DEPOSITIONS V. TRIALS

Wadding Up Some Help

This month’s contributions come from Dallas (Donald R. Scoggins), Fort Worth (Steven C. Laird), Houston (Mark J. Forsch), Lubbock (Denise Williams), San Antonio (District Judge Sid L. Harle), and Tallahassee, Fla. (Arthur C. Wallberg).

AND THEN THINGS WENT DOWNHILL ...

From Steven C. Laird of Fort Worth (Russell, Turner, Laird & Jones), a contribution from the trial of a medical negligence case. The excerpt is “the very beginning of the cross-examination of the plaintiffs’ nursing expert” — a “very attractive, statuesque nurse in her early 40s.”

Q. All right. I don’t know why; but when I first took your deposition in Houston and even today, I get the feeling of how a dove must feel when my Russian blue cat is stalking it. Do you have cats?

A. I have two Abyssinians.

Q. Big ones?

A. Abyssinians, by nature or their breed, are small.

Q. Because of that, I’m going to try to find areas as long as I can —

A. I’m sorry. Can you clarify? You’re stating that I’m stalking you?

Q. I’m just saying, I feel like a dove in the backyard.

A. Yeah. Don’t be afraid.

JESUS LOVES YOU

From Arthur C. Wallberg of Tallahassee, Fla. — Arthur is an Assistant Attorney General of Florida and his wife, Elaine Ashley, used to practice law in Houston — this excerpt from voir dire by his opponent.

MS. BOGE: Do any of you have bumper stickers on your car? ... None of you?

JUROR NO. 5: I do.

MS. BOGE: All right. What does your bumper sticker say?

JUROR NO. 5: Well, I have two. One says “Larry Campbell,” and the other one says, “Jesus loves you, but everyone else thinks you’re an asshole.” I was afraid you would ask that.

DID THEY REALLY SAY THAT?

These two excerpts are from District Judge Sid L. Harle of San Antonio (226th District Court). The first is from a murder case tried by Judge Harle; the female prosecutor “was dazzling the jury with a primer on firearms,” when ...

Q. Now, you keep talking about shell casings. Can you explain to the jury a little bit about what a shell casing is?

A. A shell casing is a spent casing. It is not the bullet that is fired out of it. It is the brass part or the metal part that is retained in or ejected out of the handgun after the bullet is fired.

Q. I will show you now what’s been marked previously as State’s Exhibit No. 13, and ask you if these were the shell casings that were recovered from the scene on that evening?

A. Yes, they are.

Q. So basically those were found on the ground and what these are, you said these are not live rounds, but they in fact are what holds the actual bullet and ejaculates out of the gun and falls to the ground when the gun is fired, is that correct?

A. That is correct.

I HOPE YOU'RE RIGHT

From Mark J. Forsch of Houston (Mark is a Senior Litigation Counsel for Shell Oil Company), this excerpt from the plaintiff’s deposition in an asbestosis case — which was being taken by Rob Pugnario of Houston (Hays, McConn, Rice & Pickering).

Q. Again, I’m going to let some other folks go, while I look over my notes here. I appreciate your time so far.
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et cetera

A. That's all right. That's one thing I've got left for a while anyway, until the Lord takes me up. I'm going to Heaven before long.

Q. Before long? Hopefully not.

A. Rapture of the church is going to take place before long. I can almost write that down. It is going to happen soon.

MR. SHUMAKER: Objection, nonresponsive.

Q. (By Mr. Purgatorio) Which one are you talking about? What are you — tell me what you were talking about.

MR. SHUMAKER: I'm going to object, and we don't —

MR. PURGATORIO (wisely): It goes to his future damages.

Q. (By Mr. Purgatorio) Do you think that you're going to die soon?

A. No — you want to know the truth?

Q. Absolutely. Nothing but the truth.

A. I don't think I'll die. I think my body will be changed.

Q. I hope you're right, sir. Thank you.

WADDING UP SOME HELP

Donald R. Scoggins of Dallas represented a Texas cowboy (“not the local pass catching sort”), who took his mom to a local dance hall “where a male dancer appeared to surprise [her] and help celebrate her birthday” — but where “a bar room brawl” and a “wad” of trouble ensued when the son and his friend, Louis, were asked to leave by the bartender.

Q. When you were getting ready to leave, what took place?

A. This fellar I hadn't talked to all night, never seen, come up and told me he was fixing to kick me out.

Q. This is when everybody was getting ready to leave?

A. Yes, sir.

Q. Okay.

A. I told him he better wad up some more help, I didn't think he could do it by his self.

... Q. Was anybody intoxicated or under the influence of alcohol?

A. No, sir.

Q. Were you?

A. No, sir. I don't get drunk in front of my mama.

... Q. What did you do after [Louis hit the bartender]?

A. Whenever I seen the guy jump over the bar and land on Louis, from the time I got around through them tables and stuff, five, six people had wadded up Louis right down flat on the floor.

Contributions to et cetera should be mailed to:
Chief Judge Jerry Buchmeyer, U.S. District Court, Northern District of Texas, 1100 Commerce St., 15th Floor, Dallas, TX 75242.