

Chief Justice Nathan Hecht, Supreme Court of Texas

Overview of Access to Justice in Texas

[Link to Video](#)

**0:00**

I am recording this because the annual Champions of Justice Gala gathering in Austin has been cancelled due to the COVID-19 pandemic. Many are now facing some of the same level of stresses our military men and women face every day, in different ways to be sure, but nonetheless, some of the same levels of stress. The same kinds of personal stresses that our veterans return to when released from service and come back to the way of life they fought to preserve. The same kinds of personal stresses they endure in these hard days back at home facing: layoffs, unemployment, and an uncertain future of housing and health issues that distress us all. The Gala has been a way to muster support for legal services for veterans, and a very successful way at that. Why is access to justice so important to the Supreme Court of Texas? Let me start with a little history.

Back in the early 80s, when IOLTA (Interest on Lawyer Trust Accounts) was just getting started, Chief Justice Jack Pope had the vision for our Court and for Texas to adopt IOLTA first as a voluntary program and then as a mandatory program for Texas lawyers. It showed that Court's commitment to making sure that legal services are available for everyone – that the justice system is open to all. The IOLTA program was very successful. Now, every state has one. As we moved through the 90s, it became obvious that we still were not meeting the challenges of access to justice sufficiently. The Supreme Court had an all-day hearing in the late 90s to hear evidence from all over the state and all over the country about the challenges that we were facing. It was very moving. We became convinced again that access to justice was a top priority for our Court.

**02:26**

At the urging of then-Justice Deborah Hankinson, the Court created the Texas Access to Justice Commission; an entity other states have tried to replicate. We were blessed to have some strong leaders in the Commission. John Jones was its first Chair and the members of the Commission worked hard to come up with innovative ways to make sure legal services could be provided to the very poor. The IOLTA program served us well for many years but in the economic downturn of 2008, when interest rates went to 0%, suddenly IOLTA funds went from more than 20 million dollars a year to 1 million dollars a year. It was only 1 million dollars a year because some banks paid IOLTA even though they were not required to do so and interest rates were at 0.

Chief Justice Jefferson and I were presenting the Supreme Court's budget to the Senate Finance Committee in the 2009 legislative session. Chairman Steve Ogden asked us what we were going to do to make up the lost IOLTA revenue. We told him we did not have a plan. Senator Ogden is a crusty old oilman from East Texas, not a lawyer. But, he was very sympathetic with the plight and he saw the harm the lack of IOLTA funding could do to poor people in Texas. He offered to make up half the difference. I have been going to the legislature for a long time and that was the first time I have ever had a legislator ask me if I would take extra money. We quickly said yes. The legislature has met that funding level ever since then – in different ways.

The legislature in the same 2009 session passed the POPE Act. It makes possible the contribution of settlements that the State reaches, in essentially consumer actions around the country, to the access to justice fund that the Supreme Court administers. The POPE Act, named after my predecessor, has been a godsend to us. It has provided millions and millions of dollars. Even though those settlements are uncertain and we do not know what they are going to bring, they have contributed enormously to the resources available to legal aid lawyers. Several years ago, I approached Lieutenant Governor Patrick about funding legal services for veterans. He was very supportive. We got all the way through that legislative session and the legislature had still not come up with the money for veteran's legal aid. But, just a few days before the legislature was about to quit, I went to talk to Lt. Gov. Patrick one more time. I told him we could really use the help on this. Before the day was done, we had 3 million dollars for legal aid for veterans.

#### **6:14**

That shows the leadership Lt. Gov. Patrick and others have contributed to the mission of access to justice. Gov. Abbott has been a stalwart himself. In the last legislative session, he proposed that the 3 million dollar amount be doubled. The entire time that Gov. Abbott was Attorney General, he supported that all the money coming from settlements under the POPE Act go the Supreme Court as much as possible – so has Attorney General Paxton. The Access to Justice Commission has had wonderful leadership. John Jones was the first chair of the Commission, Jim Sales from Houston chaired it for many years and was deeply loved by the access to justice community. Harry Reasoner has been a real stalwart as the leader of the Access to Justice Commission. Many others have contributed enormously, Joe Jamail, famously a supporter of the Gala and access to justice for veterans. Richard Mithoff has started a fund in Joe's honor and we are approaching 1 million dollars in contributions to that fund to help legal aid for veterans. Harriet Miers has been a real leader in legislative efforts because this issue is not partisan. It is not left or right, conservative, liberal, Republican, Democrat – it's a bipartisan,

nonpartisan issue. It is good government. It is a way for the legislature to really help Texas be strong.

### **8:06**

So, that is a brief view of what has happened. Now, to the why. There is nothing more important to the cause of access to justice than Supreme Court leadership. The Court, as the leader of the justice system, has to demonstrate the importance to the profession and to the public of making sure that justice is accessible not just to the wealthy, not just to those who can afford it, but to everyone who needs it. Justice is a precious, core American value but it is also a promise. It is always there. The promise is that justice will be there for you. Nothing has tested that promise more than the COVID-19 pandemic. Jury trials have been suspended, jails are crowding, in-person hearings have been delayed, and courthouses are closed, family courts, all sorts of courts have all been stressed in trying to provide necessary hearings and services to the public. The American justice system is meeting these challenges.

### **9:27**

I am President of the National Conference of Chief Justices so I speak every day with Chief Justices around the country who are struggling with the same problems Texas is struggling with. All are saying no matter what, the justice system will be available. When this pandemic is over, we are likely to see even greater challenges to access to justice. So many will be facing the loss of jobs and homes. None of us who serve in the judiciary want to preside over a justice system for only those who can afford it. We want it to be there for everyone. Because, access to justice is essential to the integrity to the rule of law. Veterans, who are struggling along with the rest of us, and facing the same issues of unemployment, housing problems that are arising, will continue to need our help in greater numbers. The challenges that lay head will be tall orders for all of us. But, the commitment that the supporters of the Champions of Justice Gala have shown, and many others, I am confident is enough to meet the challenges that lay ahead. To make the promises of access to justice real for everyone.