

*Depositions v. Trials:*

## A Letter from Hulda Knipling Sellingsloh

The contributors this month are from Beaumont (**Ernest Boyd**), Dallas (**Ronald Gray**), Fort Worth (**Jim Loveless**), Houston (**Leslie Pickett**), Lovington, NM (**Barry Crutchfield**), Lubbock (**Ralph Brock**), New Braunfels (**Jonathan Hull**),<sup>1</sup> San Angelo (**Cindy Rister Saunders**, **Theodore Hargrove**), Tyler (**John Brumbelow**) — and, of course, from Crowley (**Hulda Knipling Sellingsloh**).

## Why Writing this Column Is So Much Fun

I think you'll understand ... from this marvelous (!! ) letter dated May 2, from **Hulda Knipling Sellingsloh** (who has been a member of the Texas Bar for some 54 years):

Dear Mr. Buchmeyer:

I have enjoyed your section of the *Texas Bar Journal* so very much, and I am enclosing a copy of excerpts of letters written to the county judge of Tarrant County about the time of the Depression.

I am a member of the Texas Bar (1940) and was living in New York when my sister, Clara Knipling, was a teacher in New Braunfels. She sent me a copy (I have the worn yellow original she sent) about that time — (I am now 81-plus). I have enjoyed reading them over from time to time as I come across them when going through my mementos.

Perhaps you may consider the statements amusing and use them in your column. My best wishes and thank you for making me laugh now and then —

Sincerely,

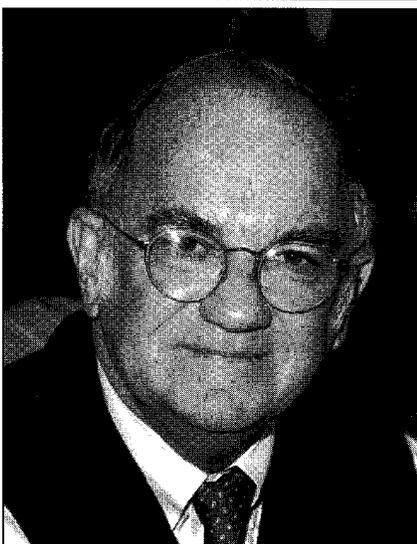
Hulda Knipling Sellingsloh

P.S. Oh yes, and *strange* as it may seem, I am — more than 50 years later — now living in a retirement village in *Tarrant County, Texas*.

Enclosed in Hulda's letter was a single sheet entitled, "Actual Excerpts from Letters from Relief Clients Received from Dave Miller, County Judge, Tarrant County, Texas." And, these are my favorites from *Hulda's Excerpts*:

- My husband has worked about in shifts for two months and now he has left me, and I ain't had no relief since he has

By Jerry Buchmeyer



gone nor before neither.

- Both sides of my parents is very poor and I can't expect anything from them as my mother has been in bed one year with the same doctor and she won't take another.
- Do I get more than I am getting?
- I have already wrote to the president and if I don't hear from him, I will write Uncle Sam about both of you.
- This is my eighth child. What are you going to do about it?
- I am glad to say that my husband who has been missing is now deceased.
- Sir, I am forwarding my marriage certificate and two children. One of them is a mistake.
- Please find out for certain if my husband is dead as the man I am now living with can't eat or do anything until he knows for certain.
- I am very annoyed to find that you have branded my oldest child as illiterate. It is a dirty shame and a lie, as I married his father a week before he was born.
- You have changed my little girl to a boy. Will this make any difference?
- I have had no relief since my husband's project has been cut off.
- In accordance with your instructions, I have given birth to a boy that weighed 10 pounds in the enclosed envelope.
- In answer to your letter, I have given

birth to twins. I hope this is satisfactory.

Thanks, Hulda, for brightening my day. And, for those who might like to write Hulda a note, send it c/o *Texas Bar Journal*, P.O. Box 12487, Austin 78711.

## Catch 22

From **Ronald D. Gray** of Dallas (Geary, Porter & West), this excerpt from the deposition of a purported "record custodian" of a supposedly lost promissory note that had allegedly been assigned to the plaintiff by the witness' employer. This is during cross-examination:

Q. What documents are you custodian of?

A. The notes. Well, we keep other things in the vault. But my job is strictly being the custodian of the notes.

Q. The notes themselves?

A. Uh, huh.

Q. *In this particular case the note, as far as you know, has been lost?*

A. Right.

Q. *So you're not the custodian of that particular note because that note doesn't exist?*

A. Right.

## Classic Typos

By popular demand (more or less), more classic typographical errors:

1) From a full-page ad by a personal injury/products liability, etc. law firm in the Albuquerque, NM yellow pages:

INSURED? We Can Help You. PROVEN RESULTS! 24 Hr. Service. Free Consultation. No Fee Until Successful (Costs May Be Additional). REPRESENTING THE SERIOUSLY INSURED.

2) From a typed letter written on behalf of a bank fraud defendant that I was sentencing: "Dear JUDGE Buchmeyer, Nancy and I have known [the defendant] all of our lives. He is a flean cut, very smart young man...."

3) From a handwritten letter from a prisoner held for trial in McAlester, OK who wanted to get back in federal court so I could sentence him on both cases: "I've been advised I have a right to a speedy hearing on the matter before your court and by this letter I am asking to *exorcise* that right...."

4) From a Return of Summons filed in district court in Lea County, NY: The private process service checked the blank on the official state form which certified that he posted “a copy of the summons and complaint in the most *pubic* part of the premises of defendant.”

This month’s Classic Typos courtesy of 1) **Ralph H. Brock** of Lubbock (who received the ad from his brother who lives in Albuquerque; 2) me; 3) me, too; and 4) **C. Barry Crutchfield** of Lovington, NM (Templeman & Crutchfield).

## Pleading Guilty

From San Angelo, this joint submission by Court Reporter **Cindy Rister Saunders** (340th District Court) and **Theodore A. Hargrove**, this guilty plea before **District Judge Royal Hart** (340th District Court, Tom Green County) — with the explanation that Judge Hart, who knew that the defendant had been found incompetent by a jury in an earlier case before him, was being *particularly careful* in choosing his words during the plea.

Court: All right, have you been satisfied with your court-appointed attorney?

Defendant: Most certainly, sir.

Court: Now is the only time you will have an opportunity to complain; be too late if you don’t complain today.

Defendant: No, *I did that yesterday, your Honor.*

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Court: What type of work do you do?

Defendant: I’ve got a Master’s in Accounting and this time of year I do a lot of tax work.

Court: You do tax work for the public, you mean?

Defendant: Yes sir, *I do, but it drives me crazy.*

Court: Well, that’s normal.

\*\*\*

Court: There is just an order that you start reporting to the probation department and if you fulfill that, then it will be dismissed.

Defendant: *Praise the Lord.*

## How Boring Was It?

From **John R. Brumbelow** of Tyler, this excerpt from a very lengthy trial before **Judge Sam Bournias** (87th District Court, Anderson County). John explains that one of the jurors became ill with heart problems on the fourth or fifth day of trial; that Judge Bournias, *sua sponte*, excused the juror; and that he then

gave the attorneys a lengthy explanation of the events which led to the dismissal of the juror. No one objected, but then this colloquy took place:

Court: ...So, we’ve got 11 jurors, now.

Mr. Hankins: Judge, did she say who brought on the symptoms?

Court: I think that you were boring her to death.

Mr. Hankins: How’s your heart?

## Did He/She Really Ask That?

From **Jim Loveless** of Fort Worth, this excerpt from the deposition of his expert in a divorce case; **Jerry Loftin** is the deposing attorney.

A. The guy I know is Rossi. He’s an Italian. He’s lived his whole life in Lancaster, PA. Worked for me at the printing plant.

Q. *Do you know a gentleman named Jack Miller?*

A. *That’s me.*

Q. I’m sorry. That’s a good thing. I’m wide awake, today. Boy. My mind is really — let me turn my ears back on, click. I’m sorry.

## Did He/She Really Ask/Say That?

From **Leslie D. Pickett** of Houston (Dunn, Kacal, etc.), this marvelous “two-fer”) — the first, “Did He/She Really Say That?” and the second, “Did He/She Really Ask That?” — which took place within 13 pages of a single deposition in an asbestosis case. The first occurred when Leslie was examining the plaintiff, “an elderly, sickly gentleman who needed the assistance of his lady friend, Mrs. Bryant) about certain matters in the deposition.”

Q. Who is your family doctor?

A. You mean, now?

Q. Yes, sir.

A. Yeah. It’s — what is his name?

Mrs. Bryant: Dr. Samuel.

A. Samuel. Dr. Samuel.

Q. (By Mr. Pickett) Do you know what his first name is?

A. No. Let me see. I may have a card of his here. No, I don’t. No, I don’t know what his first name is ... (still looking) ... Yeah. No. This ain’t him. *This is the one that’s beating on me now.*

Q. You see another doctor presently?

A. Oh, yeah ... I’m seeing a lady doctor over here.

Q. Okay. That’s the lady doctor that’s beating on you?

A. You know what I mean? You know what I’m talking about, beating?

Q. (wisely) Yeah. I know what you mean.

A. My doctor. She is a medical doctor. What’s her name, that doctor? Wait a

minute. I’ve got it here.

Mrs. Bryant: *Dr. Meaney.*

Mr. Pickett: *Dr. Meaney is the one that’s beating on him?*

Mrs. Bryant: *Dr. Meaney.* That’s who it is, hon’.

A. Well, I’m going to let him look at this card.

Q. (By Mr. Pickett) Let’s look at the card and see if we can spell the name.... It’s Dr. Joan Meaney, M-e-a-n-e-y.

A. There you go!

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Then, another defense attorney — who may have subconsciously strived to match Leslie’s, “So, Dr. Meaney was beating you?” — takes over the examination of the elderly plaintiff, and begins to explore the health problems (if any, of course) experienced by other family members.

Q. What was [your uncle’s] name?

A. Henry Kirkwood.

Q. Did he live here in Lufkin?

A. No — yeah, in Lufkin. In Huntington.

Q. What did your uncle do for a living?

A. Farmed.

Q. Did he ever smoke when you were growing up?

A. Not as I know of.

Q. *Did he ever tell you what your parents might have died from?*

A. *Pneumonia and childbirth.*

Q. *Which one of them died from pneumonia?*

A. Must have been the daddy, you know, and then the mother. Daddy didn’t die from childbirth.

Q. Well ... Sorry about that one. [Hopefully] Take that one out of there.

Addendum: **Ernest W. Boyd** of Beaumont (Mehaffy & Weber), one of the seven attorneys present at this deposition, also sent me the “pneumonia and childbirth” excerpt — explaining that, “Although it is not in the record, immediately after [the other defense attorney] asked The Question, *Les Pickett stated that it was going to Judge Buchmeyer.* In any event, I am forwarding it in case no one else does.”

1. **Jonathan H. Hull** of New Braunfels (Reagan, Burrus, etc.) — who obviously Does Not Have Enough To Do — was the first to point out the “somewhat unique situation” discussed in my introduction to Long Crawford’s contribution in the July 1994 “et cetera”:

In the excerpt it states, “the first is from *voir dire* in a murder trial of a juror who was rather large and had on a tent dress that made her appear pregnant.” I was under the impression that those under felony indictment were not qualified to serve as jurors, particularly in their own cases. Possibly I am just unfamiliar with the local rules in McLennan County. Please advise.