

Depositions v. Trials:

Do You Know Joy Lafferty?

For this month's contributions, kudos go to Beaumont (**Louis M. Scofield, Jr.**), Corpus Christi (**Doug Gwyther**), Dallas (**Al Ellis, Randall Sandifer**), Houston (**Joseph Rollins**), McAllen (**Charles Hury**), Paris (**M.C. Superville**), Plainview (**Mark Laney**), Texarkana (**Debbie Brower**), and Fremont, Mich. (**John O. MacAyeal**).

Did He Really Say That?

From **Louis M. Scofield, Jr.** of Beaumont, this excerpt from a December 1994 docket call in Newton County before District Judge Joe Bob Golden:

Judge Golden: Next is Cause No. 9893, *J. Blake William v. Sherlock Holmes*. (After waiting an appropriate time for a response from the attorneys in the courtroom and hearing none —)

Judge Golden: No request. *I wonder if they got service on him?*

From **John O. MacAyeal** of Fremont, Mich., this excerpt from the wife's testimony in a Newaygo County, Mich. divorce case:

Q. Do you think that's unfair, you asking him for those things?

A. No, I don't. I've gave him the list of the personal things he's wanted. He can have them. I agreed to that, except for one thing. *He wants to go through the dresser drawers*, and I don't see any reason why he should have to go through drawers that I have my personal clothing in and that sort of thing. That's not necessary. I don't go through his.

Q. *You don't want him in your drawers, huh?*

A. No.

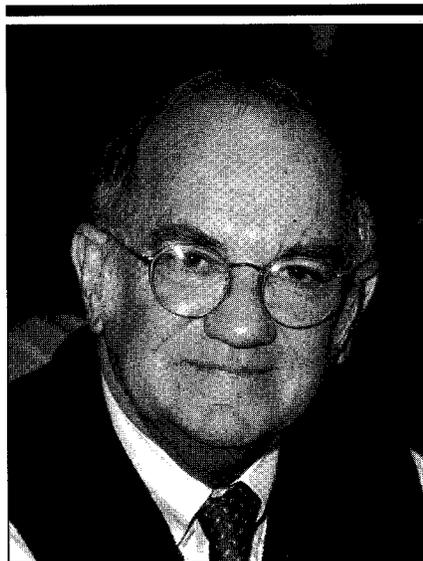
Q. *I couldn't resist.*

A. Hasn't been for 12 years, so I'm not going to start now.

Crash Test Dummies

From **T. Randall Sandifer** of Dallas (Law Offices of R. Jack Ayres, Jr.), this excerpt from the trial of a products liability case involving "a defective seat belt which injured a 14-year-old boy." The plaintiffs'

By Jerry Buchmeyer



expert has testified that a crash test video using an adult male dummy did not affect his opinions "because of the size differences between the adult male dummy" and the young plaintiff.

Q. Well, doctor, we could do that, could we not? And we could actually run a test using the crash pulse in this accident with maybe something closer like a fifth percentile dummy. Would you agree that would be closer, a fifth percentile female dummy?

A. Why female? The boy is a male.

Q. Because they don't have a fifth percentile male dummy. Do you understand that?

A. I guess I really don't.

Q. Do you know what a fifth percentile female is? Do you know what that means?

A. *I've never been closely associated with a fifth percentile female.*

A Slight Problem of Translation

From **Charles W. Hury** of McAllen (Atlas & Hall), this excerpt from a products liability trial in Cameron County which involved a German automobile. Charles explained: "One of the main defense witnesses was a German engineer [who] was called adverse by the plaintiff's lawyer early in the case. After each question was asked, the engineer would pause for a

moment before responding," and this went on for a while until:

The Court: Sir, are you having trouble translating the questions from English into German back into English?

The Witness: No, your Honor, *I'm having trouble translating the questions from lawyer into engineer back into lawyer.*

What We Have Here Is a Failure to Communicate

From **Mark W. Laney** of Plainview (Laney & Stokes), this excerpt from a deposition in a dog bite case, being taken by his partner, Steve Stokes.

Q. What was his name?

A. Wes Harris.

Q. Is he a local man, Wes Harris?

A. How do you mean "loco"?

Q. Plainview.

A. Oh, no. I thought you meant mentally. No. I'm sorry. No, no, he lives in Lubbock now. He was at the time local, yes.

Q. *You thought I said "loco" and not "local"?*

A. Yes, I'm sorry. I was —

Witness's husband: *She was thinking, "how did you know?"*

Did They Really Ask That?

From **Doug Gwyther** of Corpus Christi (Doug is a legal assistant with Perry & Haas), these "unartful questions" asked by one of the "young and extremely talented partners" at Perry & Haas.

Q. Do y'all have any corners that you can't see around?

A. Yes.

And, following this preliminary question, the attorney tries to explain to "a rather unsophisticated" witness just how "pictures can often be produced in such a way that they tell only part of the visual story the picture-taker chooses to tell."

Q. Would you agree that with a camera, you can select the photograph that you want, by choosing which way you choose to focus it towards?

A. I'd agree with that.

Be Very Careful with Experts

From **Joseph G. Rollins** of Houston, this excerpt from the cross-examination of

a medical expert witness in a workers' compensation trial.

Q. Dr. Brown, you say the plaintiff has pain in his back, radiating down into his leg. How do you know that?

A. He told me.

Q. Dr. Brown, do you have an X-ray of that pain?

A. No, sir.

Q. Dr. Brown, isn't it a fact that *you are depending upon what your patient told you* as the basis for your conclusion that he is suffering from pain?

A. *That, sir, is the difference between a physician and a veterinarian.*

From **M.C. Superville, Jr.** of Paris (M.C. is an assistant county attorney of Lamar County), this excerpt from the testimony of a psychiatrist in a temporary commitment trial.

Q. Dr. Garcia, there are a lot of people with mental problems in Terrell State Hospital, aren't there?

A. Well, there's 332 mentally ill people in the hospital right now, thereabouts.

Q. *Virtually all of them have mental problems; am I correct?*

A. *All the patients do.*

Q. Right.

From the Guinness Book Of World Records

From **Al Ellis** of Dallas, this excerpt from one of his recent depositions:

Q. Before March of '88 were you in the law firm?

A. No. I take that back. *For two years while I was pregnant with my daughter, I had various positions, like a substitute teacher....*

A Twinkle in His Eye

From **Debbie H. Brower** of Texarkana (DHB Reporting & Paralegal Service), this excerpt from a deposition she reported in a Louisiana workers' compensation case. The plaintiff is being asked if she knows the persons named in a lengthy list of witnesses provided in answers to interrogatories.

Q. Do you know a Joy Lafferty? Who is Joy Lafferty?

A. She's a lady.

Q. Okay. I mean, how do you know her? What's the relation to any of the people that —

A. Grewed [sic] up with her.

Q. What now?

A. *Grewed up* with her, went to school with her.

Q. (Long pause.) Is she related to Randy and Sherrie in any way?

A. No.

(Very long pause while attorney makes box around what is written on his notepad.)

Q. Okay. I've got to make sure I got the answer to that last question right, *you told me that you grew dope with Joy Lafferty?*

A. No.

Q. What did you say?

Plaintiff's Attorney: *Grew up.*

Q. *Grew up.* No wonder I was —

Plaintiff's Attorney: Did you get that right?

Court Reporter: I got it right.

Q. Okay, goodness, *Grew up* and went to school with Joy Lafferty. I had *grewed* [sic] *dope*. Alright.

Plaintiff's Attorney: I thought you had a twinkle in your eye. The DEA has offices right next door.

Jerry Buchmeyer is the chief judge, U.S. District Court, Northern District of Texas. 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.

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