



## Quite an Undertaking

BY JERRY BUCHMEYER

THIS MONTH'S TITLE CONTRIBUTION comes from **Judge Stephen W. Mansfield** of Austin (Texas Court of Criminal Appeals). The others are from Brownsville (**Larry Warner**), Dallas (**Michael Jung, Jerry Lastelick, Steven DeWolf**), Houston (**Byron Barclay, Mark Murrah, Frank H. Newton**), San Antonio (**John Fritz**), and Texarkana (**Judge John F. Miller**) — with out-of-state contributions from Shreveport (**Bryce Denny**), Columbus, Ohio (**Charles Zamora**), and Provo, Utah (**Deloyd Bailey**).

### FROM THE TWILIGHT ZONE

**Bryce J. Denny** of Shreveport (Cook, Yancey, etc.) wisely observes that any "further explanation would ruin the illusion" of this deposition excerpt.

Q. These UCAP meetings, were they during the day or at night?

A. Happened very seldom. I'm just recalling that from one — excuse me — time. Just things, stuff like that. They have a woman of the year deal, they might want some inmates up there.

Q. Was that during the day?

A. No, sir, that would be in the evening time.

Q. Excuse me talking over here.

A. That's all right.

Q. *I haven't taken a deposition with a man sitting on a refrigerator before.*

A. *It might be the first. Hopefully the last.*

### JUST HOW DEAD WAS HE?

From **Frank H. Newton** of Houston (Fulbright & Jaworski), this excerpt from his deposition of the Justice of the Peace in a personal injury death case.

Q. Now, as the Justice of the Peace in 1990, you had the authority to order an autopsy. Correct?

A. I did.

Q. Okay. *But you did not order [an autopsy] in this case. Correct?*

A. No.

Q. Okay. *And why is that?*

A. *Well, the person was dead, for one thing.*

### SOMEONE SHOULD CALL DUDLEY DO-RIGHT!

**C. Mark Murrah** of Houston (Hughes, Watters & Askanase) submits both the "*Dudley Do-Right*" title and this excerpt from a medical records affidavit filed in an El Paso case.

HPI: This is a 33-year-old male who was found unresponsive at home by his wife. EMS was called and has a history of *heroin* abuse.

### IMAGINATIVE OBJECTIONS

From **Steven K. DeWolf** of Dallas (Bellinger & DeWolf), this very useful objection made by the opposing counsel.

Q. And how many patients did you see on that day, sir?

Mr. Cummings: Objection, it calls for speculation. If you know.

A. I don't recall.

Q. (By Mr. DeWolf) Do you recall a

single other patient that you saw that day?

Mr. Cummings: *That is so unfair.*

A. No.

Mr. DeWolf: *I like that objection, "so unfair." I like that.*

### I HEAR VOICES BUT ...

From **Charles Zamora** of Columbus, Ohio (Charles is also licensed in Texas), this excerpt from his deposition of the plaintiff in a workers' compensation case.

Q. So it's your testimony then that you are still having hallucinations?

A. Yes.

Q. Okay. What about your hearing problems that you had? Do you still have hearing problems?

A. Just I hear voices every now and then ...

Q. What kind of voices?

A. I hear people talking to me every now and then ...

Q. *What do the voices tell you?*

A. *They — like they tell me to get mad, and, you know, like when you are asking me questions, not to answer you. That's why a lot of times I can't remember the dates and the times.*

### THE DILIGENT PRO SE

From **Jerry Lastelick** of Dallas (Lastelick, Anderson & Arneson), this excerpt from the answer by a *pro se* defendant who had (according to the Certificate of Service) shown extreme diligence in serving Jerry "*via telefax*,

*Federal Express, first class mail, and/or certified mail, return receipt requested.*"

Defendant denies each and every, all and singular, the allegations contained in Plaintiff's Original Petition, says some are untrue, demands strict proof thereof, and of this puts himself upon the contrary.

#### DID THEY REALLY ASK THAT?

From **Byron K. Barclay** of Houston (Phillips & Akers):

Q. Did you make *any inquiry with the man who was killed* at all about the nature of the accident or why it occurred?

A. No.

Mr. Barclay (wisely): *I object that that would be impossible to do.*

A. It is impossible.

Q. Why?

A. *Because he's the person you said is not alive.*

From **Larry Warner** of Brownsville:

Q. Do you have any other bills or debts or credit card payments?

A. I don't have any credit cards.

Q. Are you currently in bankruptcy?

A. Yes.

Q. *What was that for?*

The Court: *Not having enough money to pay your bills basically.*

From **Judge John F. Miller, Jr.** of Texarkana (102nd District Court), this excerpt from one of his criminal (drug possession) trials.

Q. *You have been absolutely honest with this jury, haven't you?*

A. Yes, sir, sure have.

Q. *Against my advice, haven't you?*

A. Yes, sir.

Q. Did you have anything to do with this dope that day?

A. No, sir, I sure didn't. Not a thing.

Judge Miller adds: "The jury returned a guilty verdict in 15 minutes."

#### VERBAL TYPO'S

From **P. Michael Jung** of Dallas (Strasburger & Price), this excerpt from a divorce trial:

Q. How did you arrive at the \$5,722 deemed the value of that stock?

A. I had the company CPA run *copu-*

*lations* to determine the price of the stock, the value of the stock.

From **Anon.** in Dallas:

A. I couldn't hire an attorney, so I was represented by the *pubic* defender.

From **H. Deloyd Bailey** of Provo, Utah — who is licensed to practice in Texas — this lawyer exchange which took place in his deposition of the doctor in a medical malpractice case.

Mr. Mautz: All counsel here today are just, you know, we're really put out at the time you've taken over each one of these words. So, you can go ahead and ask him questions about —

Mr. Bailey: I'm put out with what your client did to my client.

Mr. Mautz: I move to strike that and if you engage in anymore of this *hyperverbally*, then this deposition is done.

From **John L. Fritz** of San Antonio (John is a law clerk for Justice Sarah Duncan, Fourth Court of Appeals), this

excerpt from the record in a criminal appeal.

A. Like I said, I don't remember what I told him.

Q. You don't remember what you told him?

A. No. You are asking me questions that happened over about two or three years ago.

Q. Right.

A. And then you want me to sit here and go word for word and I can't do that. I don't have no *porno-graphic [sic] memory*.

#### QUITE AN UNDERTAKING

Fortunately, **Judge Stephen W. Mansfield** of the Texas Court of Criminal Appeals discovered this footnote in *U.S. v. Williams*, 684 F.2d 296 (4th Cir. 1982):

4. He was charged with poisoning a prostitute by serving her whiskey laced with potassium cyanide. He planned to "kill all the prostitutes in town if possible." *This would be quite an undertaking in the District of Columbia.*

Contributions to *et cetera* should be mailed to:

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