



Telling It Like It Is

BY JERRY BUCHMEYER

THIS MONTH'S *ET CETERA* CONTRIBUTIONS ARE FROM AUSTIN (**Kirk Kuykendall**, **John Ritter**), BEAUMONT (**Judge Milton Gunn Shuffield**), DALLAS (**Bruce A. Pauley**, **Patrick Shaw**), EL PASO (**Connie Crawford**), HOUSTON (**Thomas Fulkerson**, **Michael Mallia**, **Susan Pavlica**), LIBERTY (**Thomas Chambers**), LONGVIEW (**Alfonso Charles**), RICHARDSON (**Charles Allen**), SAN ANGELO (**Dana Ehrlich**), AND SAN ANTONIO (**Joseph Esparza**) — WITH OUT-OF-STATE CONTRIBUTIONS FROM LAS CRUCES, N.M. (**Neil Weinbrenner**) AND MINNEAPOLIS, MINN. (**Marc Shrake**).

THIS MAY SOUND STUPID, BUT ...

From **F. Alfonso Charles** of Longview (Alfonso is an assistant criminal district attorney), this trial excerpt from the examination of the defendant's son by Assistant Criminal District Attorney **Joseph M. Black, IV**.

Q. Now, how are you related to Marcy Broadway?

A. She is my stepmother.

Q. *This is going to sound like a stupid question, but has she been your stepmother the entire period of time your father and her have been married?*

From **Neil E. Weinbrenner** of Las Cruces, N.M., this deposition excerpt:

Q. Did you know Michael Stringfield before you married him?

A. Yes.

From **Bruce A. Pauley** of Dallas, this deposition excerpt from an employment discrimination case.

Q. Do you have children, Mr. Gentry?

A. Yes, sir.

Q. How many?

A. Two.

Q. Do you pay child support?

A. Yes, sir.

Q. How much?

A. 400 a month, dollars.

Q. Is that paid to Ms. Smith?

A. Yes, it is.

Q. *She's the father of your two children?*

A. *She's the mother.*

WHAT IS IT
THAT YOU DON'T REMEMBER

From **John T. Ritter** of Austin (Davis & Davis), this excerpt from a memorable deposition.

Q. Let me ask you this: *Do you have any memory problems? Do you have problems recalling things, from time to time?*

A. From time to time.

Q. *Do you know why? Is it secondary to some medication you're taking, or something like that?*

A. *I don't know.*

Q. Okay.

A. *I don't remember.*

Q. Okay.

Mr. Marks: *You don't remember why you don't remember?*

The Witness: *That's right.*

DOING VOIR DIRE

From **Judge Milton Gunn Shuffield** of Beaumont (136th District Court), this excerpt from voir dire in

an automobile accident case — where the plaintiff's attorney is asking the panel members about any accidents they may have had.

Q. Yes, Juror 25.

A. *I run over a camel in Saudi Arabia.*

Q. A camel? Was it a bad accident?

A. *Camel thought so. It killed him.*

From **Connie Crawford** of El Paso (Connie is an assistant county attorney), these answers in a Juror Questionnaire in one of her recent trials.

Age: 36

Length of residence in El Paso:
37 years

From **Charles M. Allen, II** of Richardson (Charles is in the legal office of the Richardson Police Department), this excerpt from *voir dire* in a criminal trial in Mobile County, Ala.

Q. I would like to ask the venire if any of the members of the jury venire have recently been the victim of a homicide.

Judge: Any members of the venire — did I get an answer there?

THE CLOSING ARGUMENT

Joseph A. Esparza of San Antonio (Joseph is an assistant criminal district attorney) submits a Truly Classic(!) closing argument made by his former partner, **Ellen Wheeler-Walter**, during a misdemeanor trial. Ellen's argument, which was promptly followed by a verdict for the State, was simply:

"She did it." [dramatic pause] *"I*

proved it." [dramatic pause] "*Find her guilty.*"

DID THEY REALLY SAY THAT?

From **Marc J. Shrake** of Minneapolis (Zelle & Larson), this excerpt from the deposition of his client, the owner of a tree removal service.

Q. Now, is the crew responsible to keep track of the number of trees that are removed or trimmed?

A. Yes.

Q. Okay. *How do you train them in doing that?*

A. They are asked to count the trees that are going to be removed and they are asked to count the trees that are going to be trimmed. *I believe they probably learned how to count through school.*

Q. Is there any specific technique you give them to make sure they don't double-count or miss a tree as they do their counting?

A. *A technique? In counting? I guess the only technique I'd have would be to start at number one.*

CLASSIC TYPOS

(1) From a letter by a Dallas mediator: ... the March 20, 1998 date of 1:30 p.m. is confirmed unless all three of you agree to *medicate* at 8:30 a.m.

(2) From a transmittal letter to the district clerk:

Pursuant to the Court's instructions, *I am an Amended Notice of Oral Hearing* ...

(3) From a pleading in an Exxon case: This suit involves real property interest and title to land in Zapata County, Texas, [and] *breeches* of contract covenants ...

(4) From a petition for divorce prepared by a legal secretary for her son to terminate his "marriage of less than 60 days."

2. The Parties Were *Marred* on the sixth day of December 1997 ...

These classic typos were contributed by (1) **Patrick Shaw** of Dallas (Woodward Shaw & Howell), (2) **Susan K. Pavlica** of Houston (Mayer, Brown & Platt), (3) **Thomas M. Fulkerson** of Houston (Clements, O'Neill, Pierce & Nickens), and **Kirk**

Kuykendall of Austin (Office of the Attorney General).

TELLING IT LIKE IT IS

From **Thomas A. Chambers** of Liberty, this excerpt from the cross-examination of the defendant in a criminal assault case.

Q. You were mad when you went to [the victim's] door, weren't you?

A. No, but I was real pissed off.

From **Michael P. Mallia** of Houston (Mallia & Jacobs), this excerpt from the plaintiff's deposition in a medical malpractice case, in which **Suzan Cardwell** (**Franklin, Cardwell & Jones**) asks:

Q. Have you ever had any female problems, for example?

A. I have three children. They're the only ones.

From **Dana A. Ehrlich** of San Angelo, this excerpt from his deposition of a judgment debtor (whose current occupation, Dana thought, was "hanging around the race track").

Q. Are you a horse trainer, a horse breeder, or owner? Just what are you?

A. I'm a very used-up old man who is tired of all stuff like this, stuff that I didn't do and that somebody is trying to hang on me, and that I wasn't even notified of by the company. They screwed me.

Q. Do you own any stamp or coin collections?

A. (*Witness pulls out a nickel and a penny and puts it on the table.*) *That's it baby.*

Contributions to *et cetera* should be mailed to:

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U.S. District Court
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