

# Depositions v. Trials: The Hookers on Easy Street

This month's contributors are from Austin (**John H. Spurgin, II, Scott Ozmun**), Corpus Christi (**Phillip A. McKinney**), Dallas (**John and Susan Albach, Beverly Hays, Thomas B. Hamilton**), El Paso (**John Arthur Needham**), Fort Worth (**Michael Logan Ware**), Houston (**D. Joe Albright, Aizar Karam, Jr.**), Midland (**Joe and Ann Hathaway**), Sherman (**Cynthia L. Stagner**), and Temple (**Jim D. Bowmer**) ... and from San Francisco (my former Senior Law Clerk, **Jasmin Patel**).

### Did They Really Say That?

From one of my ex-law clerks, **Jasmin Patel** of San Francisco (Severson & Werson), this excerpt from a deposition taken by a partner in Jasmin's firm:

- Q. Were there certain files that you perused for documents in response to this document request?
- A. Yes, I brought whatever I had.
- Q. Could I see them?
- A. Right here. I'm not very tidy. I hope that doesn't upset you.
- Q. *I am married with children. I can deal with that.*

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From **Scott Ozmun** of Austin (Whitehurst, Harkness, etc.) this excerpt from a breast implant deposition:

- Q. I ask this question of everybody. Have you ever been convicted or arrested for anything?
- A. *Not yet.*
- Q. If I ask too many more questions you might get arrested. Okay.
- A. I didn't mean it like that. Then I'd need another lawyer.

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From **Joe and Ann Hathaway** of Midland (who proofread depositions for **Patricia Reid**, court reporter, CSR), this deposition excerpt:

- Q. How long were you the manager of this place in Longview?
- A. One week.
- Q. What happened after that? Where did you go?
- A. *I quit my job and went nowhere and stayed there ever since.*

From **Phillip A. McKinney** of Corpus Christi (Porter, Rogers, etc.) and Court Reporter **Katrina Gentry** of San Patricio County (343rd District Court), these two excerpts from a recent trial:

- Q. Who were you living with?
- A. My parents.
- Q. Did you have any siblings living with you at the time?
- A. Just my brothers and sisters.

\*\*\*

Q. Doctor, can you please describe for the jury if there's any relationship whatsoever between the sinus problems you were describing and the headaches in the upper part of the head?

- A. There could be.... It was the maxillary sinus so — I feel that his headaches were caused by his trauma on the top part of his head.
- Q. Can you describe for the jury, please, what you mean by maxillary?
- A. Maxillary, the maxilla is this part of the — the face is divided into the frontal area, the maxilla area, the mandible area.
- Q. Okay.
- A. So right under — right, I guess *in the rectum part of your nose* or whatever; sorry.

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### How to Move for a Continuance

From **Jim D. Bowmer** of Temple (Naman, Howell, etc.) this excerpt from a trial in Bell County District Court "some years ago." After the defense lawyer in a criminal case "moved for continuance on the ground of absence of a defense witness":

- Judge: Well why don't we call the list of witnesses and see who's here?  
(The list was called and the "absent" witness answered "Present.")
- Defense Attorney: Your honor, I move for continuance on the grounds of surprise. *He promised me he wouldn't be here.*

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### Can They Do That?

From **John and Susan Albach** of Dallas, this "Examining Trial Pre-Trial Judgment" from JP Court in Collin County:

On this the 27th day of February, 1996, the District Attorney advised *No evidence would be offered.*

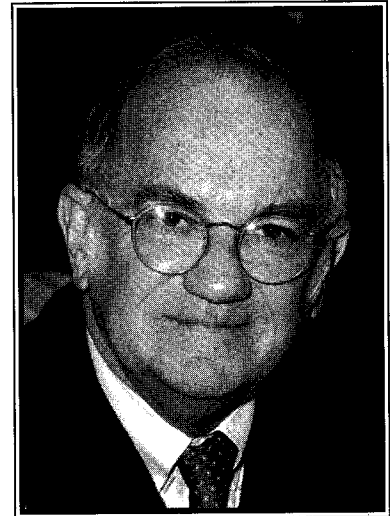
It is therefore, ordered, adjudged and decreed by the court that *there is PROBABLY CAUSE to hold the Defendant under Bond* to await action of the Grand Jury.

Given under my hand this the 27th day of February, 1996.

### Doing the Usual Preliminaries

From **D. Joe Albright** of Houston (Waltman & Associates), this deposition excerpt:

- Q. Are you taking any medication today that might affect your ability to tell the truth here?
- A. I don't understand that question.
- Q. Are you taking any medication today?



*By Jerry Buchmeyer*

- A. Yes.
- Q. What medication are you taking today?
- A. It's some muscle relaxants.
- Q. Does that affect your mental capacity in any manner?
- A. No.
- Q. Are you taking another medication besides the muscle relaxants?
- A. Yeah.
- Q. What are you taking?
- A. *I forget what they're for.*
- Q. Forgot what it's for?
- A. I know they're for my nerves and stuff.
- Q. *And does that affect your ability, your mental capacities in any manner?*
- A. No.

### The Jury Request

From **John Arthur Needham** of El Paso, this request for jury form he recently received — in which the opposing counsel explained in this handwritten note why no jury fee was paid:

*"Patricia Braun is a court appointed indigent."*

### But is the Defendant Credible?

From **Tom Hamilton** of Dallas (Tom is an Assistant U.S. Attorney), this excerpt from a court order in a criminal case:

3. The defendant is a glib witness when it suits his interest to be such; otherwise he is unworthy of belief in his responsive testimony and maddeningly evasive. ... Furthermore, the defendant's memory is both self-serving and selective. For a man as intelligent as the defendant obviously is, he has a terrible memory for any embarrassing details. *The only two witnesses I have observed in over 13 years on the bench with worse memories were self-acknowledged as brain damaged (one from alcohol abuse).*

### Did They Really Ask That?

From **Beverly Hays** of Dallas (Beverly is a paralegal with Patterson, Lamberty, etc. who "hopes this one makes the cut"), this excerpt from a personal injury deposition:

- Q. Why were you in Dallas that day?
- A. To see "Catherine the Great."
- Q. Is she a friend of yours?
- A. She's the Russian. It was the show — Mr. McNeil: Catherine the Great.  
Mr. Keith: Oh, I'm sorry.

\*\*\*

From **Aizar Karam, Jr.** of Houston (Aizar is a third-year law clerk for James Stafford), this excerpt from Mr. Stafford's examination in a criminal trial:

- Q. And where do you work?

- A. I work for a local company called Midwest.
- Q. What do they do?
- A. Demolition, industrial demolition.
- Q. In other words, they blow up buildings.
- A. We don't do explosions as much as selected demolition with heavy equipment.
- Q. You are the guys with the balls.
- A. One of the guys that's similar —  
The Court: You have cranes —

### Doing the Usual Preliminaries (Redux)

This marvelous (!) dual submission came first from **Cynthia L. Stagner** of Sherman, and then one day later from **John H. Spurgin, II** of Austin (McGinnis, Lochridge (*Hi, Lloyd*), etc.); Cynthia's client is being deposited in an age discrimination case:

- Q. What's your current address, Mr. Hooker?
- A. 2612 Easy St., Denison, Texas, zip 75020.
- Q. Okay. *You're living on Easy Street, and you're suing my client?*
- A. *And I'm a Hooker.*
- Q. *And you're a Hooker. Holy mackerel. We're going to have fun with this case. A Hooker living on Easy Street suing my client. A Hooker with children living on Easy Street. Okay.*
- A. I shouldn't even point out my neighbor's named Virgin, but —
- Q. There's a Virgin living on Easy Street?
- A. No. They live around the corner.
- Q. Oh, okay.
- A. *There's no Virgins on Easy Street.*
- Q. No Virgins on Easy Street. We've got to get this down.

### But What if the Dog Was an Atheist?

From **Michael Logan Ware** of Fort Worth, this excerpt from the prosecution's closing argument in a recent "cruelty to animal" trial (In which his client was found not guilty):

We have tried to light a trail for you. We've given you evidence. We want you to follow that trail to the end of the tunnel, to the light at the end of the tunnel. Now along the way the defendant has given you smoke and mirrors, buzzers and bells, to try to distract your attention from the issue.

What is the issue in this case? The issue is that the defendant beat, kicked, and choked his dog. Period. *That dog is dead. He is the real victim. You can't hear from the dog now and, hopefully, he's in a better place.* That is the issue.

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

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