

TEXAS / 2015

# Super Lawyers<sup>®</sup>

SUPERLAWYERS.COM

MAGAZINE

## THE ANNUAL LIST

The Top Attorneys in Texas

## JUDICIAL MERIT

Former judge  
Deborah Hankinson  
on access to justice,  
bringing appeals, and  
the battle over Prop 12

### ALSO

GORDON J. QUAN  
MAKES COMING TO  
AMERICA EASIER

REAL ESTATE LAWYER  
JANE SNODDY SMITH'S  
SWEET DEALS

HOW LYNN TILLOTSON  
PINKER & COX WORKS  
ITS MAGIC ON A JURY



THOMSON REUTERS

and the publishers of  
TEXAS MONTHLY





**DEBORAH HANKINSON**

- FOUNDER, HANKINSON LLP; DALLAS
- APPELLATE; ALTERNATIVE DISPUTE RESOLUTION
- TEXAS SUPER LAWYERS: 2003–2015; TOP 10: 2011–2012; 2014–2015;  
TOP 50 WOMEN: 2003–2015; TOP 100 DALLAS/FORT WORTH:  
2004–2005; 2007–2015; TOP 100: 2005, 2008–2015



# JUDICIAL MERIT

**Former judge Deborah Hankinson  
on access to justice, bringing appeals,  
and the battle over Prop 12**

BY CARLOS HARRISON  
PHOTOGRAPHY BY JEREMY ENLOW

TWO BLACK-AND-WHITE PHOTOGRAPHS hang on the wall next to Deborah Hankinson's desk.

One shows the first time three women sat as Texas Supreme Court justices, picked to preside over a single case involving a men's fraternal organization in 1925.

The other shows the next time three women sat in the same capacity—elected this time—more than seven decades later. Hankinson was one of them.

It's a position she never would have imagined herself in as she was growing up. Nor would she have seen herself as a driving force behind access-to-justice programs across the country. For that matter, she wouldn't have conceived of going to law school, which she not only did but made law review.

"I spent all of law school sure that they were going to find out about me—that I didn't really belong there," she says.

Instead, she graduated first in her class.

"She's one of the brightest lawyers anywhere in the country. She's got a razor-sharp intellect and she combines that with excellent judgment about how a legal issue is likely to be resolved," says Tom Melsheimer, managing principal of the Dallas office of Fish & Richardson. "She's absolutely my go-to person for any kind of legal issue of almost any kind of legal complexity."



In some ways, Hankinson is a study in contrasts. She likes opera and hiking, art and fly-fishing. (Also yoga and travel.)

Her office overlooks the Dallas Arts District, and she regularly recharges by crossing the street to bask by outdoor art at the Nasher Sculpture Center. One of her favorite getaways is to Santa Fe, where she can indulge her thirst for the outdoors and also take in opera in an open-air theater, with the Jemez Mountains to the west and the Sangre de Cristo Mountains to the east.

She claims to be introverted, which she admits is probably hard for folks to fathom, since she's known as a fierce advocate for causes she believes in, and is more than willing to take the lead when others won't.

But growing up in Richardson, separated from the Dallas bustle by farmland at the time, Hankinson pictured a much more traditional route.

"Most of the women I knew who were professionals or who worked were teachers, nurses or social workers," she says.

She moved toward her choice with a summer job helping kids with special needs, went to college for a teaching degree with an emphasis on special education, and graduated at a watershed moment. A new federal law had just come into effect requiring public schools to provide an education for everyone with disabilities from the age of 3 to 21.

She went on to get a master's in special education and, within a couple of years, became lead teacher of a program for elementary-age children from throughout the Plano Independent School District, helping to figure out the best way to serve students with developmental disabilities.

Then, she says, she was "being encouraged to get a doctorate in special education," that would take her into school administration. "The educational requirement," she recalls, "was going to be extensive but it would be narrowing. And yet, at the same time, I didn't see myself sitting in a classroom for the entirety of my professional career."

Children, she says, "like to see the same thing every day. There needs to be predictability. And I thought, 'How am I going to feel when I'm 60—that every day

for the last 40 years, I've gone to lunch at the exact same time and I've done this at the exact same time?'"

She started investigating other options—psychology, then law. "I had this firsthand experience about how the law affects people's lives." So she took the LSAT. "I didn't study for it. I didn't do particularly well."

She did well enough. She got into law school at Southern Methodist University, the only school she applied to, and turned in her resignation at the school district.

"I cried all the way home," she recalls.

After seven years in education, the competitive nature of law school was a shock.

But, she says, "I was determined that I was going to graduate. ... And the next thing I know, I'm in the cutoff area to get on law review. ... And then I was sure the second semester that I was going to be embarrassed because I was going to be the first person on law review to flunk out."

The fear of failing stayed with her. But so did the reality of success.

"After the second semester, in the fall, we interviewed for clerkships," she says. "I got great job offers from really good Dallas law firms, and I accepted the clerkship from two law firms. And then I was sure that, at the end of the fall semester, I was going to be the first person to have to call two Dallas law firms and tell them that I didn't think I was going to be able to come work for them because I had just flunked out.

"And then every semester was kind of like that."

In her final semester, she was second in her class. She says she didn't try to make valedictorian; it just happened.

The first-place student took what he thought would be an easy course: law office management. "He was coasting," Hankinson says. "He took the law school equivalent of basket-weaving, and got a really bad grade."

That catapulted her into first place. It also got her a job at one of Dallas' oldest law firms, Thompson & Knight. She liked it because the firm gave associates a varied experience, working with different partners and handling cases of their own from the start.

"You weren't walking behind somebody carrying their briefcase," she says. "I was 30 when I graduated from law school, and I felt like I needed to hit the ground running."

She was thrown almost immediately into trial work.

"It's funny for somebody who's been a litigator her whole professional career, but I really don't like the contentious nature of things," she says. "I really like solving problems."

So, seven years into her legal career, just after she became a senior partner, she told them she wanted to handle appeals. But she wanted to be in the courtroom from the get-go, dealing with summary judgment motions and jury charges; preserving error and handling appeals.

"Some appellate lawyers like it when somebody calls them with a train wreck and says, 'Please pull my cart out of the ditch,'" she says. "And I do that, too, but like I said, I'm a problem-solver. So I like hearing about what's going on, helping to strategize and figuring out the best approach to take, figuring out what pieces need to be put in place to get the best results, and all that sort of thing."

The firm's partners agreed. Soon they were taking her along to woo clients.

Then a stroke of luck changed Hankinson's path again.

She had been representing a longtime firm client, a school district, which led to her meeting Margaret LaMontagne Spellings, who was just about to join George W. Bush's gubernatorial campaign.

After Bush won, Spellings called Hankinson. The governor-elect's office wanted to talk to her about becoming the state commissioner of education. Hankinson demurred, but Spellings asked her to meet anyway with Clay Johnson, the appointments director. Hankinson did, and demurred again. But before she left, Johnson asked if there were any other positions she'd be interested in.

"Daddy always said, 'Ask; all they can do is say no and you're no worse off.'"

So, she did.

"I said, 'I've always wanted to be on the Supreme Court of Texas.' ... That kind of blew him out of the water."

Not too long after, a seat opened. In the end, that spot went to Judge James Baker. But that opened up his spot on the Court of Appeals for the 5th District of Texas. Hankinson got that one.

Two years later, another seat opened on the state's high court. This time, the appointment was hers.

A couple of years later, she found another passion. After a lawsuit contended the state was failing to provide fair access to the courts for the poor, the state Supreme Court held hearings to look into the matter.

When they were done, Hankinson volunteered to take the lead on the next step. The result was the Texas Access to Justice Commission, which, as its website puts it, is "designed to expand access to, and enhance the quality of, justice in civil legal matters for low-income Texans."

Hankinson now serves on the board of the Texas Access to Justice Foundation, which handles funding for civil legal services in Texas from all sources, including the commission. Richard Tate, partner at Tate Moerer & King, serves with her. Hankinson was, he says, "the one person most responsible for making the commission happen in Texas."

That was 2001. A year later, Hankinson finished her term on the Supreme Court but did not run for re-election. "It's against my grain in terms of being a judge [to be] asking for money and the like," she says. "I would've loved to have stayed on the court, but that whole thing was just not me."

She went back to Dallas and launched her own firm, teaming up with a friend she had known since law school. "In Dallas legal circles," according to a December 2003 article in *D Magazine*, "the partnership of Deborah Hankinson and Betsy Whitaker was considered a storybook marriage."

Then another cause came along, which Hankinson says tore the partnership apart.

Proposition 12, which eventually passed by a razor-thin margin, was designed to allow the Texas Legislature to cap noneconomic damages in medical malpractice suits, such as pain and suffering or mental anguish, at \$750,000.

"I thought, 'That's just not right,'" Hankinson says. "I'm all for curbing lawsuits, but ..."

However, Prop 12 had the backing of a who's who of Texas power brokers: Gov. Rick Perry and the Republican leadership of both houses of the Legislature, as well as private doctors, insurance companies and the health-care industry.

Hankinson says she's not quite sure who asked her to get involved, but ask they did.

"Probably one of my blessings, but my curse as well, is that I'm rather intense," she says. "I tend to get passionate about things."

"I just think if I really believe in something and it's important and I can, hopefully, make a difference, then I would like to do that."

Hankinson won't discuss details. But pressure was brought to bear against her by powerful Prop 12 proponents in Austin. Whitaker, as president of the state Bar, had to stay out of the issue in public. Hankinson says Whitaker eventually asked her to stop campaigning against Prop 12. But the former justice couldn't stand back and watch what seemed to her like lawmakers taking power away from the courts and the people.

Proposition 12 won 51 percent to 49 percent and, less than a year after starting their heralded union, Whitaker and Hankinson went their separate ways, officially ending the partnership on Oct. 1, 2003.

"People make their choices," Hankinson says. "I'm not bitter about that."

*D Magazine* reported that Whitaker said at the time it was a business decision.

Hankinson hardly missed a beat. A dozen years later, Hankinson LLP, "The Appellate Law Firm," as it touts itself, has six attorneys. Her cases have involved some of the country's most recognizable corporate figures and helped establish legal standards with national implications.

She successfully defended the Dallas Mavericks when a company owned by Ross Perot Jr. accused Mark Cuban of mismanaging the team into insolvency. Just last year, she got the state Supreme Court to define the "substantial-factor" causation standard in mesothelioma cases. In 2007, another of her cases led to the

initial establishment of the standard—requiring plaintiffs to establish a causal link to a defendant's product beyond exposure to "some asbestos."

Hankinson has also developed a thriving alternative dispute resolution practice, which has added to her reputation for relentlessness.

"Like a dog with a bone," she says, "I don't let go."

One example was the tragic Texas A&M bonfire case in 1999, in which a 60-foot tall stack of logs toppled. Twelve people died, 27 were injured. Two years later, the first lawsuits were filed. Last year, the last of them was settled.

"It was just overwhelming at times because there were so many moving parts," says Scott Scherr, who represented one of the injured students who eventually sued. "And she has the ability to break it down into smaller parts, deal with that issue, get it resolved, and kind of chip away until you get a resolution."

Similarly, Hankinson refused to let go of the cause she first championed as a Supreme Court justice. She spent six years traveling the country as a member—and, later, chair—of the ABA's Standing Committee on Legal Aid and Indigent Defendants, helping establish access-to-justice commissions around the country. The total soared to 38 by 2014, from a mere handful when she pushed for the formation of the panel in Texas.

And, this year, she returned to what led her into law in the first place.

"I am pro bono on my first case in the Texas Supreme Court representing a person with disabilities who has not gotten what the law should have given him," she says. "It's taken me a long time to get there, but I'm doing that." ■