



DAN GATTIS

STATE REPRESENTATIVE

DISTRICT 20

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August 24, 2007

Mr. Charles L. Babcock, Chair
Supreme Court Advisory Committee
Jackson Walker L.L.P.
Bank of America Plaza
901 Main Street, Ste. 6000
Dallas, Texas 75202

Dear Mr. Babcock:

It has come to my attention that the Supreme Court Advisory Committee is considering recommendations to the Texas Supreme Court for a rule to address so-called "complex cases" along the lines of Senate Bill 1204, as introduced in the 80th Regular Legislative Session. As the House sponsor of S.B. 1204, it is my strong opinion that this subject is a matter for the Legislature to decide and is not appropriate for judicial rulemaking.

There was little support in the Legislature for the complex case provisions of S.B. 1204 as filed, and I, along with many segments of the Bar, did not support that approach. Rather, we determined that the right way to address resource-intensive cases was to direct additional resources to courts in which such cases were pending. The need of the courts to have additional resources to handle some cases was widely recognized by legislators and our solution had broad legislative support. The bill failed on a point of order only due to a dispute over unrelated issues.

The State Bar of Texas has appointed a committee to study these issues during this interim prior to the next regular legislative session. Those of us in the Legislature who have worked hard on these issues want to await the results of the Bar study and allow that work to inform legislative consideration next session. I intend to follow and participate in that work, as do other legislators and many interested members of the Bar and the Judiciary. I do not believe the Supreme Court or its advisory committees should disturb a process that those of us in the Legislature are relying on to inform decision making that is properly disposed of only by legislation.

We should be particularly mindful that the people of Texas strongly support the election of their judges. They elect judges they think can handle the cases that come before them, whether those cases present issues that are "complex" or are more straightforward. Current law allows visiting judges to

Letter to Mr. Babcock
August 24, 2007
Page Two

be appointed when a sitting judge determines that his or her workload requires one. It is one thing to provide for adequate resources to be directed to elected judges in extraordinary situations and quite another to provide by rule for an elected judge's exercise of jurisdiction to be disturbed without that elected judge deciding that he or she needs help.

In conclusion, I request that your advisory committee table your consideration of a complex case rule that in any way approximates the provisions of S.B. 1204 as filed and leave those issues to the Legislature.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan Gattis', with a stylized, cursive script.

Dan Gattis
State Representative



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August 29, 2007

Representative Dan Gattis
State Representative, District 20
P.O. Box 2910
Austin, Texas 78768

Re: Supreme Court Advisory Committee - "Complex Cases"

Dear Representative Gattis:

Thank you for your letter of August 24, 2007. I think you are correct that the Court has asked its Advisory Committee to consider the issue of assigning a judge to "complex cases" but I am sure that we have not been given any directive to the parameters of such a rule.

I will certainly insure that your views are made known to both the subcommittee studying this matter and the full Supreme Court Advisory Committee. On the issue of judicial rulemaking, there are certainly times when the Court's rulemaking authority intersects with the Legislature's duty to enact substantive laws. It is infrequent, but when a proposed rule comes close to that line, we attempt to point that out to the Court.

As for your request that the SCAC "table your consideration of a complex case rule," I think that is better directed to the Court whose pleasure we serve. I know the relationship between the Court and the Legislature has been very warm and cooperative and as chair of the Court's advisory committee, I hope and expect that will continue with our Committee as well.

Thank you again for your letter to me about this matter.

Very truly yours,

Charles L. Babcock *a*

CLB:abs

cc: Chief Justice Jefferson
Justice Hecht
Jody Hughes
Jeff Boyd