The County Clerk of Anderson County (Palestine) has received countless requests — many from other countries — for copies of the "Last Will and Testament of Herman Oberweiss Offered for Probate at the June 1934 Term of the County Court of Anderson County, Texas." The will reads:

"I am writing of my will mineself that dam lawyir want he should have too much money, he ask too many answers about the family. First thing I want I don't want mine brother Oscar get a G-D---- thing I got. He is a mumser. He done me out of forty dollars 14 years since.

"I want it that mine kid sister Hilda get the North Sixtie Akers of at where I am homing it now. I bet she don't have it if she lets Oscar live on it, I want I should have it back if she does.

"Tell Mamma that $600 she been looking for ten years is buried from the backhouse behind about 10 feet down. She better let little Frederich do the diggin and count it when he comes up.

"Pastor Lucknitz can have $300 if he kisses the book he won't preach no more dumhead talk about politiks. He should a roof put on the meeting house and the elder should the bills look at.

"Mamma should the rest get, but I want it so mine brother Adolph should tell her what not she should do so no more slick Irishers sell her vakom cleaners. They noise like hell and a broom don't cost so much.

"I want it that mine brother Adolph be my execter and I want it that the judge please make Adolph plenty bond put up and watch him like hell. Adolph is a good business man but only a dumkopf would trust him with a busted pfenning.

"I want dam sure that schliemiel Oscar don't nothing get, tell Adolph he can have a hundred dollars if he proves judge, Oscar don't nothing get. That dam sure fix Oscar."

SIGNED: Herman Oberweiss"

But these requests are refused by the County Clerk, and for a very good reason: there is no real Oberweiss Will, nor is there any Oberweiss family in Anderson County. Herman's "will" was actually written by Houston attorney, Will Sears, for a law school banquet in September of 1931. The Oberweiss Will — and a remarkable humorous "title opinion" also written by Will Sears — were published during the 1930s in a West Publishing Company publication, The Docket. Copies of the "will" were widely circulated; it became a "real" document, instead of a joke; and now most Texas lawyers know about the "will," but not its origin or its author. In December of 1971, Will Sears added this postscript:

"To all of you who have enjoyed Herman's abrasive testamentary wishes through the many years since his 'will' first appeared:

"Regretfully, I advise that Herman, Oscar, Hilda and her gonoph husband, Mamma, little Frederich and Pastor Lucknitz never had a real existence as persons. I wrote this 'will' for a law school banquet entertainment in September 1931 and distributed several copies at the time. Within a few years, the 'will' appeared in many magazines and other publications. It still appears now and then. On several occasions, a friend of mine has produced a dog-eared copy for me to read, assuring me that it was 'real.' However, most of its readers seem to have been uncritically delighted with Herman's tender feelings toward Oscar, without any regard to the 'will's' authenticity. Yet internal evidence of the spuriousness has always been present. Consider this evidence:

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Et Cetera
WHILE ALL MEN MAY BE CREATED EQUAL, MALPRACTICE POLICIES ARE NOT.

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“Herman Oberweiss belonged to a congregation led by a ‘pastor.’ While several denominations use this term, Herman was obviously German and therefore would have probably been Lutheran or, possibly, Roman Catholic. But would a member of either denomination (or of several others who use the term ‘pastor’) have referred to his church as a meeting house? Neither Lutherans nor Roman Catholics have ‘elders’ at the congregational level. Presbyterians do, and, on occasion, a Presbyterian minister is addressed as ‘pastor.’ But meeting house? The term is commonly associated with the Society of Friends, who have no ‘pastors.’ Even more to the point, however — Herman had a ‘pastor’; and therefore could hardly have been Jewish. Yet no one has ever, to my knowledge, wondered why Herman, a well-to-do farmer of German descent, living in an East Texas rural county, would use Yiddish words of execration in speaking of Oscar and of Hilda’s husband!

“But enough of that. Herman’s testament still seems to produce as much laughter as it evoked from my long-time friend, Dick Burks, who read it (paragraph by paragraph) as I wrote it more than 38 years ago. Thus, Herman, whose ‘death’ preceded his earthly appearance, has attained a fractional immortality; and if Melancholy’s other name is Oscar, may Herman’s will be around for years to come. That dam sure fix Oscar.”

1. The County Clerk was not too happy about the situation. He told Texas writer Frank Tolbert, “There were some copies of The Oberweiss Will here when I took office in 1917. Many of those who inquire about it aren’t interested after they learn it was never probated. My office could have made thousands of dollars in fees for certified copies if it had really been probated.” And Charles Dippel (Sears’ law partner) adds: at a chance meeting the Anderson County Clerk learned that Will Sears had authored Herman’s “will,” and began immediately to chastise him for the countless hours of uncompensated work brought about by Will’s authorship ‘in writing’ the party requesting the will that the document did not exist.”

Editor’s Note: A collection of et cetera columns written by Judge Buchmeyer has been published. The book sells for $19.95 plus tax, postage and handling. To order, contact the Dallas Bar Foundation, 2101 Ross Avenue, Dallas, TX 75201.