



## To Tell You the Truth

BY JERRY BUCHMEYER

THE CONTRIBUTIONS THIS month are from Abilene (**Stehen Suttle**), Conroe (**Judge Lee Alworth**), Dallas (**Barry Casey**, **Robert Gilbreath**, **Bart McKay** and **Robert Musslewhite**), Houston (**Thomas Pickford** and **Michael Tibbets**) — with out-of-state entries from Shreveport, La. (**Bryce Denny**) and Sulphur, La. (**Oliver “Jackson” Schrumpf**).

### WE’RE SENDING THAT TO *ET CETERA*

From **Judge Lee G. Alworth** of Conroe (221st District Court), this “faux pas that occurred on a motion for continuance” in his court.

Mr. Gano: I have a motion for continuance and for an extension of time, which we’d like to urge to the court this morning based on the proposition that the two experts Englebert and Chandler are deceased.

The court: And they’re both deceased?

Mr. Gano: Yes.

The court: How long have you known that?

Mr. Gano: Well, I’ve known it since about Friday — last Friday, I believe — or since last Thursday.

Mr. Christiansen: Judge, as I pointed out in my reply, I don’t know why he has never communicated with them. They were designated in ‘91. Their reports were drafted in ‘91. We tried to depose them in 1994, 1995, and 1996. He’s never presented them for deposition.

Mr. Gano: *Your Honor, as far as I know, they were not dead before, when I talked with them.*

The court: *Get that down! We’re going to send that to et cetera, okay? As far as he knows, they weren’t dead when he talked to them?*

### DID THEY REALLY ASK THAT?

From **Oliver “Jackson” Schrumpf** of Sulphur, La. (Schrumpf & Schrumpf), this excerpt from the deposition of the Vehicle Permit Manager, Louisiana Department of Weights & Measures, taken in a civil case involving an overloaded log truck.

Q. And then under that appears the permit for the axle and gross vehicle load limitations. First, you have single axle. *What is a single axle, Mr. Norman?*

(after a very long pause....)

A. That’s one axle.

Q. You’re talking to lawyers.

Mr. Schrumpf: *He thought it was a trick question.*

From **Robert B. Gilbreath** of Dallas (Vial, Hamilton, etc.), this excerpt from the deposition of the plaintiff in a personal injury case, where “the plaintiff had suffered serious injuries as a result of *touching electric power lines* while working for an electric utility company.”

Q. I know in some of the materials that everyone has gotten here, there was a — I think a resumé

of yours. *Maybe I can short-circuit this a little bit* (by showing you) a two-page document I received from Texas Utilities.

### BUT THERE’S NOTHING WRONG WITH ME!

From **Stephen H. Suttle** of Abilene (McMahon, Surovik, Suttle, etc.), this excerpt from a hearing in which the witness — “an adult son who was receiving monthly disability benefits for paranoid schizophrenia” — had filed an application “to be appointed successor guardian of his incapacitated, elderly mother and her substantial estate.”

Q. Were you diagnosed as paranoid in 1988?

A. Well see, I have never claimed to be paranoid .... What I claimed, though, was that it made me nervous to be watched.

### CLASSIC TYPO’S

(1) From an investigation report prepared by one of Harris County’s State Bar grievance committees:

C and his wife had, at some point in the past, attended a meeting conducted by Attorney (Not His Real Name) Smith regarding the litigation. At that meeting, Attorney Smith was asked about compensation for husbands. According to C, Smith stated that usually 15 percent is figured in to the settlements for the spouse for *loss of contortion*.

(2) From the defendant's motion for summary judgment in a section 1983 wrongful arrest case:

The mere existence of a *centilla* of evidence in support of the plaintiff's position will be insufficient.

(3) From a *pro se* plaintiff in a Shreveport, La. case, a proposed order titled "Court *Odor*."

(4) Also from Shreveport, this "two-fer" by the plaintiff's attorney, a letter offering to "meditate within two (2) weeks in good faith," and a pleading captioned "Argument On The *Mentis*" (rather than "On The Merits").

(5) Another Shreveport "two-fer" from the personnel handbook of a Louisiana employer, "The use of *profound* language on the premises by any of the employees will be grounds for immediate termination," and "Employees Must Come To Work Dressed."

These "classic typo's" discoveries were made by (1) **Michael R. Tibbets** of Houston (De Lange & Hudspeth), the chair of a State Bar grievance committee, who hastened to add that this investigator does "an excellent job wit a demanding case load"; (2) **Robert Musslewhite** of Dallas (Robert is one of my law clerks); and (3)-(5) **Bryce J. Denny** of Shreveport, La. (Cook, Yancey, King & Galloway).

#### DID THEY REALLY SAY THAT?

From **Thomas M. Pickford** of Houston (Hoover, Bax & Slovacek), this excerpt from his deposition examination of the defendant, who was from Israel but is now a U.S. citizen. **Clifford Weinstein** of Dallas is the defendant's attorney.

Q. (By Mr. Pickford) Victor Ronen, named as one of your experts, is in Israel. Is that right?

A. *He's not existing anymore.*

Q. He has died?

A. (Witness nods.)

Q. When did he die?

A. Four months ago.

Q. *So he obviously is not going to be an expert witness? Forget it. You don't need to answer that.*

Mr. Weinstein: He died four months ago?

The Witness: Yes.

Mr. Weinstein: *But he's on our list as one of our expert witnesses. How did he get on the list if he was dead?*

The Witness: He died after.

Mr. Weinstein: He must have died right after. *He probably found out he was going to be an expert witness in this case.*

From **Bart McKay** of Dallas (Jones, Day, Reavis & Pogue), this excerpt from the deposition of an oil pipeline expert in an administrative proceeding in Alaska. The rather unlucky exchange is between **Jim Teater** (also of Jones, Day in Dallas) and **Matthew Estes** of Washington, D.C. (Skadden, Arps).

Mr. Teater: What page are you reading, Matt?

Mr. Estes: Page 13, line 13. The unlucky sentence.

Mr. Teater: We're on the 13th floor, too, aren't we?

Mr. Estes: Yes, we are.

Mr. Teater: *Read fast.*

From **Barry Casey** of Dallas, this excerpt from a deposition taken in Lafayette, La. by his "LSU law school buddy" **Dan Shapiro** (of Gordon, Arata, etc.).

Q. Did you take any medicine yesterday?

A. Not yesterday, no.

Q. Day before that?

A. No sir.

Q. When is the last time you did take some medicine. If you don't remember that's fine. If it's been a long time, just say that.

A. Well, *I'm not programmed to answer that question* because I don't have it on paper in front of me.

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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