

Depositions v. Trials:

My Father Which Was My Grandfather

This month's *et cetera* comes from Austin (John E. Athey, Thomas V. Erdos, Jr. and Karen Parker), Beaumont/Port Arthur (D'Juana Parks), Dallas (Linda LeNoir and Mike Daniel), Houston (Roger A. Berger, James E. Brown, Jr. and Ray Putney), San Antonio (Robert E. Hughes, Jr.), Tyler (Gregg A. Marchessault) and Wichita Falls (Ron Yandell).

My Father Which Was My Grandfather

From John E. Athey of Austin, this "document" which he found in the Real Property Records of Travis County (and which had been filed July 27, 1994).

TO WHOM IT MAY CONCERN:

I JAMES PATRICK WOLF III and JAMES PATRICK SHUFF III, are One of the same person. My Father Which was my Grandfather Died in 1962, and I was told that I was adopted from California, I went out there to find out who I was, and I did that. I went to federal court and had my name changed on are about June of 1965, I became James Patrick Wolf III, My Father Name was Running Wolf, My Mother Name was Morning Dove (NORA MAE SHUFF), Cherokee and Texas Indian, Choctaw and Black Foot, and Arkansas Indian...The Great State of Texas Declared me officaly Dead in 1973, as James Patrick Shuff III, Some one forged my Name James P. Shuff from the State of Texas Retire Ment System, and drew out all my re-tirement, (SORRY) oop's I wasnt even liveing here I was in Ontario, Calif. Well to make a long story short I had a Nervous Break Down. DIVORCE, after 45 Years of Marriage, Ms. Wolf got her Maiden name back and I got the Shaft, I WANT MY HOME AND GROUND BACK at LOT #2 & 3, Block "F", SECTION 11, Kennedy Ridge Estates a Subdivision in Travis County, Texas. I singed the Contract For the home to be Built, I put up my Land as security, but I never did re-lease it to no one to the best of my knowledge. I am takeing possession of said Property as of 7-5th, 1994 A.D. and

I WILL SEND YOU A PAYMENT OF \$324 per month till paid in full.....

James Patrick Wolf III
A Single Person

Sweet Cheeks and the Bus Bunnies

From Karen Parker of Austin (Wright & Greenhill), this excerpt from her deposition of the plaintiff, a bus driver, in a workers' compensation case.

- Q. Have you ever been known by any other name?
A. Well, at work they call me "Sweet Cheeks," but My mama calls me "Bitch."

- Q. Do you know the names of any of the passengers who were on the bus at the time of the accident?
A. Yes, Frank was there. I don't remember his last name, but he was one of the bus bunnies.
Q. "Bus bunnies"?
A. Yes, bus bunnies. You know, that is what we call the guys that like to ride the bus, you know, just to be riding it, you know, not going anywhere, you know, but just riding. Like to keep the driver company or something.
Q. Does he still ride the bus?
A. No, I haven't seen him in quite a while. He's in Huntsville now because he murdered that little old man, but he's really a nice guy.

The Perils of Pro Se

From Gregg A. Marchessault of Tyler (Gregg is an assistant U.S. attorney for the Eastern District of Texas), this prayer from the brief of defendant-appellant filed in the Fifth Circuit by a *pro se* prisoner who, after his bank robbery conviction, filed suit seeking "the return of the money that was seized by the FBI as his bank robbery loot":

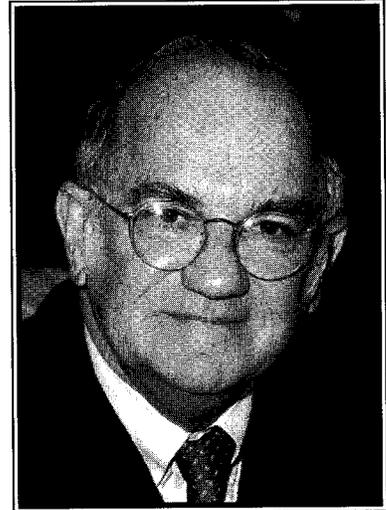
Conclusion

Therefore all things considered, this appellant respectfully requests this court to cause an order to issue, ordering the FBI to return the currency in the amount of \$6,600 that was seized from him. Anything less would be a miscarriage of justice, anything more will be appreciated.

Those Experts

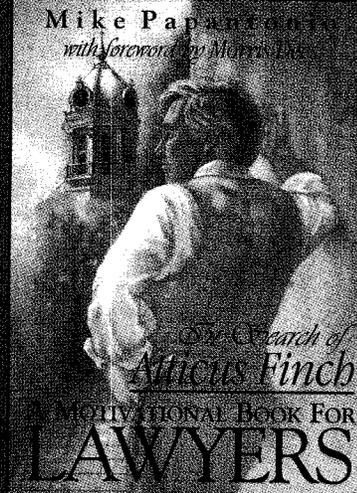
From D'Juana Parks of Beaumont/Port Arthur (Provost & Umphrey), this excerpt from the deposition of the treating physician of her client, the defendant.

- Q. But just based on your knowledge as a physician, some patients you would expect would not have back or neck injuries?
A. Sure.
Q. Okay. And I presume that in your years of practice you have treated a number of patients who are fairly significant collisions, but did not result in a back or neck injury?
A. Have I ever seen the patients?
Q. Yes.
A. No, because if they don't have any injury, they don't come to me.



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Typo's (Classic & Otherwise)

- (1) From **Ron L. Yandell** of Wichita Falls, this typo from an opinion in Texas Bankruptcy Decisions:

The *Simmang* case determined that keeping a restaurant was a 'trade' within the meaning of the law. ... Therefore, the 1973 Amendment to the Statute would not alter the analysis in *Simmang* and *doe snot* render its holding ineffective as authoritative precedent.

- (2) From **Linda LeNoir** of Dallas (Linda is my "Attack Secretary"), this typo she found in a pleading filed by **Mike Daniel** of Dallas:

The citation by the City of Dallas charged that, on the property in question, Mike's client "was an animal, other than a dog...."

- (3) From **Roger A. Berger** of Houston (Glover, Anderson, etc.), this typo from answers to interrogatories by the plaintiff in a medical malpractice case, where the plaintiff was "claiming unnecessary surgery and claiming that his symptoms (before the operation) were not caused by gallstones or an inflammation":

Interrogatory No. 9: If you contend that Defendant PASTOR ALVARADO, M.D. was negligent, in any respect, and/or contributed to or caused the incident made the basis of this lawsuit, in any way, then describe in detail all your contentions, assertions, and beliefs.

Answer: He was present at the surgery, as the assistant surgeon for Dr. Gustavo Stern. I believe that he should of told Dr. Stern that more testing should of been done to get a adequate digeneous. I also believe that he should of questioned that how a young 24-year-old male could have gallstones, and further question that if a x-ray of the gallbladder had been done since the ultra-sound *did not show a clear view of the bio-duck*.

- (4) From **Thomas V. Erdos, Jr.** of Austin, this "red hearing" of a typo he found in the Lexis version of *Southwest Airlines Co. v. Texas High Speed Rail Auth.*, 867 S.W. 2d 154 (Tex. App. — Austin 1993):

A procedural due-process requirement of notice *and herring* does not necessarily abrogate the state's immunity from suit and immunity from liability. ...

Both Rules 165a and 306a provide for procedural relief in the event a party fails or neglects to appear at *any herring* or trial of which the party had notice. ...

In the absence of a *herring* by

submission, a hearing contemplates a formal, adversary oral presentation by the parties ...

- (5) From **James E. Brown, Jr.** of Houston (Johnson & Associates), this typo made by his brand-new secretary in transcribing a report letter to the client concerning the deposition of an asbestosis plaintiff:

After noting that the plaintiff had diabetes, the transcript went on to say "Mr. Jones has been *on insulation* for the last five years."

What Part of "No" Don't You Understand?

From **Ray Putney** of Houston, this excerpt from the cross-examination of the 17-year-old son of his client, in an automobile accident case.

Q. You said your mom was always so intelligent. You don't think she's as intelligent as she was?

A. No, I don't.

Q. Pardon me?

A. No, I don't.

Q. Why not?

A. *Because she can't process thoughts, and that's part of intelligence.*

Q. What do you mean she can't process thoughts?

A. I mean she can't process thoughts. That's what I mean. She can't process thoughts. *Is there a word you don't understand?* "Can't", "process", or "thoughts"? Which one? She can't process thoughts.

So the Record Will Be Clear...

From **Robert E. Hughes, Jr.** of San Antonio (Law Offices of Peter Torres, Jr.), this excerpt from a settlement "prove up" — (*I ponder: why do we prove "up" settlements, why don't we just "prove" them or even prove them "down" or "sideways"???*) in which Peter Torres tries to make the record abundantly clear.

Q. And Mr. Hernandez, did you also agree? Both of you (Mr. Hernandez and his wife) are plaintiffs.

Mr. Hernandez: Sí.

Mr. Grimes: I'm sorry. I didn't mean to speak out of turn.

Mr. Torres: That's okay. (to witness) Generally, you understand what I said. Right?

Mr. Hernandez: Sí.

Mr. Torres: Okay. Can you say "yes."

Mr. Hernandez: Sí.

Mr. Torres: "Sí" means "yes," Mr. Howard. Okay. Thank you, gentlemen.

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