



Every Time I See Your Face

BY JERRY BUCHMEYER

The title contribution this month is from **C. Dan Campbell** of Wichita Falls and the other excerpts are from Amarillo (**Philip R. Russ**), Corpus Christi (**Judge Manuel Banales**), Dallas (**Walter Cowger, Hollye Fisk**), Friendswood (**Jerry McKenney**), and Houston (**Sharon E. Conway, Loren G. Klitsas, Pete T. Patterson, Michael Wright**).

OF EXPERTS AND COMMON SENSE

From **Hollye Fisk** of Dallas (Fisk & Fielder), this excerpt from his deposition of the plaintiff's mechanical engineering expert in a toxic chemical exposure case.

Q. If you don't have enough information [to go about calculating the concentration of a particular chemical in a room], then common sense tells you they don't have enough information to do it legitimately either, right?

A. I don't hold with the notion of common sense, and I really don't have any concept of how this other person may have arrived at their conclusions.

Q. When you say you don't hold with the notion of common sense, does that mean that you don't exercise common sense in your own business dealings?

A. No, I don't believe it exists.

Q. It certainly doesn't exist for you; is that right?

A. I didn't say that.

Q. *Isn't that what you just told me,*

in essence? You don't believe common sense exists?

A. *That's right.*

Q. *And, therefore, it certainly doesn't exist for you; is that correct?*

A. *That's right.*

DID THEY REALLY SAY THAT?

From **Sharon E. Conway** of Houston (Evans, Kosot, etc.), this excerpt from the deposition of her client in a DTPA/fraud case, which involved the wrongful repossession of a truck purchased by her client.

Q. Has he been treated for any injuries in this case?

A. No.

Q. Has he seen a doctor or psychiatrist or health-care professional in this case?

A. No.

Q. Has he met with clergy or other counselors relative to the incidents of this repossession?

This Witness: *Clergy, is that you?*

Ms. Conway: *No, I think I'm the opposite.*

Q. Pastor or minister or something?

A. No.

DID THEY REALLY SAY THAT? II

From **Pete T. Patterson** of Houston (London, Schaeffer & Patterson), this excerpt from the testimony of the president of a management company in a premises liability case — in which Pete represents the plaintiff.

Q. So you're saying that either Kathy Ghaly or Laura Smith failed in their job duty to check out —

A. I'm not saying that.

Q. — Mr. Wartley's employment?

A. I'm not saying that.

Q. Well —

A. You're saying that.

Q. I am saying that.

A. I am not saying that.

Q. Okay. What are you saying?

A. I'm not saying anything.

From **Walter Cowger** of Dallas (Akin, Gump), this excerpt from the deposition of the plaintiff in a wrongful discharge case.

Q. Did you come here today [from Oregon] just for this deposition?

A. Yes, I did.

Q. You're not planning to move back to Texas anytime soon?

A. We're planning on moving back this summer. Or I am. *I think my wife wants to stay in Oregon.*

Q. *Why are you planning to move back?*

A. *Because Oregon sucks!*

Q. (Wisely) Well, of course.

From **Jerry McKenney** of Friendswood (Youngdahl, Sadin & Morgan), this excerpt from his deposition of the operator of a business which installed elevators and lifts for disabled people.

Q. Other than Randy Randall, do you have other sales people working for you?

A. Yes.

Q. Who are they?

A. Some of them are dependents, some of them, they have been there, they are not there.

- Q. *Names?*
 A. *Oh, Jesus Christ*
 Q. *That's a pretty good salesman.*

THAT ABOUT COVERS IT

From **Michael Wright** of Houston (Ramsey & Murray), this excerpt from his deposition of a plaintiff who certainly knew about "*moral turpitude*."

- Q. Do you know what moral turpitude is?
 A. Define moral turpitude for me, sir.
 Q. Without my defining it, do you know what it is? It's a yes or no question.
 A. Yes, I know, sir.
 Q. Okay. What is it?
 A. Moral turpitude?
 Q. Yes, sir.
 A. Hmm. I guess violating my morals, like with another woman or something, like whether I have messed around on my wife or had sex with an animal, dog, man, or anything like that.

MAKING BUCK MYERS' COLUMN

From **Loren G. Klitsas** of Houston (Celedonia, Smith & Klitsas), this excerpt from the long cross-examination of an investigating police officer "recording his opinions as to the cause of the traffic accident."

- Q. Have any of your opinions changed after all this stuff that they've told you and all this stuff that they've shown you?
 Mr. Klitsas: Objection, vague.
 A. No.
 (Court reporter sneezed.)
 Mr. Lapidus: Bless you.
 Mr. Celedonia: *Are you saying that to the deputy or to the court reporter?*
 Mr. Lapidus: Good question.
 Mr. Klitsas: That just made *Buck Myers'* column.

LIKE SON, LIKE FATHER

From **Philip R. Russ** of Amarillo, these "two contributions from different litigation" involving Mike Spradling (son) and L.R. Spradling (father) — with Philip adding that the father "is the same person Ron Nickum sent in

the testimony you published about don't remember what I remember. *Seems like he never quits.*"

First, Philip's client is being cross-examined at trial in a divorce case involving the son:

- Q. Mr. Corbett, you mentioned earlier about something that Mike Spradling may have told you characterizing as being strange sexual behavior back in November, December of '89?
 A. Not strange sexual behavior, just unusual behavior.
 Q. Exactly what did Mike Spradling say to you on that occasion?
 A. *Something about he met a girl that likes to do things with jelly.*

Second, the father is being cross-examined during the trial of an oil and gas lease case:

- Q. Well, I mean why should we believe anything that's coming out of your mouth as you sit here right now?
 A. Well, I don't suppose you have to believe any of it. All I'm trying to do is convince the jury.

GREAT MOMENTS IN THE HISTORY OF JUSTICE

From **District Judge Manuel Banales** of the 105th Judicial District (Nueces, Kleberg & Kenedy Counties), this Somewhat Great Moment in which "History — of sorts — was made in [his] courtroom [in] Kleberg County on March 11, 1997."

- Q. And that's your only conversation with Mr. Montoya or Ms. Manqueros?
 The Bailiff: Judge?
 Mr. Kearney: Your Honor?
 Unidentified Juror: *There's a huge roach and it's distracting.*
 The Court: Oh, Really.
 Unidentified Juror: *It's about to jump on him.*
 Agent Gilson: Oh, I see it.
 Unidentified Juror: I don't know where it went now.
 Agent Gilson: It's back here.
 The Court Reporter: It's right there.
 The Court: Do you want to smack it, Rick [the Bailiff]?

Unidentified Juror: I'm sorry, but all I could do was see that thing crawling around.

[Missing from the record at this point is "*a pretty loud stomp*," according to Judge Banales.]

- The Court: Is it history?
 Agent Gilson: It's history.
 Unidentified Juror: Thank you.
 The Court: All right. The question again.

EVERY TIME I SEE YOUR FACE

From **C. Dan Campbell** of Wichita Falls (Brooks, Campbell & Grubbs), this excerpt from the deposition of a "plaintiff [who] alleged, among other things," that the bank [Dan's client], had invaded his privacy "by attempting to foreclose on additional collateral."

- Q. Okay. You allege, also, that you've suffered embarrassment, humiliation, fear, frustration, and general mental anguish; is that right?
 A. Yes, sir.
 Q. Have you seen any physician, or psychiatrist, or psychologist for your general mental anguish?
 A. I haven't seen a psychiatrist, no.
 Q. Have you seen a physician for treatment for your general mental anguish?
 A. I do take some medication that when I — *basically every time I'm around you, I have problems for about a month.*
 Q. Okay. What kind of medication are you taking when you're around me, Mr. Clement?
 A. It's called Zantac ... it goes with stress.
 Q. It was prescribed for you to take regularly then?
 A. Yes, sir.
 Q. Not just when you're around me?
 A. No. I was told that I could take it regularly or I could learn to live with the problem.

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.