



A Lot of Lot, You Know

BY JERRY BUCHMEYER

THE TWO TITLE CONTRIBUTIONS for this month's column are from **Ronnie Baham, Jr.** of Houston and **Darrell Smith** of San Antonio. The others are from Dallas (**U.S. Bankruptcy Judge Robert C. McGuire**, **Al Ellis**, **Douglas Fletcher**, **Robert Musslewhite**, **Leah Hart**, and **Keith Stanley**), Fort Worth (**David Fielding**), Houston (**Andrew Petty**), Waco (**R.D. Pattillo**), and Wichita Falls (**District Judge Robert P. Brotherton**).

DID THEY REALLY ASK THAT?

Discovered in a deposition by my former law clerk **Robert Musslewhite**:

Q. I'm going to ask you four questions that I'm going to guess are going to sound real strange to you, even stranger than the rest of my questions —

A. *Oh, Lord.*

Q. — but I have to ask them just because of legal principles, so bear with me.

From **Andrew H. Petty** of Houston (Alsup & Petty), this paragraph from a discovery request:

Request For Production No. 19

Please produce *all documents Defendant destroyed* which relate to matters in Plaintiff's Original Complaint.

DID THEY REALLY SAY THAT?

From **Leah Hart** and **Keith Stanley** of Dallas (Leah and Keith are paralegals with Fanning, Harper & Martinson), this answer to an interrogatory in a toxic tort case regarding the history of cancer in the plaintiff's family.

A. My father had chest and face cancer *on his back and chest.*

DID THEY REALLY MEAN THAT?

From **David Fielding** of Fort Worth (Fielding, Barrett & Taylor), this excerpt from a complaint filed against his client in a case involving alleged sexual harassment, assault, invasion of privacy, etc.

Plaintiff filed a Charge of Discrimination *because of her sex with the Equal Opportunity Commission.* ... Plaintiff has *exhausted* her administrative remedies.

LET ME MAKE THIS ABUNDANTLY CLEAR

From **District Judge Robert P. Brotherton** of Wichita Falls (30th District Court), this argument made by the plaintiff's attorney in a motion for summary judgment in a medical malpractice case:

... the acts of negligence which would be a deviation of the standard care if committed by [the defendant] *have not been basically eliminated from possibility of being fact ...*

AL ELLIS ... IN PRINT AGAIN!

From **Al Ellis** of Dallas (Al is now at Howie & Sweeney, and he claims to be getting a regular paycheck), this *two-fer* he submitted first by phone, and later by this letter:

Dear Jerry:

If it weren't for the humor in this business, we would all be babbling (sic) idiots.

In the same trial in which the juror

answered the question in my jury questionnaire as follows:

Q. Do you think jury awards are ___ too high ___ about right ___ too low?

A. *Too low. \$8 barely covers our parking and leaves very little on which to eat lunch.*

We find the following medical report from one of our more prominent orthopedic surgeons in Dallas:

While asleep, Dr. ___ carefully explored the patient's prior graft donor site.

Obviously, this is either the greatest orthopedic surgeon in the world in that he can perform surgeries in his sleep or he may be one we all wish to avoid. *Looking forward to seeing my name in print again*, as I continue in my all-out efforts to provide fodder for the *et cetera* fire.

SERVICE OF PROCESS

From **U.S. Bankruptcy Judge Robert McGuire** of Dallas, this excerpt from the response filed to a Debtor's Motion for Contempt:

The Creditor's process server went to Smith's residence to serve the Complaint Objecting To Discharge. He knocked on the door, and received no answer. He knocked on the door again, and Smith opened the door and threw a pot of hot water on Creditor's process server and slammed the door. Creditor's process server then knocked on the door again, and when Smith opened the door to throw a second pot of hot water on Creditor's process server, the process server threw the

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Summons and Complaint into Smith's house. Smith then proceeded to call the police. However, when the police arrived, rather than taking a complaint by Smith against Creditor's process server, they took a complaint against Smith by the process server.

WITNESS 1, LAWYER 0

From **Douglas D. Fletcher** of Dallas (Fletcher & Springer), this excerpt from the deposition of an elevator mechanic in a personal injury case.

- Q. It would take you 30 full minutes, generally, to oil and grease [the elevator]?
- A. Generally.
- Q. So you in order to — what is this 30 minute interval? Do you have a name for this 30 minute ... allotment? What is it? I mean, *do you all have a name in the industry, what you call it?*
- A. *Time.*

"YOU EARNED A BUCHMEYER"

R.D. Pattillo, III of Waco (Williams, Pattillo & Squires), who recently judged a mock trial competition at Baylor University School of Law, could not resist telling the defense attorneys that they had "*earned a Buchmeyer*" with the following cross-examination of the mock plaintiff:

- Q. Isn't it true that on two previous occasions you attempted to commit suicide?
- A. Yes.
- Q. *And isn't it true that you were unsuccessful on both occasions?*
- A. Yes.

R.D. added: "They didn't understand when I said they had "*earned a Buchmeyer*" — but hopefully with the publication of the referenced cross examination, the Baylor University School of Law mock trial team *will enter the ranks of 'Buchmeyerised litigants.'*"

A LOT OF LOT

From **Ronnie W. Baham, Jr.** of Houston (Brown, Sims, Wise & White), this excerpt from his deposition of the plaintiff in a personal injury case which, Ronnie submits, might get "a lot" of laughs.

- Q. What kind of work do you do on this house you just moved into? Carpentry work?
- A. No. A little bit of wiring; wiring up a new meter box.
- Q. Okay. Did you do anything else on it? Did you cut the grass?
- A. I started to. I could do some, but I've got to quit and then go back to it. I can't cut it all at once.
- Q. How big is your yard?
- A. Normal size yard, I guess.
- Q. Less than an acre?
- A. Oh, way less than an acre. *It's a lot.*
- Q. *It's "a lot," as in "a lot," instead of "a lot?"*
- A. Right. A lot. Like a lot, you know, that you put a house on.
- Q. *"A lot" as opposed to "a bunch?"*
- A. Not that, no. Not a whole bunch. It's about — I would say 50 foot wide and maybe 100 foot deep.
- Q. There you go. Now we've got it down to specifics. *Now, that's a lot.*

WELL, YOU KNOW ...

Darrell F. Smith of San Antonio (Lopez & Smith) received, you know, this answer in a deposition when he, you know, "asked the witness if she had anything," you know, "she wanted to add."

- A. Well, *you know*, I feel like if, *you know*, with time, it may get to where we can go back to our normal routine. Or maybe it's I'm afraid to get hurt or hurt my back. And my husband is a very patient man. ... But we've had some discussions about our sex life, *you know*. I guess that's why I try and put it off, *you know*. I guess that's why I try and put it off, *you know*, until later.
- Q. Okay. I may be a little obtuse. I'm not trying to embarrass you. But *a lot of your answers have included the phrase "you know" —*
- A. *I know.*

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.