

Depositions v. Trials: The Custody of Pork Rind

This month's contributions are from Amarillo (**James Wester**), Austin (**Laura Messina**), Beaumont (**Tanner Hunt**), Dallas (**William Bratton**, **Lynn Brooks**, **Nancy Doherty**, **Roger Evans**, and **Judge Sidney Fitzwater**), Garland (**Paul Purtha**), Houston (**Chris Butler** and **Joseph Fischer**), Laredo (**Judge George Kazen**), South Padre Island (**P.T. Moore**), Lee's Summit, Mo. (**Elizabeth Unger Carlyle**), and Vienna, Va. (**National Court Reporters Association**).

The Court Reporters Have Done It Again!!

Lynn Brooks of Dallas, who is (among other things) the book review editor of the *Journal of Court Reporting*, writes:

The National Court Reporters Association has done it again: put together the third book of collected humor — stuff that lawyers and witnesses wish they'd never said — and I wanted you to be one of the first in Dallas to have a copy. (*Of course, my ulterior motive is that you'll give the book a mention in your column!*) Of course, my ulterior motive for "this mention" is to share a few of the laughs from *Disorder in the Court*, the funniest collection yet by the National Court Reporters Association:

A. I told my attorney that I'd take that polyester test to show I wasn't lying, but no one ever gave me one

Q. Can yeast infections give rise to anything else that you are aware of?

Q. I understand you recently gave birth to twins.

A. Yes, Ma'am.

Q. That's two babies?

A. Yes.

Q. So, that isn't correct; is that correct?

Q. What are your hobbies?

A. Drinking coffee and watching girls.

Court: To the charge of driving while intoxicated, how do you plead?

Defendant: *Drunk*.

Q. And when was that?

A. I guess it was sometime before noon or after noon.

Q. Do you understand my question?

A. I think so, but that may be my fault.

Q. Can you describe what it was like to be at Metropolitan State Hospital?

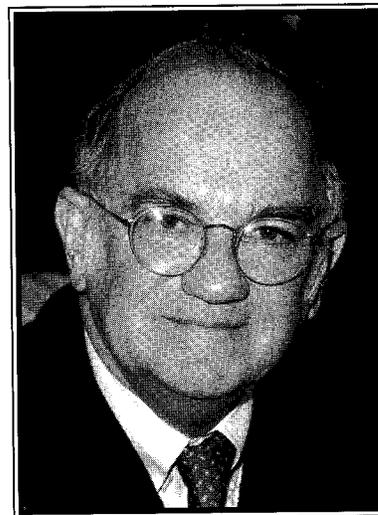
A. Scary.

Q. Why do you say that?

A. Because there was all sorts of very deranged, crazy people. And then there were the patients, who were worse.

Lynn Brooks' letter ends, very wisely, with:

The book (*Disorder in the Court*) is available through the National Court Reporters Association, 8224 Old Courthouse Road, Vienna, Va. 22182, at a cost of \$14.95. The toll-free number is (800)272-6272.



By Jerry Buchmeyer

Did They Really Ask That?

From **L. Chris Butler** of Houston (Shell Oil Co.), this request is made by a *pro se* plaintiff in a scheduling conference before **U.S. District Judge Nancy Atlas**: (Judge Atlas calls the case)

Plaintiff: Your honor, I would like to move for a *contusion*.

As Chris resisted the temptation to say that the motion was unopposed, Judge Atlas astutely granted a continuance.

From **P.T. Moore** of South Padre Island, this excerpt from trial cross-examination by the opposing counsel:

Q. Show you what's been marked as Defendant Adams Exhibit No. 4, Mr. Freeland, and see if you recognize what that picture portrays?

A. Oh, I see, yeah, okay. All right. I recognize it.

Q. You do?

A. Uh-huh.

Q. Does that picture accurately portray what it purports to portray?

A. What does it purport to portray?

Did They Really Say That?

This is a letter recently received by **Nancy Doherty** of Dallas (Nancy, of course, is the U.S. District Clerk for the Northern District of Texas):

Re: *J.W. Pickle vs. Secretary of Health & Human Services*

Dear Ms. Doherty:

Please be advised that my client, J.W. Pickle, has passed away as I advised on the telephone.

Sincerely yours,

Objectionable Objections

From **Joseph A. Fischer, III** of Houston (Mayor, Day, etc.), this rather imaginative — but certainly useful — objection made by the opposing attorney during the plaintiff's deposition.

Q. (By Mr. Fischer): So your testimony is that your failure to remember what was provided to you makes what was provided to you inadequate?

Plaintiff's Attorney: Objection to the form of the question. *That's a tricky question.*

Q. (By Mr. Fischer): You can answer it if you understand it.

Plaintiff's Attorney: *The objection to the question is being too tricky.*

From **Laura L. Messina** of Austin (Laura is an attorney with the Attorney General's office), this answer by the plaintiff to interrogatories in a medical malpractice case:

13. Please state the name and address of the man by whom you became pregnant.

Answer: Objection; *calls for speculation.*

From **U.S. District Judge George P. Kazen** of Laredo, this rather damning deposition excerpt:

Attorney One: ...we've been spending literally hours having this witness tell you what's in a *damn document* when you could read it yourself and the jury could read it. ... You're doing nothing but harassing the witness.

Attorney Two: I — I am not harassing the witness.

Attorney One: If you have a question, ask him a question.

Attorney Three: Now *I object to all the damn cussing on the damn record.* Could we continue.

Them Hoes

From **William A. Bratton, III** of Dallas, this excerpt from the examination of a government witness in a criminal case. Assistant U.S. Attorney **Robert Webster** is questioning the witness about some tape-recorded conversations she had with the defendant:

Q. Ms. Spinks, in reference in the course of this transcript to *them Hoes*, in the course of that — context of that conversation, *who is them Hoes refer to?* Do you recall?

A. *Them hoes?*

Q. Yes. Do you remember reading that, hearing that portion of this conversation?

A. There is a lot of that in there, but which part are you specific talking about?

Q. Let me find it for you. Very top of page of 54 where [the defendant] says, "I don't want that bitch to keep saying my name to them hoes?"

A. *Hoes, FBI.*

Justice is Blind

From **Elizabeth Unger Carlyle** of Lee's Summit, Mo. (Elizabeth is a self-proclaimed "Texas attorney in exile"), this excerpt from a recent (and somewhat profound) opinion from a Missouri criminal case:

STATE V. SEXTON, __S.W.2d __ (Mo. App. W.D. 1996)

The prosecution argues that we can reasonably infer that hand-penile contact occurred due to the many occurrences of oral sex. We decline to outline the various ways that oral sex may be performed without such contact and hold that is not a reasonable inference.

Classic Typos

From **James W. Wester** of Amarillo (Underwood, Wilson, etc.), this interrogatory he received from the plaintiff's attorney:

Identify all persons, of whom you are aware, who claim to have knowledge regarding *the king* of alcoholic beverages consumed by [the defendant] at Midnight Rodeo on or about May 10, 1993.

From **Paul Purtha** of Garland (Humphries & Associates), this typo in one of his firm's recent demand letters:

...unless our firm receives the funds demanded by the given date, we will have no choice but to proceed to court in this matter. If a lawsuit is filed, we will seek actual and *purgative damages*, reasonable attorney's fees, interests, and costs.

From **Roger Evans** of Dallas, this excerpt from an auditor's letter he recently received:

Dear Roger:

In connection with an examination of our financial statements ... for the year [ending Dec. 31, 1995], we would appreciate your furnishing to our independent accountants ... a description and evaluation of certain matters with respect to which you have been engaged ... [on our behalf] in the form of legal *consolation* or representation.

From **Tanner T. Hunt, Jr.** of Beaumont (Wells, Peyton, Greenberg & Hunt) — Tanner's firm permutated from "Wells, Duncan, Beard, Greenberg & Hunt" in 1986 through other variations and then to its present name in 1996 — this marvelous (!) confession:

As a result [of the name changes], on a number of occasions, for convenience, address label typists have shortened the name by using only the first and last words in the title — "*Wells Hunt Law Firm.*" Invariably, a stenographer would occasionally miss a couple of keyboard strokes and address us (I'm not making this up) as "*Well Hung, Attorneys at Law.*"

The Custody Of and Behavior Concerning "Pork Rind"

This marvelous (!) contribution comes from **U.S. District Judge Sidney A. Fitzwater**, who received it from his lifelong friend, **Stephen R. Bowers** (who is a sole practitioner in Elkhart, Ind.). Somehow Stephen uncovered the docket sheet in a 1988 divorce case in Elkhart Superior Court — which records the agreed order concerning custody of the couple's minor child and of "*Pork Rind the family pig*" (who "apparently was a very sensitive swine"):

10-21-88. Cause coming on for hearing.

Both parties appear in person and by their respective counsel. On husband's petition for modification of provisional orders, by agreement of the parties *both parties are awarded joint custody of Robert J. Junior, the minor child of the parties and Pork Rind the family pig.* Husband shall have actual physical custody of both, wife to have rights of reasonable visitation, temporary custody. Wife shall pay support in the amount of \$35 per week effective September 30th, any pre-existing arrearage shall be fully liquidated within 30 days of this date. *Husband shall be responsible for the support of the pig.* Both parties admonished to conform their conduct to the highest moral standards *while in the presence of the pig.*

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

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