



Excedrin, Excedrin, Exc.

BY JERRY BUCHMEYER

THIS MONTH'S COLUMN COMES to you from Amarillo (**Vance Edward Ivy**), Dallas (**Judge Barefoot Sanders and my pro se customers**), Galveston (**Tod Phillips**), Houston (**Joseph Rollins**), Lubbock (**George Nelson**), and San Antonio (**Julian Lopez, Larry Warren**).

From **Tod A. Phillips** of Galveston (McLeod, Alexander, etc.), this deposition excerpt from a railroad accident case:

Q. Had you seen that car up on the tracks before the accident?

A. No, sir.

Q. Never saw it before you hit it?

A. We saw it right at —

Q. Right at the last minute?

A. Yeah.

Q. *How far were you from it when you hit it?*

From **Joseph G. Rollins** of Houston, this excerpt from a Trespass To Try Title case that he tried in Sherman "way back in the early 1950s." Joseph sets the stage by explaining that the witness' father had been "well known to have been an alcoholic."

Q. And your father died intestate?

A. (Halfway coming out of his seat) No, he died in a train wreck, Mr. Rollins, and you know it!!

Judge: He's just trying to find out if your daddy had a will.

A. Well, why didn't he just ask me that instead of getting personal about it.

BUT WHO'S COUNTING

From **Vance Edward Ivy** of Amarillo, (Gibson, Ochsner & Adkins), this deposition excerpt from a premises liability case against Wal-Mart Stores. Vance is questioning the plaintiff's husband about the loss of consortium claim.

Q. *Prior to the accident, how many times would y'all have sex a month, approximately?*

A. *A month? Maybe 200.*

Q. After the accident, how many times?

A. About four months went by before even once.

Q. How about now?

A. Now, it's starting to get normalized. It's better. It's not like it was, but it's better.

Vince adds, "Interestingly, when the husband read and signed his deposition, he reduced the amount to 100 times a month" — and the reason he gave for this change was "overzealous."

A JOINT SUBMISSION

From **Julian T. Lopez** of San Antonio (Julian is with the law offices of Fidel Rodriguez, Jr.), this deposition excerpt from a case in which his client was run over in the parking lot of a local nightclub by a "driver" who had a blood alcohol level of between .31 and .33. The other San Antonio attorneys are **Samuel B. Katz** (representing the driver) and **Christopher Strawn** (for the nightclub). The witness is an off-duty police officer who worked security in the parking lot.

Q. By Mr. Strawn: From what you recall did those lights across the top of it illuminate the lower level, too?

A. Well, that's basically I think what they were for. The lights were across the top of the parking lot for that parking lot.

Q. *How did those lights fulfill their function?*

A. *Well, from an engineering standpoint, I guess electrons went through the wires to —*

Q. *I mean, it illuminated the parking lot?*

A. It illuminated the parking lot. We already said that, though, so —

Q. Okay. I'm sorry.

Mr. Lopez: *I'm going to submit that to the Bar Journal.*

Mr. Strawn: *No you're not.*

Mr. Katz: *That was good. I want my name on there. Do it as a joint submission.*

Mr. Strawn: No. No, you better not.

Mr. Lopez: Too late, It's your punishment for us still being here.

CLASSIC TYPOS

These are all Federal Typo's from recent filings in the Northern District of Texas:

(1) From a letter by the *pro se* plaintiff in a discrimination case:

I disagree with defendants Status Report because they are putting *wards* in my mouth

(2) From a letter to me from the defendant in a criminal case:

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Please you *horner* "Sir," "T" have three children and all I'm asking your *horner* is a chance to see them grow.

(3) From a juror's request to be excused from service:

I have several medical problems — including anxiety *attache* when the least upset.

(4) From a brief filed with **Judge Barefoot Sanders:**

...see the Texas *Renal* code, Section 39.03, which states

(5) From a *pro se* letter I received which was not about pastry:

One of the issues that has been important to Realtors has been *torte* reform.

TO TELL YOU THE TRUTH

From **Larry D. Warren** of San Antonio (Ball & Weed), this excerpt from his deposition of the plaintiff in a highway construction case — in which the attorney for the plaintiff was **Abner Burnett** of Odessa.

Q. All right. The police report — you've just gone through you being at the Bonham Exchange nightclub the night of Nov. 11 [and] you left at 11 p.m. and went home.

A. Yes.

Q. You were at home, watched TV a while and went to bed?

A. Yes.

Q. You woke up the next morning about what time?

A. *To tell you the truth, I can't recall.*

Q. Okay, but you woke up and had breakfast with your wife and your son?

A. Yes.

Q. Now, *the police report says the accident that you were involved in was Nov. 12 at 2:30 a.m.*

A. Yes.

Q. Is that correct what is on the police report, to your knowledge?

A. Yes.

Q. Okay, *so sometime while you're sleeping at your home on Perrin Beitel, you were also involved in an accident at I-10 and Callaghan Road?*

A. Yes.

Q. Can you tell me how that happened?

A. *To tell you the truth —*

Q. Just tell me what you know.

Mr. Burnett (*wisely*): You're completely lost.

The witness: Yes, I'm completely lost.

Mr. Burnett: Can we just take a short break?

Mr. Warren: Go ahead, let's do that.

Mr. Burnett: Otherwise, we'll be here a long time.

(There was a brief recess.)

By Mr. Warren:

Q. Mr. Riojas, Your attorney has advised me that you are under some sort of medication; is that right?

A. Yes.

Q. And it's your understanding that this medication affects your ability to remember things?

A. Yes.

Q. Can you just tell me briefly *who is the doctor* that is prescribing this type of medication for you?

A. *To tell you the truth, I can't recall.*

Shortly after this, the attorneys "agreed to adjourn the deposition to a later date."

SPOUSES AND HEADACHES

From **George H. Nelson** of Lubbock (Nelson & Hall), this marvelous(!) Explanation that one of his clients gave for wanting a divorce:

I've tried to get along with her, but I no sooner get home from work till she starts telling me to do the washing, carry out the trash, clean up the house, cook my own supper, *excedrin, excedrin.*

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.