and minorities.¹³

Bartlet Beck also handled the 1996 initial public stock offering for Simmons' Titanium Metals Corp. In an unusual move in 2011, the Texas Commission on Environmental Quality let Simmons post Titanium Metals stock as security in the event that the state needs to clean-up Simmons' West Texas nuclear waste dump.¹⁴

Abbott's office legally advises two Simmons-friendly agencies: the environmental commission and the Texas Low Level Radioactive Waste Disposal Compact Commission.

The Sierra Club has filed Simmons-related lawsuits against the Commission on Environmental Quality. One lawsuit challenged the license that the commission granted to Waste Control Specialists in 2009 to operate its dump in Andrews County. That suit alleges that the agency erred in doing so without

Harold Simmons' Abbott Retainers (2001 to July 2012)

Date	Amount
6/11/2001	\$5,000
1/22/2002	\$5,000
8/7/2002	\$5,000
12/4/2002	\$5,000
9/22/2003	\$25,000
6/14/2004	\$25,000
6/29/2005	\$50,000
6/20/2006	\$50,000
6/25/2007	\$50,000
6/20/2008	\$50,000
6/24/2009	\$50,000
5/19/2010	\$25,000
9/16/2010	\$50,000
6/24/2011	\$100,000
3/27/2012	\$250,000
TOTAL:	\$745,000

holding a contested case hearing where opponents could present concerns about the dump contaminating groundwater. In May 2012 a state district judge ordered the agency to hold such a contested hearing.

A subsequent Sierra Club lawsuit argues that the agency erred in permitting Waste Control to start

accepting radioactive waste in 2012, allegedly before the company complied with all its license requirements. Andrews County meanwhile filed a lawsuit in its local state district court that seeks to prevent the Sierra Club from blocking radioactive waste shipments to Waste Control's dump.¹⁵ •

Notes

¹ They charge a flat fee instead of hourly rates, for example, or a relatively low base fee with a hefty victory bonus.

² "NL May Sell or Joint-Venture 5 Businesses," *Houston Chronicle*, June 21, 1987.

³ Warning: The following *American Lawyer* article graphically describes a Bartlit Beck attorney's "cleavage" and "silver chest hairs." "[Diamonds Are This Firm's Best Friend](#)," *American Lawyer*, December 1995. "[Statement of Mission](#)," Kensington Partners LLC, June 26, 1999.

⁴ "Texas Repeatedly Makes a Federal Case of Disputes with Washington," *Dallas Morning News*, March 23, 2012.

⁵ "GOP Cheers Abbott's Suits Against Feds," *Dallas Morning News*, June 8, 2012.

⁶ Tyrone Parker alleged in *Parker v. NL Industries* that the lead paint chips that he ingested as a toddler cause brain damage, seizures and epilepsy. NL obtained a favorable verdict from a Baltimore City Circuit Court jury in 2000.

⁷ "Rhode Island Court Throws Out Jury Finding in Lead Case," *New York Times*, July 2, 2008.

⁸ "Mistrial Declared in Dispute Over Billionaire's Empire," *New York Times*, December 18, 1997.

⁹ "End Is Seen to Simmons Family Feud," *New York Times*, February 10, 1998.

¹⁰ Simmons contributed \$90,000 to Bush's gubernatorial campaigns. He and two other top Abbott contributors (Bob Perry and T. Boone Pickens) also bankrolled Swift Boat attacks on Bush challenger John Kerry in 2004.

¹¹ "Chicago Legal Eagles Swoop into Fla. For Bush," *Crain's Chicago Business*, December 9, 2000.

¹² "[Author of Key Study in Justice Department's Decision to Block Voter ID Law Testifies that It Shows 'Highly Significant' Racial Differences](#)," *Dallas Morning News*, July 12, 2012.

¹³ "Court Tosses Texas' Voter-ID Law," *Wall Street Journal*, August 31, 2012.

¹⁴ "Harold & Fraud," *Texas Observer*, February 8, 2012. "Months Later, TCEQ Getting Burned by Latest Radioactive Favor for Harold Simmons," *Texas Observer*, June 26, 2012.

¹⁵ "Sierra Club Fight Over Radioactive Waste Heats Up," *New York Times/Texas Tribune*, October 20, 2012. "AIF Joins Andrews County Lawsuit in Effort to Protect New Revenue." Andrews Industrial Foundation, Press Release, June 28, 2012.