

March 2014

Dear Friends and Supporters of Tort Reform:

As you go to the polls this primary season, and you consider the candidates for the Texas Supreme Court, please remember that Chief Justice Nathan Hecht, and Justices Phil Johnson and Jeff Brown, are conservative justices supported by Gov. Rick Perry, the strongest tort reform governor in our nation's history. Their opponents are supported by John Eddie Williams, Mark Lanier, and a few personal injury trial lawyers. A look at the two attachments to this letter ([one from John Eddie Williams](#) and [one from Governor Perry](#)) may tell you all you need to know when making your decision.

Please be sure to spread the word about the importance of these three races. Your recommendations to friends and colleagues are particularly important because people are often uninformed about judicial races and welcome recommendations from people they trust. If you want to know more, read on...

The law is what the courts say it is. You may remember that the Texas Legislature passed medical malpractice tort reform in 1977 only to see many of those reforms eradicated as the courts interpreted the 1977 law in a way that limited the cap and eliminated provisions related to the statute of limitations. TAPA, and many of its members and friends, sweated blood to pass HB 4 and Prop 12 in 2003. We have all worked very hard to maintain the legislative gains which have increased access to care. Our efforts have been rewarded. As [the TAPA website shows](#), in many areas of the state the per capita losses in physician supply have been reversed. Many metro and rural counties have seen a healthy influx of new doctors and specialists. Doctors who had restricted their scope of practice are again taking call and treating patients with complex medical problems.

We have vigorously defended our landmark reforms in the courts. As of this writing there is no final appellate opinion that interprets the medical malpractice provisions in HB 4 in a manner inconsistent with TAPA's understanding of the legislature's intent.

Our success in protecting HB 4 in the courts is due in no small measure to the Texas Supreme Court and its dedication to strictly construing legislation. Their decisions have upheld legislative provisions and, in so doing, have increased access to care. The court's rulings have been so consistent and thoughtful, so thorough and persuasive, and so aligned with legislative intent, that several provisions of HB 4 have withstood constitutional challenge. Not surprisingly, members of the court have come under attack by several personal injury trial lawyers.

I write to you today because I want you to be informed when you go to the ballot box this primary season. As you may know, Chief Justice Hecht, who has a strong record supporting HB 4, Justice Johnson, a distinguished defense lawyer and jurist, and Justice Brown, who has an exemplary record of construing statutes in accord with legislative intent, all face "wolf in sheep's

clothing” challengers in the Republican primary. Robert Talton, who is running as an “R” against Chief Justice Hecht, actively opposed HB 4 in 2003, behind the scenes, as a member of the Texas Legislature. Joe Poole, another “R” challenger, has a record of judicial sanctions he would rather you not know about. The remaining challenger, Judge McNally, has given no real good reason for running at all, except, one notes, that much of her funding comes from personal injury trial lawyers .

What makes these challengers so potentially dangerous is that they are being touted by personal injury trial lawyers as “R” candidates. However, these candidates neglect to mention that their supporters (and in some cases the challengers themselves) actively, persistently and consistently oppose tort reform. Mark Lanier, their biggest funder, lobbied against HB 4.

HB 4 is still in play. The law is what the courts say it is, and the candidates for the highest court have drawn clear distinctions: the incumbents vs. the challengers who are primarily funded by a small number of personal injury trial lawyers.

Please be sure and vote. Every one counts.

Thanks for your interest and please let me know if you have any questions.

Mike Hull

*Mike Hull is an attorney who practices in Austin.*