



Lord Have Mercy!

BY JERRY BUCHMEYER

THE *ET CETERA* CONTRIBUTIONS this month are from Dallas (**Brian Jobe, David Traylor**), Greenville (**Judge Joe Leonard**), Mansfield (**Robert Fugate**), Orange (**John Manuel**), and Portland, Ore. (**Gerald Shifrin**).

CAN'T YOU BE MORE SPECIFIC?

From **Robert Fugate** of Mansfield, these rather precise answers given in the deposition of a toxic tort plaintiff:

Q. Do you use window cleaner?

A. No.

Q. Do you ever use Windex?

A. Have I ever?

Q. Do you ever?

A. Oh, no.

Q. How many times have you used it in your life?

A. Twenty-two.

Q. Do you use or have you ever used spray paint?

A. Yes.

Q. How many times?

A. Seven.

Q. For how long each time?

A. Thirteen minutes.

Q. How often have you cleaned — not including the time you were in the service, how often have you cleaned a gun?

A. About two, maybe three million times.

Q. Did you ever get sick when you were cleaning the guns?

A. Sick of cleaning guns?

Q. No, sick while you were doing it?

A. No.

Q. I am sure you probably did get sick of cleaning guns?

A. I loved it. It was my weapon.

Q. Have you noticed if your allergies have gotten any worse or better since you have had the cat?

A. Yes.

Q. Are they worse or better?

A. No, they are not worse.

Q. Are they any better?

A. No, they are not any better.

Q. Are they the same?

A. Yes.

Q. Do you recall when the meeting of ... was that you heard about the well being possibly contaminated?

A. I don't recall the date.

Q. Do you recall what time of year?

A. No, I don't recall exactly what time.

Q. Do you remember if it was winter or spring or summer or fall?

A. Yes.

Q. Which one?

A. It was either winter or spring or summer or fall.

KEEPS ON TICKING

From **John Manuel** of Orange, this excerpt from an autopsy report introduced in a mutilation/murder trial before Judge Louis Dugas:

Received for examination is a previously opened garbage bag surrounded with duct tape and contain-

ing ... two severed arms partially covered by a reddish-black long-sleeved shirt which has been cut near the shoulders. Proximal to the left wrist is a working white-faced Timex watch with a white-metal expansion band.

John Cameron Swayze would have been proud!

CRACKING UP

From **Judge John F. Miller, Jr.** of Texarkana (102nd District Court), this excerpt from a guilty plea proceeding in a possession of marijuana (less than two ounces) case.

The Court: Mr. T.S. you are charged with the offense of possession of marijuana. How do you plead?

Mr. T.S.: Guilty.

The Court: Mr. District Attorney where did he have it and how much was there?

District Attorney: A very small amount that he put down the back of his underwear.

The Court: Mr. T.S. what were you doing — trying to hide it?

Mr. T.S.: No sir, I was trying to make crack out of it.

LORD HAVE MERCY!

From **Judge Joe M. Leonard** of Greenville (196th District Court), this selection from the voir dire in a wrongful arrest civil trial before him:

Mr. Thomas: At what point do you — would it be — I mean, how serious would it have to get for

someone falsely accusing you before you thought that — I'm going to have to do something to have them responsible for that?

The Juror: Well, I don't know, I'd just have to reach that point.

Mr. Thomas: I'll know when I get there, sort of?

The Juror: Yeah. You know, I — I understand that — that — *you know you can't just walk out of a store with something*. But if I, you know — of course I've had daughters that's done that, you know, that's walked out of a store with some stuff and you know, they tell me they didn't know it. You know, I don't particularly believe that, but I know that it could happen. *You know, man alive, I've been in that Wal-Mart store. Well, my God there's so much stuff around there something's liable to fall off and get in your pocket. Lord have mercy.*

THE DOCTORS HORN IN

From **Gerald B. Shifrin** of Portland, Ore. — who “spent over 40 years practicing law on the Rio Grande in El Paso” — these excerpts from a newspaper story in *The Oregonian* showing “how the medical profession is trying to horn in on our humor.” This is “actual dictation from actual doctors, as collected by medical transcriptionists.”

“The patient injured *her right fifth hand* while playing basketball.” ... “SKIN: Somewhat pale but present.” ... “her children are 12, 10, and nine; *husband is approximately the same age.*” ... “Both the patient and the nurse reported passing flatus.” ... “Rectal examination revealed no masses *but did show yellow shoes.*”

“The patient also has *tangling* of the feet.” ... “Her father died in his 90s of female trouble in the prostate and kidneys.” ... “The left leg became numb at times and *she walked it off.*” ... “She was having a little

problem holding onto her urine.” ... “By the time she was admitted to the hospital, her rapid heart had stopped and she was feeling much better.”

I'M NOT SOBER, BUT ...

From **David L. Traylor** of Dallas, this exchange that took place recently before U. S. District Judge **Joe Kendall** (Dallas Division, Northern District of Texas):

Judge: As you stand here today, are you sober?

Defendant: No, I'm not sober.

Judge: Are you drunk?

Defendant: No, I'm not drunk.

Judge: Are you under the influence of drugs or alcohol?

Defendant: No.

Judge: Are you drunk?

Defendant: No.

Judge: Are you sober?

Defendant: No, I'm not sober.

Judge: Perhaps sober is a word that is not in your vocabulary. I know several people like that.

HOW DID THE ACCIDENT HAPPEN?

From **Brian C. Jobe** of Dallas (Wimer & Jobe), this excerpt from the deposition of the plaintiff, whose car had been hit by another vehicle which crossed the center line in the street:

Q. Was it foggy at the time of the accident?

A. No.

Q. The accident report indicates — and I don't know what the officer meant by this — but it says four and one, which one is clear and cloudy and four is fog. *So was it clear or cloudy at the time of the accident?*

A. *He might have been talking about his glasses. His glasses might have been fogged up.*

Brian adds that with this “clarification,” the case settled several weeks later.

Contributions to et cetera should be mailed to: Chief Judge Jerry Buchmeyer, U.S. District Court, Northern District of Texas, 1100 Commerce St., 15th Floor, Dallas 75242.

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