

# Depositions v. Trials: Humor from the Judiciary

By Jerry Buchmeyer



Despite some rather forceful Statements To The Contrary—e.g., “Judicial Humor is a dreadful thing<sup>1</sup>—Judicial Humor is not an oxymoron. Just consider the following contributions, all from Texas judges, to the Deposition v. Trials saga.

## In Cameras & the Courtroom

From **District Judge Jack Carter** of Texarkana (5th Judicial District), this excerpt from testimony “in a custody case in which the respondent had certain notes with him on the witness stand”:

Q. Mr. Lair, the first question I would like to ask you is what you have in your possession up there?

A. All my notes when my daughter has been in custody with me and all that stuff that she’s lied to her daughter about.

Q. I would like all of that suppressed, Your Honor, as hearsay.

JUDGE CARTER:

He hasn’t offered anything yet. You’re the one that asked him about it.

MR. WILLIAMS:

I would ask at this time, Your Honor, that he not be allowed to rely on those things, they refer to a third party, and they’re not...

MR. KUSIN:

...he has a right to keep his own personal notes, Your Honor.

JUDGE CARTER (*wisely*):

Overruled.

MR. WILLIAMS:

Note our exception, Your Honor, and we would like the court to have an *in camera* observation of that.

WITNESS:

*There ain’t no camera up here and I ain’t got no pictures.*

JUDGE CARTER (*confidently*):

*That takes care of that.* They tell me they’re going to have to start having cameras in the courtroom too.

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## Maneuvering Over Miami

From **District Judge J. Manuel Banales** of Corpus Christi (105th Judicial District), this revealing (*sic*) excerpt from “A Videotaped Deposition [of the female bus driver that was] played to the jury during trial”:

Q. What sort of classes or training did you have on driving a bus? ...Did you have to go through a course to get certified to drive the bus?

A. Yes, sir.

Q. What were some of the things they said to you were important?

A. Well, most of all, there were—have good—public relations was one of them. *Also, how to moon (sic) over the bus, how to make your stops,*

how far you were supposed to park from the curb to the—

Q. All right. Now, on—

A. —steps.

Q. *You said something about moon over the bus?*

A. *Maneuvering.*

Q. *Maneuvering?*

A. You know, moving the bus.

Q. Okay. I see.

A. How to—how to—I mean how to make right turns and how to make left turns.

Q. I knew I didn’t hear you right.

A. Pardon?

Q. I said *I knew I didn’t hear you right. I knew it couldn’t be moon over the bus.* I’m sorry. I was laughing at myself...)

\* \* \*

## No Further Questions

From **Justice of the Peace Richard (Ric) Madrigal** of Austin (Precinct Four), testimony from the trial of a defendant charged with public intoxication. First, the critical portion of the “direct examination of the state’s chief witness,” an officer with the Texas Alcoholic Beverage Commission:

Prosecutor: Officer, can you tell us what led you to believe that the defendant was “under the influence of alcohol?”

Officer: Yes, *the defendant had a glazed and glassy look in her eye.*

According to Ric, the state rested after cross-examination of this witness—and then **Ned Granger**, “the defense attorney and a former county attorney of Travis County, called his client to the stand, asked her to identify herself, and shot off his first question:”

Granger: Mrs. Blank, *is there a medical disability you have that the court should know about?*

Defendant: *Yes, there is.*

Granger: What is it?

Defendant: *I have a glass eye!*<sup>2</sup>

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## The Corporate [Non-] Employee Benefits Plan

From **District Judge John McClellan Marshall** of Dallas (14th District Court), this title and the corresponding “exchange [during] cross-examination between the plaintiff and counsel for the defendants:”

Q. Is it true sir, that you had \$2,500 wire transferred to your bank in Palm Springs for the benefit of Babe Ruth Jones on January 15th, 1980?

A. It’s possible.

- Q. Who was Babe Ruth Jones?  
 A. A long time lady friend of mine.  
 Q. If payment was made to her that was certainly for your benefit, was it not?  
 A. It could have been for my benefit or her benefit. It was for the benefit of somebody.  
 Q. Was it for the benefit of the Adell Corporation?  
 A. No, sir.  
 Q. Or the benefit of Marvin Adell or Franklin Adell or USPDC?  
 A. No, sir.  
 Q. [But it was] all for what you directed to be done, was it not, sir?  
 A. Yes, sir. *I asked for some of my money, yes.*  
 Q. In 1980?  
 A. Yes, sir.

\* \* \*

### Some Don't, Others Shouldn't

From District Judge Michael Schattman of Fort Worth (348th Judicial District), an entry with this explanation: "This tete-a-tete occurred during the second week of a protracted jury trial by several insurance companies against a former agent for breach of contract and an accounting (*yawn*). The president of the 3 plaintiff insurance companies was on the stand and the agent's counsel, who had displayed a visceral style of cross-examination since the opening of the trial, began to circle his prey when the enclosed exchange took place."

#### CROSS-EXAMINATION (By DEFENSE COUNSEL)

- Q. Okay. You graduated from law school and then did you get in the insurance business when you got out?  
 A. No. I practiced law for about five years.  
 Q. So you were an attorney?  
 A. If an attorney is somebody who is currently practicing law, no. If an attorney is someone who got their degree and practiced law, I have.  
 Q. Mr. Smith, *nobody wants to admit they're an attorney, do they?*  
 A. *There are some I know who do, and there are some I know who shouldn't.* [Uproarious laughter by the jury]  
 Q. (Undaunted) Let me ask you this, sir. [Continuing laughter]  
 THE COURT: (Helpfully) *You want to keep going?* [Even more laughter]

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### Freudians & Slips

From District Judge George M. Thurmond of Del Rio (63rd Judicial District), a "Trifecta" which occurred during closing arguments in a civil "Negligent Entrustment" case—in which "a minor had taken his parents' car without their knowledge or permission," and was then "involved in a collision with the female plaintiff. Unfortunately, at least for the attorneys involved, the plaintiff was eight and-a-half

months pregnant when the case eventually came to trial, and this fact obviously had a Freudian effect on [the arguments] of all three attorneys:"

MR. JONES:<sup>3</sup> By leaving the keys on the counter in plain view, where he had easy access to both them and the car, these parents were essentially playing Russian Roulette, gambling that this sort of thing might happen. *This was just an accident waiting to happen; fortunately, it happened to our client.*

MR. SMITH:<sup>3</sup> Now, you've all observed the plaintiff as she's sat here throughout the trial, and as she testified from the witness stand. It's obvious she's in a great deal of pain and discomfort. That's only natural; *you'd be uncomfortable, too, if you were fixing to become pregnant.*

MR. DOE:<sup>3</sup> You'll have all these exhibits before you, and you can examine them at your leisure once you get up to the delivery room.

Judge Thurmond adds: "Curiously, not one of the three attorneys caught the others' faux pas. The quizzical expressions and subsequent guffaws from the jury room indicated the jurors, at least, had been paying attention."

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### Cow Thieves & Unreconcilable Differences

From District Judge James E. Morgan of Comanche (220th Judicial District), two marvelous(!) entries in our Never-Ending Saga—one in a criminal case, the other from a *pro se* divorce hearing. First, Judge Morgan's "recent arraignment of a cow thief:"

COURT: Have you got charges in other counties, Mr. Takats?

DEFENDANT: Yes, sir.

COURT: What other counties?

DEFENDANT: I have some...charge in Mason and I have done been through court on that one and I got time—and I got a charge in Hillsboro. I got one in Ellis County, one in Corsicana, that one in Hamilton, this one.

DISTRICT ATTORNEY: What about McLennan County, Waco?

DEFENDANT: Yeah, McLennan County.

Is there any more—

DISTRICT ATTORNEY: That's all I know.

COURT: *What did you get out of Mason?*

DEFENDANT: *I think it was nine calves and a cow—*

COURT: No. No. I'm sorry.

What did you get—

DEFENDANT: Out of Mason? Oh, ten years.

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Next, from a late-1990 *pro se* divorce heard by Judge James E. Morgan in Bosque County:

COURT: [Since there is not any

child of the marriage], the court is not required to appoint an attorney ad litem. You may proceed.

MR. HATFIELD: Okay. Well, as you know, I'm Gary Hatfield and I'm seeking a divorce from Debra Hatfield. I'm of legal age. I have lived in Bosque County all my life. . . . We were married August the 20th, 1989 and separated July the 2nd, 1990 and I—

She's got what she wanted, and left me the rest and that suited me. And I guess I need this divorce on—I think you call it *unreconcilable differences. She reconciled with somebody else.*

COURT: Huh. Well, I think I understand what you're talking about Mr. Hatfield. . . she no longer wanted to reconcile with you?

MR. HATFIELD: No. I think she lost interest in me.

COURT: All right.

MR. HATFIELD: *Win a few, lose a few.*

COURT: Do ya'll own . . . any real estate?

MR. HATFIELD: Didn't own anything. Bought her a few clothes and stuff like that, that was about it. She got them, believe me.

COURT: All right. I believe you. *I believe she's got everything she wants.*

MR. HATFIELD: *Yeah. She's hooked up.*

COURT: You haven't heard from her—

MR. HATFIELD: No. She's hooked up. She's off with this guy somewhere. . . . I've got an idea, I've been told she was in Bandera, but, you know, she will travel around now.

COURT: Yeah. All right. I'll grant the divorce on the no fault basis. No child, the property will be awarded to the party in possession of the same.

MR. HATFIELD: Okay. Thank you, sir.

1. Wm. Prosser, *The Judicial Humorist* (Little, Brown & Co. 1952), which begins with this quotation:

The judge's joke may spring upon the lawyer in the amenities of social intercourse, or it may leap from the bench in some momentary relaxation of austerity. It may be redolent of the age of the fossils, or bright as with the morning's dew, but whensoever or howsoever or wheresoever it comes, it never fails to reach its mark and to lay the lawyer low in convulsions and evoke from him his loudest laughter.

—Anonymous

2. Judge Ric Madrigal explained that, although "Justice Courts are not courts of record. . . [this] is a good description of what happened and [it] fairly paraphrases the questions and testimony (as best my memory will allow)." He adds that the "Glass Eye" testimony, "among other reasons, led to a finding of not guilty by the court."

3. Not their real names.