



## Speaking in Lower Case

BY JERRY BUCHMEYER

**DAVID S. CRAWFORD** OF ARLINGTON submitted this month's title contribution; the others are from Austin (**Brian J. O'Toole**), Dallas (**Donald J. Hahn**), El Paso (**Darryl S. Vereen**), Groveton (**Travis E. Kitchens, Jr.**), Houston (**Patricia Nellenbach Carter**), McAllen (**Hector L. Rodriguez**), San Antonio (**Ted H. Roberts**), and Fort Collins, Colo. (**Amy K. Rosenberg**).

### LAWYERS ARE NEXT

From **Amy K. Rosenberg** of Fort Collins, Colo. (Liggett, Smith & Williams), this trial excerpt from a "marriage dissolution proceeding" in which Amy's colleague, Michael Liggett, "was cross-examining the soon-to-be ex-wife" regarding some of her expenditures.

Q. "Wynbriar," is that an antique store?

A. No, that's not. That's a tobacco shop.

Q. What did you buy for \$831?

A. A fox.

Q. A fox?

A. Yes.

THE COURT: Wait a minute. I've got to know. You mean, an animal?

THE WITNESS: No. He's — *I have a dead animal farm*. It's a stuffed fox.

THE COURT: A stuffed fox. Okay.

Q. You say you have a dead animal farm. You collect taxidermy?

A. Does that surprise you?

Q. *What other animals do you have?*

A. *Lawyers are next.*

### WHAT DID I JUST SAY?

From **Darryl S. Vereen** of El Paso (Mounce, Green, etc.), this excerpt from "the deposition of the investigating DPS trooper in a multi-vehicle truck/auto fatality collision" — where beer cans were found in the decedent's car.

Q. Did you in fact look into whether or not Mr. Craver had been drinking prior to this accident?

A. Yes.

Q. How did you go about doing that?

A. Blood sample.

Q. And *did you obtain a report through the Department of Public Safety as to Mr. Craver's blood alcohol level?*

A. *Yes.*

Q. And what was his blood alcohol level?

A. *It indicated that he did not have any blood in his system at the time.*

Q. Let me hand you what we will go ahead and mark as Plaintiff's exhibit —

A. *Or what did I just say?*

### DID THEY REALLY

#### ASK/PLEAD/REPORT THAT?

From **Donald J. Hahn** of Dallas (Collins, Norman & Basinger), this question that a lawyer asked his client in a hearing in Probate Court No. 2 (**Judge Robert E. Price**):

Q. Now, Mrs. Smith, is it true that you were well acquainted with John Smith as a result of the fact

that you were married to him for over 55 years?

From **Travis E. Kitchens, Jr.** of Groveton (Evans and Kitchens), this answer filed by the *pro se* respondent in a child support enforcement action in the 411th District Court (San Jacinto County). Travis notes that the *pro se* respondent simply copied the caption and title of the Motion — and then added his denial.

MOTION FOR ENFORCEMENT  
OF CHILD SUPPORT ORDER,  
MOTION FOR JUDGEMENT, AND  
ORDER TO APPEAR

SCOTT PURSWELL, RESPON-  
DENT IN THIS CASE *IS IN DENIAL*.

From **Ted H. Roberts** of San Antonio, the following excerpt from a newspaper article in the *San Antonio Express News*.  
CORPUS CHRISTI — Two weeks after first hearing about the last moments of Betsy and Cody Nutt's lives, jurors in South Texas sentenced the man *who killed the Refugio County residents to death*.

### IT AIN'T BOTHERING ME NONE

From **Brian J. O'Toole** of Austin (Jenkins & Gilchrist), these deposition excerpts from a case in which "several local residents were complaining about emissions (odors and dust) from a manufacturing plant." This witness is one of the plaintiffs.

Q. How did you become informed about this deposition tonight? ...

A. Well ... this lawyer here [Mr. Doggett] called me and told me they was going to have me come up here and — I don't know what you said I was going to do. A while ago you said they was gonna — *what did they say they was going to do to me?*

MR. DOGGETT: *They're doing it.*

A. It ain't bothering me none.

A. Oh, hell. I wish I hadn't said nothing now. When I drove for Quality Service, and don't ask me when ... I haven't been working in the last 10 years, so it must have been before that.

Q. More than 10 years .... So presumably, [that] would have been prior to 1984.

A. Sir? Oh, yeah. Yeah. *I ain't done nothing since 1984 but lay back and get sick from the dust. You can't smoke in here, can you?*

MR. DOGGETT: Please don't.

A. Oh, that's right.

DID THEY REALLY SAY THAT?

From **Patricia Nellenbach Carter** of Houston, these two excerpts she discovered during her clerkship with **Justice Ben Z. Grant**, 6th District Court of Appeals (Texarkana):

1) From trial testimony of an expert:  
Well, I'm trying to think because I don't want to lie to you. *I mean I don't want to get caught in a lie. If I do lie to you, I don't want to get caught.*

2) From an appellee's brief:  
Although Appellant urges reversal based on the fact that Appellant produced seven witnesses while Appellee produced two witnesses, *it is not the collective weight of the witnesses but rather the collective weight of the credible testimony.*

From **Hector L. Rodriguez** of McAllen (Rodriguez, Pruneda, etc.), this excerpt from his deposition of the third party defendant in a personal injury auto accident case. Hector has just asked "the deponent whether or not he had a chance

to look at the accident report in preparation for his deposition," and then ...

A. Yes ... I glanced at the paperwork [but] I didn't have a chance to really look at the accident report. I'm very busy, you know, at work that I really didn't have a chance to do that. *I did get to see it when I went to the restroom. I normally read when I go to the restroom*, so that's — you know, I go in there like three minutes and I'm out, so — and —

MR. BARRY RAY: Remember I told you about that stuff, not to volunteer information?

A. But right now I —

Q. That's more information [than] I wanted to know, but —

SPEAKING IN "lower case"

From **David S. Crawford** of Arlington (Perdue, Brandon, etc.), this marvelous (!!) excerpt from the transcript of a hearing before **Judge Thomas Wilson Lowe III** of Fort Worth (236th District Court) in a case involving a *pro se*, "lower case" defendant.

THE COURT: How do you wish to be addressed?

MR. DORSETT: Leonard R. Dorsett *not in upper case.*

THE COURT: I don't know how to speak in lower case, sir. ... *Are you speaking in upper case or lower case, sir?*

MR DORSETT: *lower case.*

THE COURT (wisely): The court reporter will record this in lower case. This is Cause Number L-14534-97, Carroll Independent School District versus Leonard R. Dorsett. Is plaintiff ready?

MR. CRAWFORD: plaintiff is ready, your honor.

THE COURT: Is respondent ready? ... (No response) ... Leonard R. Dorsett, that's you. You are the respondent. Are you ready?

MR. DORSETT: i have stated that i'm here as a witness, not as a respondent because i have not been properly identified ...

THE COURT: Sir, just a minute. The court really just wanted a "yes" or "no." Is that a "no"?

MR. DORSETT: That's a "no."

THE COURT: Are you requesting a continuance by the court?

MR. DORSETT: i don't know how to answer that, sir, because this is my first time in a courtroom. i am trying to get across to the court that *i am here as a witness in lower case letter* to begin with, *not here as a respondent in uppercase letter.*

THE COURT: The court takes note of that. Plaintiff, will you proceed.

MR. CRAWFORD: thank you, your honor.

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, Texas 75242

<b>TOLL-FREE NUMBERS</b>	<b>State Bar of Texas</b> .....	<b>(800)204-2222</b>
	<b>Advertising Review</b> .....	<b>(800)566-4616</b>
	<b>Attorney Occupation Tax</b> .....	<b>(800)583-8070</b>
	<b>Barratry Hotline</b> .....	<b>(800)633-6630</b>
	<b>Disaster Response Hotline</b> .....	<b>(800)504-7030</b>
	<b>Grievance Information</b> .....	<b>(800)932-1900</b>
	<b>Lawyer Referral Service</b> .....	<b>(800)252-9690</b>
	<b>Lawyers' Ethics Hotline</b> .....	<b>(800)532-3947</b>
	<b>Texas Board of Legal Specialization</b> .....	<b>(800)204-2222</b>
	<b>Texas Equal Access to Justice (IOLTA)</b> .....	<b>(800)252-3401</b>
<b>Texas Judges' Assistance Program</b> .....	<b>(800)219-6474</b>	
<b>Texas Lawyers' Assistance Program</b> .....	<b>(800)343-8527</b>	
<b>Texas Lawyers Care SSI Advo-Kids</b> .....	<b>(888)281-6511</b>	