



★ 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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Briefing Clerk Perks

With its credibility again marred by appearances that private money could be influencing its proceedings, the Texas Supreme Court is busy defending—rather than ending—its latest errant practice.

Texas Lawyer broke a September 11 story about how large law firms with a steady stream of Texas Supreme Court cases pay subsidies to the court's clerks. This practice appears to violate the plain language of the "Bribery and Corrupt Influence" chapter of the state penal code.

Hiring partners at Vinson & Elkins and Baker & Botts (firms that brought more than 300 legal issues before the court in recent years) acknowledge that they have been "subsidizing" individual clerks with \$45,000 prospective-employment bonuses. This may constitute criminal misconduct, according to the Travis County Attorney.

Section 36.08(e) of the penal code says that a judicial employee commits an offense if he or she "solicits, accepts, or agrees to accept any benefit" from a person with an interest in a matter before the tribunal. Section 36.09 prohibits firms from offering such illegal benefits.

Supreme Court justices insist that clerks do not work on cases involving their known future employers. Apparently for this reason, Chief Justice Tom Phillips says that the private subsidies of his court's clerks pass legal muster. Yet the clear intent of the penal code is to shield the public from even the *appearance* that a case could be thrown by private payments to court employees.

The Dollar Docket

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

September 6, 2000

<i>Bally Total Fitness Corp.v.</i>	\$ 11,150
<i>Jackson</i>	\$ 0
<i>American Home Products v.</i>	\$ 51,455
<i>Clark</i>	\$ 41,500
<i>Gilbert v.</i>	\$ 0
<i>El Paso County Hospital Dist</i>	\$ 0

September 13, 2000

<i>San Antonio Area Found. v.</i>	\$ 15,029
<i>Lang</i>	\$ 0
<i>City of Harlingen v.</i>	\$ 3,172
<i>Sharboneau</i>	\$ 0
<i>In re Canales. consolidated with</i>	
<i>In re County of Jim Wells</i>	\$ 2,650

September 20, 2000

<i>St. Joseph Hospital v.</i>	\$ 203,605
<i>Wolff</i>	\$ 1,000
<i>TX Dept. Public Safety v.</i>	\$ 0
<i>Petta</i>	\$ 100
<i>Texas A&M v. Dalmac Construction</i> consolidated with <i>General Services Comm'n v.</i>	
<i>Little-Tex Insulation</i> consolidated with <i>TX Dept. of Transportation v.</i>	
<i>Aer-Aerotron</i>	\$ 365,555

Total for September: \$ 695,216

The court, of all entities, should not circumvent the clear intent of state law. Instead it should immediately ban all privately funded clerk perks. It also should reveal every perk received by every clerk and disclose each case that these clerks have been removed from.

The court need not choose between the interests of its clerks and those of the public. Ending private subsidies would not prevent the court from seeking higher publicly funded clerk salaries. But allowing judicial employees to keep taking handouts from law firms with cases before the court further damages our judiciary's tattered reputation. •