



## From Truth to Death

BY JERRY BUCHMEYER

The contributions for this *et cetera* come from Beaumont (**John Haught**), Dallas (**Celeste Evangelisti**, **John McCully**, and **Judge Bruce Woody**), Fort Worth (**U.S. District Judge Terry Means**), Houston (**James Cooper-Hill**, **John Mahoney** and **Ruth Ann Stiles**), Longview (**Melvin Wilcox**) and Phoenix (**Carolyn Johnsen**).

### WHAT IS THE TRUTH, ANYWAY?

From **Melvin R. Wilcox, III** of Longview (Smead, Anderson, Wilcox & Dunn), this excerpt from the deposition of a representative of the Chicago Northwestern Railroad concerning contracts filed with the Interstate Commerce Commission.

Q. Okay. You're aware that certain contracts had to be filed with the ICC?

A. Right.

Q. *Were you aware that you had to tell the truth* when you filed — made those filings with the ICC?

A. *Could you clarify "tell the truth"?*

Q. Raise your hand, like you are now.

From **James Cooper-Hill** of Houston, this excerpt from a post-judgment deposition he took in an attempt to uncover assets to satisfy a judgment against the witness's employer:

Q. And what was your job?

A. Purchaser.

Q. How were you paid?

A. *Poorly.*

### DID THEY REALLY SAY THAT?

From **John E. Haught** of Beaumont (Mehaffy & Weber), this excerpt from the deposition of a supposed eyewitness to an automobile accident who was a close friend of the plaintiff's family.

A. It's nothing out of the ordinary that I didn't, you know, go by and see Ms. Smith and Jim, you know, because, you know, I've always helped Jim out, you know — and, of course, — Ms. Smith having this Alzheimer's disease and all, you know, I always wanted to visit with her as often as possible.

Q. You say Ms. Smith has Alzheimer's?

A. That's what I understand.

Q. *Is she lucid?*

A. *No, sir. She's smart as a whip.*

From **Celeste A. Evangelisti** of Dallas (Strasburger & Price), these excerpts from the deposition of a truck driver who — among other things — claimed that he ran the red light because his brakes failed:

Q. *Did you receive any reprimands while working at Stripe-A-Zone?*

A. Yep.

Q. For what?

A. *Being there on time and being a good worker and stuff.*

Q. Okay. As you were approaching the light before the accident, how fast were you driving?

A. Thirty.

Q. How do you know that?

A. I looked at the *speed thermometer*.

Q. When they were test-driving it, you said it wouldn't stop.

A. No. They — they just said it wouldn't stop.

Q. Okay. Well, were they ever able to stop it?

A. Not really.

Q. Well, it's not still out there rolling around?

A. No, sir.

From **John T. McCully** of Dallas, this excerpt from the examination of a police officer in a DWI case:

Q. At the time the defendant stepped out of the car ... did you have any idea that this may be a driving while intoxication investigation?

A. No. I thought it was just an accident.

Q. At what point did you make that determination that you may have a driving while intoxication investigation?

A. It took him, you know, a full minute to get his driver's license out of his wallet. And plus at the same time, I smelled a strong odor of alcoholic beverage.

Q. After you smelled the alcohol and the driver's license, what did you do then, officer?

From **Judge Bruce Woody** of Dallas (County Court at Law No. Four), this excerpt from the record in a "no hot water in the apartment" case recently tried in his court.

Q. Okay, did you ever have occasion to receive hot water in a cold water outlet?

A. Yes. I got up one night and my commode was boiling hot, the water in my commode was hot.

Q. Were you surprised?

A. Yes, sir. I love hot water, but not there.

Understandably, Judge Woody just couldn't resist adding: "The witness was a 63-year-old woman, not a party

to the suit, who obviously had had some interesting experiences in the apartment, but instead of filing suit herself, *she just washed her hands of the whole thing.*"

#### CLASSIC TYPOS

(1) From **U.S. District Judge Terry R. Means** of Fort Worth, this typo he discovered in a "character letter" he received about a criminal defendant who was awaiting sentence:

Your Honor:

I send this letter to you in reference to my long time and dear friend Mr. Chris Carpenter. Chris and myself have been *aquatinted* for almost 10 years, and during that time your honor he has always demonstrated the character becoming of an honorable and worthy individual.

(2) From **John W. Mahoney** of Houston (Williams, Birnberg & Andersen), this typo from a news story he "found on the Internet from the Tulsa World newspaper" regarding a pending Title IX lawsuit:

The gender equity lawsuit against Tulsa Public Schools is settling down ... A final *dissent decree* on the lawsuit will be given to U.S. Judge Sven Erik Holmes at 1 p.m. June 6 ...

(3) From **Ruth Ann Stiles** of Houston (who is the staff attorney for Probate Court No. One), this typo in a Motion To Transfer which "gave us far more information than we wanted in regard to the deceased":

The Administrator of this Estate respectfully moves for an order transferring this cause to Probate Court Number Two (2), Harris County, Texas, to be administered concurrently with Cause Number 259,622, styled "In the Matter of the Estate of Laura Alexander, *Decayed* ...

(4) From a memo I received from the U.S. Marshals Service concerning "Prisoner & Cellblock Operations" at the Mansfield Law Enforcement Center:

Please ensure that the above infor-

mation is *decimated* to your staff at your earliest convenience.

(5) From a letter I received from a prisoner in the Dallas County Jail:

I was brought to jail for some tickets I had already gotten time served for last year. But when I went to court for *arrangement*, they had me charged with possession of cocaine ....

#### COULDN'T RESIST

In a motion filed in one of my cases, the defendant's attorney presented this classic typo: "Large portions of the Plaintiff's Affidavits are inadmissible *heresy*." After I stopped laughing, the only thing I could do was to enter this Order:

The Defendant's Motion To Strike Plaintiff's Summary Judgment Affidavits is **GRANTED** but only to the Following Extent: the request on page 2 to strike those portions of the affidavits as "inadmissible *heresy*" is **GRANTED**, and these *heretical* portions of the affidavits **SHALL** first have a *wooden stake* driven through them and next shall be *boiled in oil!!*  
**SO ORDERED.**

#### HOW DEAD IS HE?

From **Carolyn J. Johnsen** of Phoenix, Ariz. (Herbert Schenk & Johnsen) — Carolyn was a law clerk for U.S. District Judge Hal Woodward of Lubbock — this excerpt from the deposition of the guarantor's wife who was accused of altering the signatures on the guarantee:

Q. Your husband did not request you to "X" out your name on the guaranty?

A. *He was dead.*

Q. *That's a "no"?*

A. *That's a "no."*

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.

## GRIEVANCE DEFENSE

### STEVE SMOOT

ATTORNEY AT LAW

FORMER FIRST ASSISTANT  
GENERAL COUNSEL AND  
CHIEF TRIAL LAWYER  
STATE BAR OF TEXAS

STATE-WIDE PRACTICE IN  
SERIOUS PROFESSIONAL  
RESPONSIBILITY MATTERS

AUSTIN (512) 474-7000

HOUSTON (713) 655-7055

NOT CERTIFIED BY THE TEXAS BOARD OF LEGAL SPECIALIZATION

## LEGAL MALPRACTICE