

*Depositions v. Trials:*

# Nothing Down and Nothing a Month

By Jerry Buchmeyer

This month “Around-the-State” contributions come from Angleton (**Callan Billingsley**), Austin (**Judge Pete Lowry**), Coldspring (**Edward Ross**), Dallas (**Ron Goranson**), Dumas (**Rayford Ratliff**), El Paso (**Judge Kitty Schild**), Houston (**Tom Moran**), San Antonio (**Tom Sharpe**), and Wichita Falls (**Judge Tom Bacus**).

## Did I Really Ask That?

**Edward Ross** of Coldspring thinks he “recently topped” the Industrial Strength Stupid Question — “And was he alive when he was doing this?” — in his last probate hearing:

Mr. Ross: (handing the will to the witness)  
So far as you know, *did she make any other will after the date of her death?*

## Doing Voir Dire

From **Tom Moran** of Houston (Schneider & McKinney), this excerpt from a voir dire in a criminal trial before **District Judge Denise Collins** (208th District Court).

Judge Collins: Now, does anyone know me? I had somebody on the panel one day who worked out with me and *I didn't recognize him with clothes on*, so we had that interchange. If you know me, please raise your hand.

Let me introduce the other parties here. The State of Texas is represented by Margaret Harris and by Mr. Tommy LaFon. Does anybody know these folks?

*There was another state prosecutor on the last jury panel who didn't raise his hand because he said he really didn't see them that often. Give me a break. If you know them, let us know.*

## The Criminal Stuff

From **Ron Goranson** of Dallas (Milner, Goranson, etc.), this trial excerpt from the cross-examination of an IRS undercover agent by Dallas lawyer **G. Thomas Rhodus**.



Q. Now, will you agree with me that there are certainly areas where the tax laws are complex?

A. Certainly.

Q. Okay. And technical?

A. Certainly.

Q. Okay. Would you agree with me that there are areas where the tax laws don't necessarily comport with what a person's common sense might tell him?

A. *Congress wrote the tax laws.*

The Court: Ours is not to reason why.

Mr. Rhodus: Very good. Thank you. But — let's not send this transcript to Washington. Okay?

## The Civil Stuff

From **District Judge Pete Lowry** of Austin (261st District Court), these excerpts from a recent jury trial in his court, where the plaintiff is being asked about any problems she had before the car wreck:

Q. Okay, and *you were pregnant, were you not, with Lexie for a period of time prior to her birth in May?*

A. Yes.

Q. *And how long was that, when did that start the nine months? I don't know when —*

A. I wish they could grow them someplace else. Nine months — September.

Q. Okay.... Did you have any headaches or any shoulder or back pain while you were pregnant?

A. Headaches, no, sir, I did not.

Q. *At the time of birth was there — I guess you had pain all the way around down here?*

A. Labor pain, yeah.

Q. Yeah. Okay. But in terms of actual, documented back pain or any other kind of back pain, or shoulder pain, or headaches, did you have any of that while you were pregnant with Lexie?

A. No, sir.

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From **Callan M. Billingsley** of Angleton, this excerpt is from the bank president's deposition in a suit seeking a deficiency judgment for the balance due on the promissory note following foreclosure. **Gary L. McConnell** represented the bank and **George T. Wommack** was the defendant's attorney.

Q. (By Mr. Wommack) and who was the trustee, under the deed of trust, at the foreclosure sale? Well, let me ask you, who said “*hear ye, hear ye, we're going to hold a sale?*”? Who held the sale?

Mr. McConnell: Nobody said that. Nobody said “*hear ye, hear ye.*” They said “*O yea, O yea, O yea.*”

Callan adds: Knowing these two lawyers, I'm surprised that they did not thereafter refer to the trustee's deed as a “*feoffment*” and the property described therein as a “*corporeal hereditament*”!

## The Sex Stuff<sup>1</sup>

From **Rayford A. Ratliff** of Dumas, this excerpt from a county court at law proceeding, where the *pro se* respondent-mother is “cross-examining a female TDPHS worker about the current placement of her child outside the home”:

Q. How do you know what Shariette needs more than what I know she needs or

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what I know will hurt her? ... Aren't you also going with personal feelings toward me to decide?

- A. No, I'm not.
- Q. I believe, Molly, if I remember right, when we were in court last, the Honorable Judge McGee said to me and you to settle our differences ... has there been an effort? Has there been an effort?
- A. Has there been an effort?
- Q. For you and I to settle our differences?
- A. What do you mean?
- Q. *Have I been erotic towards you or volatile towards you in the past or have you seen a change — please do not laugh.*

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From **Judge Kitty Schild** of El Paso (County Court at Law No. 4), this excerpt from one of her criminal trials. The defendant, "who was charged with prostitution for soliciting an undercover police woman," first claimed "that he thought she was a damsel in distress" — but then decided "she was probably a frustrated housewife out looking for a good time." His defense was entrapment.

Q. Wouldn't you say, then, you were a pretty lucky guy. Here's this beautiful, frustrated housewife and you just happen along and she just asks you for a date.

- A. Lightning strikes occasionally.
- Q. It sure does, doesn't it? All right. Now, you said you wanted "straight sex." Where did you pick up on that term?
- A. *As to — as opposed to —*
- Q. "Let's make love."
- A. On a first-time deal like that, I don't think "making love" would be the appropriate term.
- Q. But "straight sex" is the appropriate term?
- A. Probably.

### Timmy the Dog And Pass-Out Donnie

From **Judge Tom Bacus** of Wichita Falls (County Court at Law No. 2), these "weak cases and other mistakes" excerpts from the deposition of the plaintiff's eyewitness in an accident case:

Q. Do you know who was working at Rincon Liquor that day?

- A. Bill. I know Bill pretty good, too.
- Q. Do you know Bill's last name?
- A. Bill Ware, I believe.
- Q. Does he own that liquor store?
- A. Yes, ma'am. Him and his wife both work there, and he has a dog named Timmy.
- Q. What's his wife's name?
- A. I really couldn't tell you. Like I said, I'm ...
- Q. Better friends with the dog?
- A. Yeah [laughter].

\*\*\*

- Q. How old is Donnie Medallion?
- A. Forty-one.
- Q. And how long have you known him?
- A. Probably eight, nine years. I have known him —
- Q. How did you meet him?
- A. Well, I met him in a bar. *We used to call him Pass-out Donnie.*
- Q. Did he have a problem where he would drink until the point that he would generally pass out?
- A. Well, he would always pass out with a long neck in his hand. It would be because he would be so tired. He wouldn't really be drunk, but he would just drink and he would just be there and shut one eye. He's a character.

### The Payment Plan

From **Thomas G. Sharpe, Jr.** of San Antonio (Wheatley & Sharpe), this excerpt from his deposition of a defendant regarding the collection of a judgment for Tom's client:

- Q. First of all, what I'm asking, sir, is what are you going to do to pay this judgment?
- A. Well, you said you had a payment plan and I said I would pay you half when I die and the other half when I come back or, if you have another plan — do you have a plan where I can pay nothing down or nothing a month?
- Q. Neither one of those would be satisfactory to settle the judgment.

1. Verbal typos collected by **Richard Lederer** in *More Anguished English* (Delacorte Press 1993): The men were arrested for "Mister Meeners" ... He died of a "harder tack" ... My grandfather has "Old Timers Disease" ... She's a real "pre-Madonna."

## et cetera

If you would like to submit a contribution to this column, write Judge Buchmeyer at 15-E-6 Earle Cabell Federal Building, 1100 Commerce St., Dallas 75242.