



★ TEXAS SUPREME COURT ★ DOLLAR DOCKET

In Texas, 48% of judges and 79% of lawyers say contributions significantly influence judicial decisions. - Texas Supreme Court poll

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The Jury's Always Out In Binding Arbitration

Texas' civil court of last resort set itself up this year to reduce its work load *and* reward big business interests.

The name of the game is binding arbitration, which big business uses to deprive consumers of the right to a public trial by a jury of peers. Businesses prefer arbitration over jury trials because it settles disputes in secret proceedings conducted by privately paid judges. Arbitration aborts the development of consumer-protection case law. Unlike a court of law, private arbitrators cannot force businesses to halt the most harmful or discriminatory practices.

The Texas Supreme Court heard arguments February 14 in a case involving consumers who filed suit after a company failed to fix defects in their new mobile home (*In re First Merit Bank*). The lender argued that the homeowners signed away their right to a trial. While two lower courts refused to force arbitration, Supreme Court justices voted to review the issue at the request of the bank and the Texas Manufactured Housing Association (TMHA), which filed an amicus brief supporting arbitration.

In January, the TMHA filed an amicus in another Supreme Court mobile home arbitration case (*In re Homestar*). In this case the justices are reviewing a 13th Court of Appeals opinion that cited federal consumer protections in ruling that the fine print of a sales contract cannot force homeowners into binding arbitration.

Illustrating the sweeping implications of the issue, the Homestar case elicited amicus briefs favoring arbitration from Gateway and Dell computer companies. In addition, the court heard two other arbitration cases in February: *Mariner Financial Group v. Bossley* and *Helena Chemical v. Wilkins*. Consumer groups argue that secretive, privately funded arbitrations unfairly benefit the most powerful party to a dispute. A leading credit card lender, First USA, has arbitrated 19,705 disputes. Arbitrators ruled for the bank in 99.6 percent of these

February Dollar Docket

Cases heard by the Texas Supreme Court in February and the corresponding contributions to justices from the parties and/or attorneys.

February 7, 2001

<i>Mariner Financial Group v.</i>	\$81,050
<i>Bossley</i>	\$0
<i>Helena Chemical Co. v.</i>	\$15,855
<i>Wilkins</i>	\$0

February 14, 2001

<i>Subaru v.</i>	\$34,350
<i>David McDavid Nissan</i>	\$500
<i>Butmaru v</i>	\$53,460
<i>Ford Motor Co.</i>	\$14,150
<i>In re First Merit Bank</i>	\$0

February 21, 2001

<i>Bentley v.</i>	\$13,213
<i>Bunton</i>	\$0
<i>Long Distance Int'l v.</i>	\$1,100
<i>Telefonos de Mexico</i>	\$31,300
<i>E.I Dupont Co. v.</i>	\$79,850
<i>Pecan Valley Nut Co.</i>	\$1,450

Grand Total for February 2001 \$326,278

disputes. Big business does not do that well in court—even in the business-funded Texas Supreme Court.

New Justice Should Raise Ethical Bar

Newly nominated Texas Supreme Court Justice Wallace Jefferson should break court tradition by refusing to raise campaign money to face non-existent opponents. Under current law, he can raise campaign money in his first 60 days in office—even though he has yet to draw an opponent for the 2002 election. Such unilateral fundraising unnecessarily damages the court's already tattered reputation. •