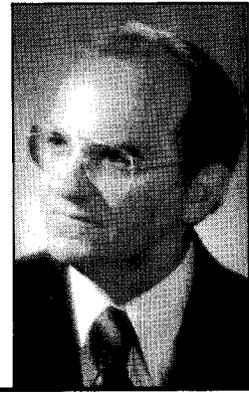


Depositions v. Trials: Watch My Lips



Judge Jerry Buchmeyer

By Judge Jerry Buchmeyer

It's over.

At least as far as former State Bar President Joe Nagy of Lubbock (Crenshaw, Milam) is concerned. He votes for the dangers of *depositions* — arguing that there could never be any trial testimony like that in *The Deposition of Ruby Nell Svoboda Rosene* (taken in an asbestosis case in 1983). So, let's see. . .

- Q. Mrs. Rosene, I'm Bob Wilson, and I represent one of the defendants in the lawsuit. It galls my lot to quiz you first, if you'll forgive me. One word of caution only. Our reporter has to hear you say something, so try never to nod to me.
- A. *Now Honey*, you better listen to me very carefully, because my voice is very mellow, and I have to talk with all my power. And I get very nervous when I have to raise to my voice. So be sure and look at my mouth, too; *better watch my lips*. Okay. Ready. I'm glad to meet you, sir.

* * * * *

- Q. What is your name, please?
- A. I'm Ruby Nell Svoboda Rosene.
- Q. And where were you born?
- A. In Alabama.
- Q. *Where in Alabama?*
- A. *In a church house.*
- Q. In what city, please?
- A. Well, I'm trying to remember. Now, there's someplace up there that's the capital. What's the name of the capital of Alabama?
- MR. WILSON: Does anybody know?
- MR. HARVEY: Is it Birmingham?
- A. Birmingham, Alabama, that's right.¹

* * * * *

- Q. Is that the place where you married?
- A. That's the only place we could get married in one day, get the blood test and everything. Yes, I think that's it.
- Q. And what did this gentleman do, please?
- A. This husband. . . well, anyway, that person painted houses, and he was the best painter I ever saw in my life. And he can also write poetry, but he can't get anybody to take his . . . he can't sell enough. . . he just can't settle

down. I couldn't do a damn thing with him. He beat the hell out of me, and I divorced him.

- Q. And when did you divorce him, please?
- A. God, I don't know. I closed that out of my mind. I mean I threw that S.O.B. in the garbage can and stomped it way down and then took it in a helicopter and took it in the middle of the ocean.²
- Q. And where did you divorce him, please?
- A. In Nueces County, in Corpus Christi, Texas. [The divorce] had to be '81. It never got started, believe me. It was awful, just awful.
- Q. And since that time, have you married again?
- A. Oh, no. Thank God, no. *You think I want any more of those chains and a ball around my beautiful feet? Huh? Huh?*
- Q. *I'm afraid to ask you.*
- MR. HARVEY: Mrs. Rosene, try to answer the questions as succinctly as possible.
- THE WITNESS: Oh, I'm sorry.
- Q. (By Mr. Wilson) No, ma'am, talk as much as you want to.

* * * * *

- Q. Now what other places do you remember [that you lived in with your husband who contracted asbestosis]?
- A. Well, Laredo. You got Laredo? And Weslaco, gosh, we can't forget Weslaco.
- Q. No, ma'am.
- A. I thought he was going out and seeing somebody there. He was just so tired, he couldn't love me on the weekends. They worked him too damn hard down there and I . . . it was awful, just awful. I thought he had a girlfriend close by.
- Q. Now, what was the job he was doing down there [at Weslaco]?
- A. Honey, I don't have any idea. All I know is where he went. And he would bring . . . or they would send his paycheck home, and I used to have a gorgeous good time with his paycheck.
- Q. You appreciated it?
- A. But I shared it with him, too.

* * * * *

- Q. Continue, please [about your husband seeing Dr. Craig].
- A. Listen to this. [My husband] scraped the back of his leg. Let me tell you, have you ever seen two ruptured kidneys in your life in a small animal?
- Q. No, ma'am.

A. That's what it looked like. Awful. So he finally made his way to Dr. Craig to look about his leg. So Dr. Craig says, "Mr. Rosene, you know you're going to have to lay off this leg for at least a weekend. So you come back Friday and we're going to take the biopsy of this leg and send it off, because that's a nasty-looking bugger."

* * * * *

Q. During the times that his friends and co-workers came over to your house to drink beer in the garage, or whatever they did, did they ever talk about the health hazards of working with asbestos, or whether other co-workers might have been getting sick or anything like that, that you recall?

A. Honey, let me tell you, that was a [REDACTED] good party. They had tin cans and everything else sitting all around, and they had a thing of beer. And you know what, I never stood there listening to all their [REDACTED], because they were the best [REDACTED] in Corpus Christi, the whole bunch of them.

And I had other things to do, like burning worms out of a tree one day while they were [REDACTED] over here. And I never did listen to them, except that I always laughed at them, because they were all [REDACTED], the best [REDACTED]s in Texas, really. The best. The best.

Q. I take it your answer is, as far as you know, they didn't [REDACTED] about asbestos; just about everything else.

A. That's right. And I'd burn them worms. I mean they'd get

to . . . and I'd burn them worms. I know that was one day. Whoa, if you had web worms in your trees, mulberry trees. . . .

* * * * *

Q. Mrs. Rosene, where are you working now?

A. I'm working. . . I'm employed at Winstead's in Corpus Christi. And I am a fashion consultant. Not a saleslady; a fashion consultant for men. And I want all of you all's cards. Do not forget to give them to me. And I'm the best, too. I sold \$218,000 this year and six hundred and fourteen . . . two hundred and eighteen thousand . . . two hundred and eighteen . . . is that right? . . . hundred thousand . . . two hundred thousand and eighteen thousand . . . yeah, that's how much I sold this year. And October 31st was the end of our year.

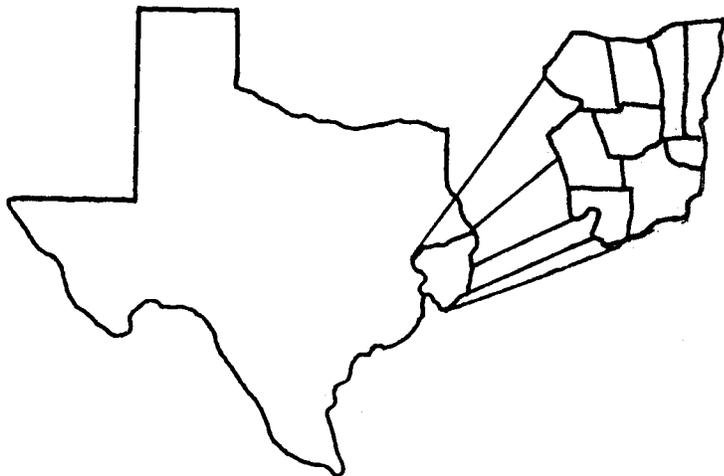
Let that be on the record, Honey, because that was a record. They eat it up. And I get paid . . . do you want to know how much I get paid, Honey? Six dollars an hour, six days a week. But you know what? I manage very well, do you think?

Q. I expect you do.

A. And I don't do any whoring, either.

1. At least they were close. Although *everyone* knows the capital of Alabama is Mobile. Or is it Montgomery?

2. Apparently Ms. Rosene was talking about the marriage license, not her last husband.



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