

*Depositions v. Trials:*

# Drinkin', Divorcin', and Dressin' from the Dryer

This month's contributions are from Austin (**Jack N. Price**); Dallas (**Jimmy Verner**); Jasper (**Sid Stover**); Floresville (**Eva-Lisa Dockery**); Fort Worth (**Edwin Stephens**); San Antonio (**Paul Campolo, Diane Kirstein, Ronald Schmidt**); Grand Prairie (**John Wright**); San Marcos (**Leon Breeden**); and Wichita Falls (**Bruce Martin**).

## Did I Really Hear That?

From **Sid S. Stover** of Jasper (Seale, Stover, etc.), this excerpt from a "workers' comp." deposition which demonstrates the "colorful new phrases" we can learn from depositions:

Q. What was your wife's name before you married?

A. Well, her *mating* name was ...

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From **Jack N. Price** of Austin, this excerpt from a deposition in a case pending in the 56th District Court in Galveston:

Q. When did you come back to Odessa?

A. The same day.

Q. The same day as the accident?

A. Yes.

Q. How did you get back here?

A. I flew from Houston to here.

Q. *Who flew you, did you fly a commercial airline?*

A. *No, Southwest.*

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From **Leon Breeden** of San Marcos, this excerpt from a hearing on a motion to dissolve a writ of sequestration on a registered quarter horse and other property:

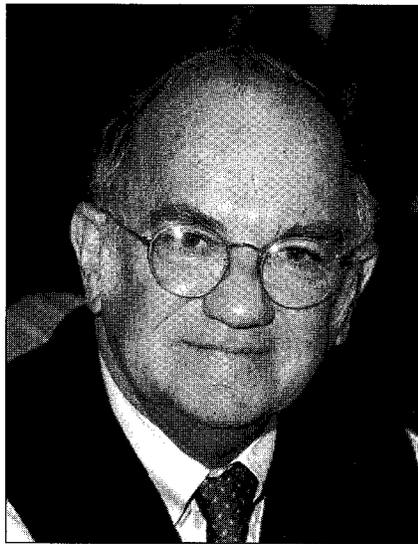
Q. Had Mr. Becker come to your property and asked to ... look at this property?

A. He came with the sheriff's department ... and they told me that I did not have to allow him if I did not want to.... And at that time he was advised by a law officer that it was not a criminal action, it was a civil one.

Mr. Breeden: I object to the hearsay and the non-responsiveness of the answer.

The Court: Sustained.

By Jerry Buchmeyer



A. [By the witness]: *It was not hearsay. You could hear every word that was said.*

## Where Do You Live?

From **Paul E. Campolo** of San Antonio (Maloney & Maloney), this excerpt from the deposition of his client, a defendant in a case that was later dismissed:

Q. Can you give me your address, please, your home address?

A. No, I can't.

Q. *Can't give me your home address?*

A. *No.*

Q. *Okay. Why is that?*

A. *I don't know it.*

Q. Okay. Do you live in San Antonio?

A. Yes. No. No. I don't live in San Antonio.

Q. What city do you live in?

A. I don't live in no city.

(At Paul's urging, his client then explained that he lived at *County Bend*, "right on the line between Boerne and Bexar counties" — but that "I haven't lived there that long, and that's why I don't know the address.")

## What Did You Do?

From **Diane Kirstein** of San Antonio (Diane is an appellate lawyer for the U.S.

Attorney's Office), this excerpt from the cross-examination of a canine enforcement officer in a criminal trial:

A. I am a canine enforcement officer with U.S. Customs. I handle a narcotics detector dog. I live here in El Paso.

Q. Did you see [the defendant] do anything else with respect to your inspection?

A. No, I didn't, because I was mainly, my main point of interest was my canine, my dog ... [and] I did what I do every time my dog gets an alert.

Q. What did you do?

A. Without letting the subject know what is going on, you know ...

Q. I am just asking what you did ...

The Court: What did you do? What did you do?

A. I looked at the inspector while also paying attention to my dog and I said —

Q. You said what?

A. *I said take him in, but I didn't say it verbally.<sup>1</sup> I just said take him in.*

## Doing Voir Dire

From **John Wright** of Grand Prairie, this *voir dire* tale from one of his first trials, in the late 1950s, in which John represented the plaintiff in a justice of the peace court in Grand Prairie. John's client told him to "move as quickly as possible because he had a plane to catch" — so John just told the judge that the first six panel members looked fine and he "would take them as jurors." The defendant's attorney ("an older gentleman from the, then, far away community of Garland") was suspicious, so he began a "seemingly endless voir dire" until:

Q. Mr. Jones, do you know Mr. Wright, the other lawyer here?

A. No.

Q. Well, do you know Mr. Wright's client, [the plaintiff]?

A. No.

Q. Do you know my client from Garland, Mr. Sawyer, who operates a lawn mower repair service there?

A. Yes, sir.

Q. Well, I'm sure you know him to be an upstanding member of his community, don't you?

A. No, I know him to be a d\_ \_ \_ crook! I took my lawn mower down there to him and he charged me \$37.50 and the thing never has run a lick.

The Defendant (leaping to his feet): Well, I told you the d\_ \_ \_ thing was worn out when you brought it in.

The Court: (Rap) (Rap) Let's move along, counsel.

## What's Happening In Juvenile Court?

From **Edwin G. Stephens**, CSR, of Fort Worth (Edwin is the court reporter for the juvenile court, 323rd district), these two trial excerpts:

First, from the testimony of a police officer concerning his interview of a Vietnamese man who had been assaulted:

Q. Did you have any trouble understanding the man?

A. No, I thought he spoke *right well* English.

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Second, from the testimony of a juvenile witness:

Q. Did he ever, according to your testimony, kiss you?

A. Yes.

Q. And you stated it was French kissing?

A. Yes.

Q. How do you know what that term means, French kissing? How do you know about that?

A. *Because I come from a French background and I studied lots of French and know just what that French stuff is.*

## Just Tell the Truth, Comrade!

From **Bruce A. Martin** of Wichita Falls, this excerpt from the deposition of his client, the wife in a divorce case. Bruce explained, "My client claimed her husband had stolen \$20,000 from a bank account and the husband was claiming she was crazy."

Q. Okay. Have you ever been in any other hospitals for a mental condition?

A. No. This happened in El Paso.

Q. Okay. So that's the only time you've been seen by a psychiatrist, or sociologist, or psychologist, sociologist, *socialist*, or anyone in that field?

Mr. Martin: *Any socialists or communists?*

Q. *Yeah, that, too.* (Laughter.)

## I Don't Think

From **Eva-Lisa Dockery** of Floresville (a legal assistant with Donaho & Dockery), these "It's a Keeper" excerpts from the most hysterical deposition of the many she has reviewed in the past nine years:

Q. How far did you go in school?

A. Well, I had Polish school. I don't know nothing ...

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Q. Did you always expect your wife to do what you told her to do?

A. Well, you know, she was a pretty good girl.

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Q. Have you ever seen that document before?

A. I don't think.

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Q. Do you drive in San Antonio?

A. Sure. I got a car and pickup ...

Q. You do drive in San Antonio?

A. No ... too much traffic.

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Q. Do you know who Mr. \_\_\_\_\_ is?

A. I don't think.<sup>2</sup>

## Just Feeling Normal

From **Ronald S. Schmidt** of San Antonio (Schmidt & Davis), this excerpt from the deposition of a plaintiff who was claiming that a real estate deed was forged. Ronald explained that the plaintiff's answers were confusing — some documents he admitted signing, but he denied others — so Ronald began questioning the plaintiff (*who had been in prison on drug charges*) about whether he actually remembered "the incidents surrounding the signing of the questioned documents":

Q. What kind of drug (or controlled substance) had you used?

A. At the time I was using heroin.<sup>3</sup>

Q. How often?

A. When I had any extra bucks.

Q. So, from time to time during 1987, in June of 1987, you were — when you used the heroin,<sup>3</sup> it affected you, didn't it?

A. Yes, sir.

Q. And it could affect your memory, couldn't it?

A. In so many ways, yes, sir.

Q. It affected the way you felt about things?

A. Yes, sir.

Q. Did it affect your mood?

A. No, not really, sir.

Q. But would you consume enough of it to where you would admit that from time to time during that period you were high because of heroin<sup>3</sup> use?

A. *Just feeling normal, just like I am right now.* It just made me feel a little

bit more active. That's about it.

In other words, as Ronald noted, "*the witness basically... felt as good during cross-examination as he did when he consumed heroin.*"

## Drinkin', Divorcin', and Dressin' from the Dryer

From **Jimmy L. Verner, Jr.** of Dallas (Koons, Fuller & Vanden Eykel), these excerpts from his deposition of the wife in a divorce case — where Jimmy is doing his best to "try to root out all the fault in the break-up of the marriage."

Q. Could you please tell me what he's done to ruin your marriage?

A. Okay. He was drinking heavily. I felt like that since this is his third marriage that he has some emotional problems with stability and commitment. And I felt like his mother has blackmailed him. She has taken him out of her will until he divorces me.

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Q. When you say he's emotionally unstable, *can you give me an example of his emotional instability?*

A. *Him wanting a divorce from me.*

Q. Any other examples of being emotionally unstable?

A. *Him divorcing his first wife. I met her, and she's a lovely lady.*

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Q. Any other examples of emotional instability?

A. *He didn't like for me to fold his underwear and put it in the drawer. I would — when I'd do the laundry, he just wanted to get dressed out of the dryer. And he would — I'd fold his clothes and put it —*

Q. In your mind, that shows emotional instability?

A. That he would criticize me for folding it and putting it in the chest.

Q. Any other examples of emotional instability?

A. No.

1. **Diane Kirstein** added: "This canine enforcement officer obviously must have gotten his training from the Dr. Doolittle School of Dog Training — he could 'talk to the animals.'"

2. **Eva-Lisa Dockery's** deposition excerpts end with this mystical answer:

Q. Tell me [to] the best of your understanding what you took from your wife's estate at the time of her death.

A. *Yes, I sent head because she was buried.*

3. The word "heroine" was used throughout this deposition transcript instead of "heroin" — leaving us to wonder if the plaintiff had served a prison term for possessing or distributing female heroes.