

# DEPOSITIONS VERSUS TRIALS: READ MY LIPS

By Judge Jerry Buchmeyer



## Read My Lips

This deposition excerpt, which comes from **Esteban A. Aguilar** of Albuquerque, N.M. (The Ryan Law Firm), was taken in a lawsuit which resulted when Rio Arriba County "bladed a road through property owned by the Jicarilla Apache Tribe." **Pat Harman** (of the Payne Law Firm) is deposing the County Manager, **Mr. Naranjo**, "an elderly individual with an obvious hearing impairment" (who was represented by **Mr. Rodriguez**).

**MR. RODRIGUEZ:** For the record, Mr. Naranjo has a hearing impairment, and you have to speak a little bit louder than normal for him. It may require that a question be repeated. I am advising you of that so that you play it by ear in that respect.

**MR. HARMAN:** All right.

**MR. RODRIGUEZ:** If there's any problem, then maybe you could write out your questions for him. I don't know. But let's proceed and see.

**THE WITNESS:** If I don't hear well, I might have to ask it a second time. We can get along pretty well. I hope so, okay?

**MR. RODRIGUEZ:** Okay.

\* \* \*

**Q.** What is your present occupation?

**A.** I am county manager of Rio Arriba County.

**Q.** How long have you been county manager?

**A.** I would say approximately 12 years now. . .

**Q.** What are your duties as county manager?

**A.** Will you repeat yourself, sir?

**Q.** Yes. What are your duties as county manager?

**A.** *Did you ask about Duda when he became employed sir?*

**Q.** No. What are your duties?

**A.** Oh, my duties of county manager. I am an administrative assistant to the County Commission.

\* \* \*

**Q.** Do you know of any filing made by Rio Arriba County with the State Highway Department in 1988?

**A.** Sir?

**Q.** Are you aware of any 1988 filing made by the county?

**A.** *Finding?*

**Q.** *Filing.*

**THE WITNESS:** *Funding?*

**MR. RODRIGUEZ:** *Filing.*

**MR. HARMAN:** (Wisely) Let me go ahead.<sup>1</sup>

\* \* \*

**Q.** Do any of those cases, Mr. Naranjo, involve county roads?

**A.** Involve what?

**Q.** County roads.

**A.** Would you repeat yourself?

**Q.** Do any of the cases involve county roads?

**A.** No, sir.

**Q.** County money, not state money?

**A.** *(Nods head)*

**Q.** *You will have to answer yes or no, Mr. Naranjo.*

**A.** *(Nods head)*

**Q.** Did that case involve any county roads?

**A.** I am very sorry, sir?

**Q.** Did that case involve county roads?

**A.** I am not getting you, sir. *See, I have problems with a person with a mustache, I'll be honest with you.*

**MR. RODRIGUEZ:** *He can't read the lips.*

**A.** *The upper lip.*

**Q.** Okay.

**A.** I'm sorry to say this.

**Q.** *I may not have time to shave, so let's try it again.*

**A.** I didn't mean to insult you, sir.

\* \* \*

**Q.** How much money did you receive under the will?

**A.** One hundred twenty-four thousand four hundred eighty dollars and no pennies. I know that.

**Q.** You've got it down to the dime.

**A.** You better believe I've got it down. . . I get beat out of money so often that, man, I'm real careful.

**Q.** Did your wife receive the same amount of money?

**A.** Yes sir, she gets a check, too.

**Q.** Are you controlling your money, or is she controlling it?

**A.** *It's in the bank, but don't you tell anyone.*

1. The attorneys were also affected by the "hearing problem." At one point, the witness said "They probably had knowledge that it was a county road"—and this exchange followed:  
 Q. Do you know what this knowledge was?  
 A. I'm sorry?  
 MR. NOBLE: I am going to object to

this question, because it calls for speculation about what other witnesses may or may not have known.  
 MR. AGUILAR: Wait a minute. You can get an answer to that. If he has any hearsay information about what they know, he can answer. It doesn't matter, it's still discoverable.  
 Q. All right. Let's go ahead and answer it.

MR. HARMAN: Are you *instructing* him not to answer it?  
 MR. NOBLE: No, I am not *obstructing* him not to answer it.  
 MR. HARMAN: Okay.

*Jerry Buchmeyer is a federal district judge, Northern District of Texas, in Dallas.*

## MAKING THE NEWS

### Who Decides What is Reported?

By Kelley Jones

So . . . your local bar association has done a really great public service project. It took a lot of planning. A high percentage of your members are participating. And you want some press. . .

Too bad the project is happening today and press coverage was only an afterthought. Somebody called the local paper but your project does not fit into any reporter's schedule. You are irritated. The public misses out. One more perfect opportunity to let your community know that lawyers are good people—gone.

What can you do to get the local media to cover your projects?

First, according to Tom Moran, Houston attorney and former *Houston Chronicle* reporter, remember that the media does not exist to give your organization, or any other, publicity.

"Papers are made up of advertising and news. If you give them news, they will publish it. It is even harder to get television and radio coverage where numerous stories are all competing for a limited amount of time."

Now you are faced with the question: "what is news?" Obviously different things are news on different days depending on what is happening in the world, how much advertising has been paid for, and who the audience is.

Moran, a member of the State Bar's Public Affairs Committee, advises that local bar associations use different strategies with different types of press. General press is that directed at the general public, specialized press (*Texas Lawyer*) focuses on one particular market, and

in-house press (*Texas Bar Journal*) is a communications tool for organizations, professions, or businesses.

Although you may think there is little rhyme or reason to what the press reports, Moran guarantees that editors, news directors, and reporters do have meetings to decide what will be included in each issue or news report.

He suggests that local bar associations establish a contact person at the various media outlets, probably a city editor at the local paper or news director at radio and television stations. Let them know about your project early.

"Be inventive," chides Moran. "Develop interesting stories—that is the only way you will get coverage."

Moran advises lawyers to remember that papers do have ethical standards. Reporters do try to get the facts and virtually always try to be fair. But, reporters also have a great amount of independence—if they say there is no news, then there is no news.

In seeking coverage, Moran warns lawyers not to run to the publisher insulting a reporter.

"You may get a story but you have

probably also made an enemy for life," said Moran.

Also, do not tell the reporter that the editor is your "friend." He urged that if a reporter ever does call you, return the call immediately and give short, concise, understandable answers.

"No legalese," he advises.

Moran also suggested that a good way to make contacts with the press is to make yourself available for technical information needed by reporters.

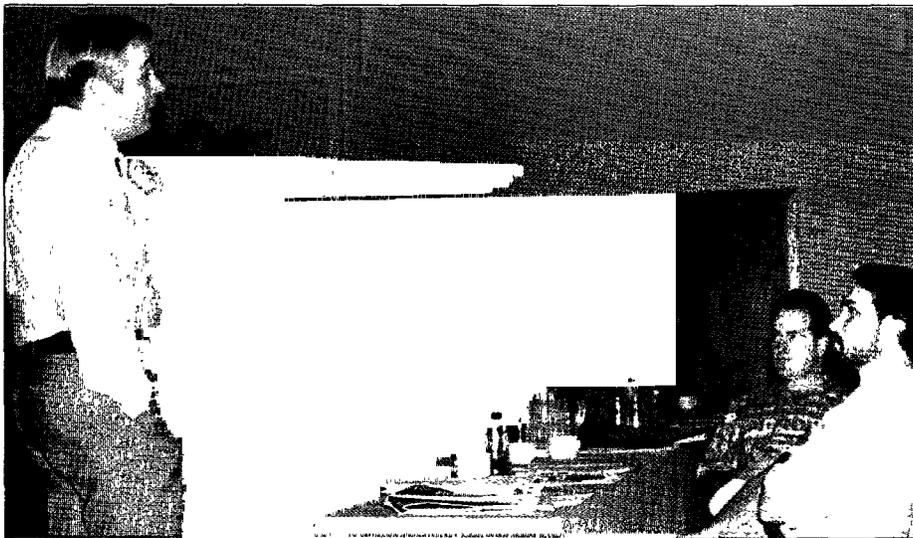
"Oftentimes reporters are generalists and need assistance in the technicalities of stories regarding legal issues," said Moran.

Most of all, Moran tells lawyers to remember that reporters are people and may make mistakes. He suggests that minor mistakes be overlooked. If there is a mistake that must be corrected, call and *nice*ly ask for a correction. Also, according to Moran, headlines are often written by someone other than the writer of the story. He suggests that losing your temper and angrily calling a reporter to complain can cause more harm than good in the long run.

If, by some stroke of bad luck, you are faced with a "bad" story that you wish could just disappear, Moran suggests you tell the media as much as you can as soon as you can.

"Get as much of the information out at one time as possible," he advises. "It will go away faster if it is all in the paper one time than if information slowly dribbles out."

Working with the press is a challenge. It can be fun. It is always nice to get good publicity. And who knows, maybe lawyers and the media can improve their reputations—at least with each other.



Tom Moran giving bar leaders tips on how to get media coverage.