



What Did I Score?

BY JERRY BUCHMEYER

THE CONTRIBUTIONS FOR THIS month's column come from Amarillo (**Catherine E. Brown Dodson**), Austin (**John E. Athey, Sam R. Perry**), Dallas (**R. Michael Beene, Greg Butts, Judge David R. Gibson, Starla K. Horstman**), Garland (**Paul Purtha**), Houston (**Robert C. McCabe, René E. Mueller**), Victoria (**Judge Kemper Stephen Williams**), with out-of-state material from Chief U.S. District Judge **W. Harold Albritton** of Montgomery, Ala. (M.D. Ala.) and Fifth Circuit Court of Appeals Judge **Jacques L. Wiener, Jr.** of Shreveport, La.

TELL US ABOUT THE ACCIDENT

From **Starla K. Horstman** of Dallas (Starla is a legal assistant with Baker & Botts, P.C.), these excerpts from the plaintiff's deposition in a car accident case:

Q. How tall are you?

A. Five eight.

Q. And how tall were you at the time of the accident?

A. Probably the same height ... I don't know if I have started shrinking yet or not.

(Sometime later, the attorney "recovers" by asking)

Q. And after the accident, where did your head end up?

From **Judge David R. Gibson** of Dallas (County Court-at-Law No. 1), this excerpt from cross-examination of the plaintiff in a case involving a car/pedestrian accident:

Q. Prior to this accident that we're

here for today — the one in May of '97 — as I understand it, you had never injured yourself in any other motor vehicle accident; is that right?

A. No, sir.

Q. It's incorrect?

A. Well, no, I *never had no fatal injury or accident.*

DID THEY REALLY SAY THAT?

From **R. Michael Beene** of Dallas (Schell, Beene, Vaughan & Quillin, L.L.P.), this interrogatory answer which describes "an excellent reason to stay out of the Dallas County Courts at Law."

Plaintiff was bitten by a large dog in 1994 in Dallas County Court at Law No. 5; Cause No. Cc-96-05631-e.

From **Robert C. McCabe** of Houston (Oldenettel & McCabe), this excerpt from the plaintiff's deposition in his suit against a real estate agent:

My question is really simple: *Is this listing agreement the one that related to the listing that this listing agreement relates to?*

MISCELLANY

From the answers given by a female juror in a Juror Qualification Questionnaire in the federal court in Dallas:

Remarks:

Use space below to complete any answers on questionnaire which require more information or more space. Show the numbers of questions to which you are further responding.

I believe in capital punishment. I just got a divorce, and I hate men.

From **Sam R. Perry** of Austin (Sneed, Fine & Perry), this clause from "a form lease submitted by a landlord to one of [Sam's] clients."

27. If either party retains an attorney to advise or enforce this lease the lease becomes null and void.

From **John E. Athey** of Austin, this excerpt from a warranty deed filed in Tarrant County on June 3, 1996.

KNOW ALL MEN BY THESE PRESENTS:

That I, Joseph W. Frye — P.O. Box ____, Del Valle, Texas — *and his old lady.s.* of the County of Travis and the State of Texas ... have GRANTED, SOLD, AND CONVEYED ... the following described real property in Travis County ...

EXECUTED this 14th day of October 1995.

Joseph W. Frye and old Ladies

THE CLOSING ARGUMENT

From **Judge Kemper Stephen Williams** of Victoria (135th Judicial District), this excerpt from a "drug delivery case" — in which the defense attorney is arguing that "his client was not a big-time drug dealer, as alleged by the prosecutor."

Defense attorney: ... He doesn't have the money. The evidence will show you, anybody with common sense knows anybody doing \$2,500 or

whatever amount of money the State is going to try to show that he can make from one drug deal, *they would have a better lawyer, wouldn't have me, have some high-flung lawyer charging \$100,000* —

CLASSIC TYPOS

From **Reneé E. Mueller** of Houston, this “priceless Freudian slip” typo in the responses she received to some requests for admissions:

Subject to and without waiving this objection, defendant cannot admit or deny this request for admission due to lack of information or knowledge. Defendant has made a reasonable inquiry into the information known or *rectally* obtained by it.

From **Paul Purtha** of Garland (Humphreys & Associates), this typo from a sample “letter of representation to an insurance company” from a Houston attorney:

Although we do not have a final medical analysis, our initial evaluation of the case indicates that our client, _____, was significantly *insured* and there will be a significant amount of lost time from this accident.

From a character letter I received in support of a female defendant awaiting sentencing:

Her husband would then take the profits from these transactions and spend it on personal pleasures (i.e. Men’s Club, The Lodge, Shreveport gambling, prostitutes, etc. ...), which left him with no money to pay his contractors to fix up his HUD homes to sell. So instead of having a *mechanics lean* placed against his properties

FROM THE FEDERAL COURTS

From **Chief Judge W. Harold Albritton** of Montgomery, Ala., this Request for Oral Argument in which “the wording may not have been unintentional” since it came *after* Judge Albritton had denied the defendant’s motion:

COMES NOW the defendants in the above-styled cause and *resentfully* request oral argument on their

Motion for Summary Judgment previously filed in this matter.

Also from **Chief Judge Albritton** this “statement made by a defendant software manufacturer in a motion to continue the trial until after the first of next year after the plaintiff’s delay prevented the trial from taking place in early June 1999.”

Specifically, plaintiffs have had approximately two years to get this case ready for trial, *whereas the end of this year is a rare event, not likely to be repeated*, i.e. the year 2000 event.

From **Judge Jacques L. Wiener, Jr.** of Shreveport, La. (U.S. Fifth Circuit Court of Appeals), this excerpt from the trial transcript “in an employment discrimination case filed by a fired female single mom,” in which “the female comptroller of the employer” is being examined by the defense counsel.

Q. Okay. *You have been a single mom?*

A. Yes, sir.

Q. *With children?*

A. Yes, sir.

Q. Okay. You understand [the plaintiff’s] circumstances as a single mom with children?

NOTHING MORE TO PROVE

From **Greg Butts** of Dallas (Law Offices of Richard Schiro), this excerpt from a post-judgment deposition of the debtor-defendant.

Q. Well, how about any other sources of income? Anything else that you do or have considered doing in order to increase your income?

A. Oh, I guess maybe I’ve considered a lot, but as far as doing, no. I’m going to try to do more fishing. *Like I told you, once you accept you’re ugly and your mother dresses you funny, you have nothing to prove anymore.* I’ll never forget the first couple of years that Tony Dorsett played with the [Dallas] Cowboys I made more money than he did that one year.

I made \$326,000 and I wasn’t any happier than I am right now. I really thought is this what it is all

about ... I put that pool in. *I laid out there and I smoked my dope. I love smoking marijuana. It is great. My attorney liked it too.* He used to help DWI guys and they would give him a pound a time.

WHAT DID I SCORE?

From **Catherine E. Brown Dodson** of Amarillo this excerpt “from a hearing in a suit to establish paternity filed in the 181st District Court, the *Honorable Samuel C. Kiser* presiding.”

The mother was represented by **Arnold N. Miller** and the father by **Mary Louise Kibbey**.

Q. Before we begin, I need to tell you that because my client is acknowledging paternity, all we will be addressing today will be child support.

A. (No reply.)

Q. Do you understand that? My client is acknowledging that he is the father of this child, so all we will be talking about will be the amount of child support. Do you understand that?

A. No.

Q. Well, *the paternity test came back over 99 percent proof positive that my client is the father.* We just need to set the amount of child support today.

A. Well — *what did I score?*

Catherine adds: “Immediately following the answer on line 14, Judge Kiser left the courtroom without a word, followed in quick succession by the court reporter and both lawyers. Once composure had been regained by all in chambers, a suggestion was made that the mother be informed the Court now had some concerns that she might not be the mother. Ms. Kibbey declined on the grounds that the mother might believe her.”

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.