

Depositions v. Trials: I Want to be Adored

For this month's column, kudos go to Addison (**Kelly M. Massad**), Albuquerque, N.M. (**John E. Farrow**), Austin (**Jay Breedveld**, **Judge Michael J. McCormick** and **Shellie Wakefield**), Baton Rouge, La. (**Jay J. Harris**), Dallas (**Robert Edwin Davis**, **P. Michael Jung** and **Jay V. Stribling**), Houston (**Richard T. Redano**) and Shreveport, La. (**Bryce J. Denny**).

Of Poetry & Perjury

From **P. Michael Jung** of Dallas (Strasberger & Price), this excerpt from the examination of the opposing expert by Jim Williams of Dallas (Bailey & Williams).

Q. And you understand that Dr. Thompson is an expert witness in this case for Drs. Smith and Jones?

A. Yes.

Q. And what's your opinion of Dr. Thompson as a colleague?

A. I like him as a person. We're good friends. *He's fond of poetry.*

Q. He's what?

A. *Fond of poetry.*

Q. *Of perjury?*

A. *Poetry.*

Q. Good God. I need to make a quick call. I apologize.

Classic Typo's

From **Shellie Wakefield** of Austin (Shellie is a law clerk to Magistrate Judge Stephen Capelle), this advertisement for an assistant general counsel of the University of Houston:

QUALIFICATION REQUIREMENTS:

*J.D. or L.L.B. from an accredited law school;

*Minimum two *tears* experience as a practicing attorney ...

From **Jay V. Stribling** of Dallas, this excerpt from the end of a mortgage on file in Collin County:

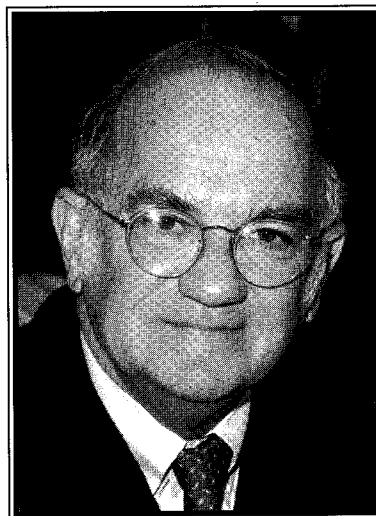
This written loan agreement represents the final agreement between the parties

and may not be contradicted by evidence of prior, contemporaneous or subsequent or oral agreements of the parties.

There are *no unwritten oral agreements* between the parties.

From **Jay J. Harris** of Baton Rouge (Lindsay, Marcel & Harris), this *fallacious* letter his firm received from the opposing attorney in New Orleans:

I am in receipt of your letter of March 4, 1996 and, without addressing each of the *fellations* and offensive statements contained therein, suffice it to say that it completely misrepresents the situation existing between my client and yours.



By Jerry Buchmeyer

From **Bryce J. Denny** of Shreveport (Cook, Yancey, King & Galloway), this "creative writing sample" from a demand letter he received from a Kansas attorney:

[My client] has never misled any of the people whom he contacted. ... To the contrary, [he] will not be *intimated* by inaccuracies contained with your letter. [He] does not agree to execute the letter forwarded to him as same is not necessary, inaccurate as to contents and a blatant effort to *intimate* him. ...

Thank You, Judge

From **Jay Breedveld** of Austin (Popp & Ikard), this rather thankful exchange between defense attorney Deke Austin and Judge Richard Mays (204th District Court, Dallas) in a murder trial.

Mr. Austin: It's overruled?

The court: Yeah.

Mr. Austin: *Thank you, Judge.* May I have a moment to get back to my—

The court: Let me tell you what I'm going to do in a few minutes. This is something that you do all the time, and *it's automatic [for you] to say thank you every time I make a ruling. Don't thank me for making a court's ruling.*

Mr. Austin: All right, sir.

The court: *The next time you thank me for my ruling I'm going to say don't thank me for my ruling.*

Mr. Austin: *Thank you, sir.*

The court: See what I'm saying, don't thank me for my ruling.

Mr. Austin: *Thank you for the instruction.*

Did They Really Ask That?

From **Richard T. Redano** of Houston (Rosenblatt & Redano), this excerpt from a deposition in an unfair competition case pending in the U.S. District Court for the

Northern District of Georgia:

Q. Have you felt coerced by anyone *other than me* to change your testimony?

A. No.

The Docket Entry

From **Robert Edwin Davis** of Dallas (Davis, LeClair, Loegering (*Hi, Wes*) & Daniel), this docket sheet from a 1995 case in the Circuit Court of Franklin County, Mo. — which “makes it clear that there are still judges sitting on the bench with courage enough to say precisely what they think, and with eloquence enough to make the court’s views unmistakable:”

Docket Sheet

Style: Jeffrey Wilson vs. SWBT Case No. CV195-412CC

Action: Violations of Missouri antitrust law

Filed: April 10, 1995

Judge: Judge C. Brackmann, Div. 1

June 28, 1995 JUDGE: The court, having endured *unprecedented professional carping, back biting and pettifoggery* between some of the lawyers in this case and having decided that *no one should endure behavior that disgraces the legal profession, the parents of the lawyers who act so rudely, and themselves* does decide to rule on the pleadings alone sua sponte. Motion to intervene, sustained. Motion to abate, overruled. Motion to certify class, sustained, so ordered. S/John C. Brackmann, the issues in case appearing rather simple in spite of the money involved, the case set #3 on 2Oct95. Copies all attorneys of record.

July 11, 1995 MISC: Plaintiff’s certificate of service of answers to interrogatories and responses to first request for production, filed.

Feb. 26, 1996 MISC: *Plaintiff’s voluntary dismissal without prejudice*, filed.

March 1, 1996 JUDGE: Dismissed by plaintiff at plaintiff’s costs. Copy attorneys (seven)

From **Presiding Judge Michael J. McCormick** of the Court of Criminal Appeals in Austin, this excerpt from “the cross-examination of the victim of an alleged kidnapping.”

Q. Ms. Smith, after you called your mother, Ralph voluntarily took you back to your mother, didn’t he?

A. Yes, he did.

Q. *And you were alive, is that true?*

A. *Yes, that’s true.*

Q. And isn’t it true that he brought you back to your mother’s, and your mother’s is a safe place, isn’t that true?

A. I don’t — I wouldn’t call it safe, but it was a safer place.

The All-Purpose “Brief in Opposition”

From **John E. Farrow** of Albuquerque, N.M. (Fairfield, Farrow, etc.) this marvelous (!) brief filed in opposition to the plaintiffs’ motion to reinstate a “truly frivolous wrongful termination suit” that the defendant had won in a jury trial. In a one-sentence order, U.S. District Judge Barbara K. Hackett (Eastern District of Michigan) denied the motion for reinstatement “for the reasons best stated in defendant’s brief in opposition to the motion,” which read in full:

Brief in Opposition to Plaintiff’s Motion for Reinstatement
Plaintiff has got to be kidding.

Respectfully submitted,
Simpson & Moran
By Donald A. Van Sullehem
Attorneys for Defendant
Birmingham, Mich.

I Want to Be “Adored”

From **Kelly M. Massad** of Addison, this classic typo from a lawyer’s “Divorce \$100” advertisement in the Feb. 18 edition of the *Dallas Morning News* “TV Magazine”:

Stanley Burch is licensed by the Texas Supreme Court & *admired* before all U.S. District & Bankruptcy Courts for the state of Texas. Member State Bar College, Dallas, Federal & Texas Bar Associations. Not Certified By The Texas Board of Legal Specialization.

Kelly adds: “When in the heck did the courts start certifying us lawyers as “*admired*” and why didn’t someone send me an application form? I’d like to be admired by the Supreme Court and the federal courts too. Actually “*revered*” would be better. Course, I don’t think that everyone who hunts for attorneys in the TV magazine would understand that word. How about “*adored*”? That’s it, “*adored*”! Would you please send me an Application for Adoration by the Northern District as soon as possible?”

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

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