



# I Plead Guilty

BY JERRY BUCHMEYER

THE CONTRIBUTIONS FOR THIS month's column come from Austin (**Henry de la Garza**, **Laura O'Brien**, **Shannon H. Ratliff**), Dallas (**Joshua T. Kutchin**, **Leslie Ann Lester**, **Tom Mills**), Greenville (**District Judge Joe M. Leonard**), Houston (**J. Richard Reese**), McAllen (**Douglas S. Malany**), San Angelo (**Capt. Penny Robe**).

## WHAT DID YOU DO IN THE WAR?

From **Joshua T. Kutchin** of Dallas, this excerpt from the deposition of his "very opinionated" witness — "the kind who hadn't had an unexpressed thought since Eisenhower occupied the White House" — who had, of course, been prepared by Joshua to "give the most simple, direct, concise answer possible to each question."

Q. Who are you working with out in Henderson?

A. Mack Pool.

Q. Have you been working with Mack Pool since then?

A. Yes, I have [for] 19 years right now.

...

Q. Have you held any other jobs other than with Mack Pool?

A. Well, I was in the Marine Corps.

Q. That's a valid job. How long were you there?

A. Six years, three years in Vietnam.

Q. Honorable discharge?

A. Yes.

Q. What were the years of your service in the Marines?

A. '63 to '70.

Q. And what did you do in the Marines?

A. Kill people ... in Vietnam, that's all we did.

Joshua adds: "While I probably would have preferred some comment about how he fought for truth, justice, democracy, and the American way, I really couldn't fault the directness of his answer."

## THE TRANSACTION THAT FELL THROUGH

**Tom Mills** of Dallas, who represented "Republic of Texas" leader *Richard McFaren* in a federal criminal trial in Dallas, received the following letter from a Special Agent of the U.S. Secret Service in Midland:

Dear Mr. Mills:

Enclosed please find *twenty-one (21) United States silver dollars* which were received at the White House mail room on approximately 4/28/97. *These items were sent to President Clinton by your client, Richard Lance McFaren, for the purchase of Texas. In as much as that transaction fell through*, these funds are being returned to you for disposition as you deem appropriate.

It is requested that you sign the attached form, acknowledging receipt of these items and return it in the envelope provided.

You will be pleased to note that there is no charge for the professional packing of these items. ...

Very truly yours,  
Charles W. Blankenship  
Special Agent

## CLASSIC TYPOS

From **Shannon H. Ratliff** of Austin (McGinnis, Lochridge & Kilgore), this typo from a "motion recently filed 'by someone' in West Texas somewhere"

(Shannon has carefully hidden "the style of the case and the court to protect the guilty").

## MOTION TO FILE SUPPLEMENTAL AFFIDAVIT OF \_\_\_\_

Now come \_\_\_\_ pursuant to Rule 87 of the Texas Rules of Civil Procedure and respectfully show the Court the following:

On May 21, 1999, the Plaintiffs timely filed their response to Defendants' Motion to Transfer Venue and for Severance. The response was partially supported by the Affidavit of \_\_\_\_\_. As a result of a *scribbler's error*, three of the Defendants in this action were inadvertently *admitted* from \_\_\_\_ affidavit. The supplemental affidavit corrects this error.

From **Henry de la Garza** of Austin (Assistant Attorney General, Transportation Division) — and his legal assistant, **Laura M. O'Brien** (also of Austin), this excerpt "from a complaint letter our client received from the plaintiff."

I have deadlines to meet just like every other section, our department has been more closely looked over then (sic) any other, so I am trying to keep on top of things to *illuminate* any room for error.

From **Captain Penny Robe** (USAF), an Air Force lawyer stationed at Good Fellow AFB in San Angelo — whose duties "include review of letters and orders commanders intend to give troops for various disciplinary infractions, such as orders to *Cease and Desist* from spending too much time with another

troop's spouse." This is Penny's description of two classic typo's she discovered:

No contact orders frequently occur in military life. The author of this document, though, seemed to believe — based on the subject line he gave it — the situation demanded a preemptive strike. How else could you explain what the author called the letter: "*Cease to Exist Order*." I assumed the commander intended to direct the airman to cease and desist. When I called to give corrections to the commander's clerk, he told me they'd noticed the subject line error and corrected it before presenting the order to the airman. The new, improved Subject line? "*Cease to Desist Order*." Closer, but not quite close enough. Even for government work.

#### BE VERY CAREFUL WITH EXPERTS

From **Douglas S. Malany** of McAllen (Barron, Orendain, Malany & Flanagan), this excerpt from his deposition of the defendant's medical expert.

Q. [Dr. Caram], how much are they paying you for this work, sir?

A. I don't know what Mr. DiCaro pays me by the hour.

Q. Mr. Franke gets 50 bucks an hour. What do you get?

A. I really don't know what A.J.'s paying me by the hour. I don't pay attention to that until I receive the check. Usually, to review a case, it's — *I get paid by the inch of paperwork that I review*.

Q. You get paid by the case, don't you?

A. No. *I get paid for reviewing the case, I get paid by the inch of paperwork*.

Q. Well, *this is a three-and-a-half inch case*.

A. Oh, no, no. It's much more than that. ... The initial box that came to me had three-and-a-half inches. I have since reviewed many things, such as the depositions and the like, which ...

Q. Okay.

A. *The file, probably nine inches at least*.

Q. *Well, what do you get for a nine incher?*

A. It all depends. It's \$150 per inch of paperwork that I have to review.

Q. Is it really?

A. Yes.

Q. Per inch?

A. Per inch. As opposed to the hour ...

Q. Oh, okay. Do you know how much time you have in —

A. I've invested probably close to five or six hours worth of work in this.

#### DID THEY REALLY SAY THAT?

From **Judge Joe M. Leonard** of Greenville (196th District Court), this excerpt from "a hearing on a protective order."

Judge Leonard: The state by their evidence is claiming family violence.

Defendant: Yeah, that's why I was trying to show you guys, I mean.

Okay, the police was involved. She said that — she alleges that I — I choked her and hit her and then she went next door and called the police and she said — and then later on in her statement she said the police came over and just took our names and left. *If I'd of done all that, I would of went to the pen, Your Honor*.

#### BACK IN THE SIXTIES

From **Leslie Ann Lester** of Dallas (Smith DeFeo), this excerpt from the deposition she took of the plaintiff in a silicosis product liability case.

Q. Mr. Vasquez, have you ever used marijuana?

A. Yes, ma'am. I don't use it. I have used it.

Q. You have used it? When was that?

A. I guess the last time was in Florida. About 10 years ago.

Q. How many times have you ever used it?

A. Not much. Before that, not much.

Q. Before '92?

A. It was more like '90, '89 when I was in Florida; and that's when I mean. No ma'am. Just then; *and before that, maybe in the early Sixties*.

Q. *In the early Sixties?* Did you ever use any other drugs like cocaine or crack or —

A. No, ma'am. *Back in the Sixties, I used a couple of what was around*.

Q. *What was the other couple?*

A. What was around?

Q. Yeah.

A. *Weren't you around?*

Q. *No, I wasn't around*.

A. *I thought I remembered you*. Oh, there was LSD, there was orange sunshine, there was purple wedges. You name it, it was out there. You could try whichever one you wanted if you were so inclined. I did a few.

Leslie adds: [If you do publish this excerpt], "I hope you also note "that *as I was not born until 1969, it is extremely unlikely that it was me the plaintiff remembered*."

#### I PLEAD "GUILTY"

From **J. Richard Reese** of Houston, this excerpt from the deposition being taken of him "as a member of the Agricultural Advisory Board of Harris County," by Sarah Duckers of Houston (Vinson, Elkins).

Ms. Duckers: What do you do for a living, Mr. Reese?

Mr. Reese: Before we get started, I would like to tell you that I am representing myself in this deposition. I am not an employee or an agent of the Harris County Appraisal District or the Harris County Appraisal Board and I reserve my right to object to anything that involves my personal privacy or my business that is not related to my position as an Advisory Board Member.

Ms. Duckers: And so I can take it from that answer that the answer to my question was that you are an attorney.

Mr. Reese: I plead guilty.

Richard adds: "In rereading my rather short deposition, I could not help thinking about how much fun it always is to depose a fellow member of the bar."

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, TX 75242.