



Lip Reading in Dallas

BY JERRY BUCHMEYER

THIS MONTH'S COLUMN INCLUDES contributions from Austin (**Gary W. McNeil**), Comanche (**Judge James E. Morgan**), Dallas (**Judge David R. Gibson**, **Becky Isom**, **Cindy Madole**, **Susan D. Motley**), El Paso (**Darryl S. Vereen**), Houston (**Les Cochran**, **C. Charles Dippel**, **Fred Krasny**), Orange (**Paul M. Fukuda**), with out-of-state material from Shreveport (Fifth Circuit Court of Appeals **Judge Jacques L. Wiener, Jr.**)

BUT THERE WAS NO INFIDELITY

From **Les Cochran** of Houston (Cochran & Cochran), this excerpt from the deposition of his client in a medical malpractice case.

Q. When did that divorce become final?

A. Last year.

Q. And what were the reasons for that divorce?

A. Insupportability.

Q. Okay. Can you give me a little more detail on what caused the breakup of that marriage?

A. Our personalities didn't work out too well together.

Q. Well, I guess that doesn't give me much to go on. Can you give me a little more about why your personalities didn't work out together?

A. Other people visiting the house while I was gone.

Q. *By other people visiting the house when you're gone, is that something that is bothersome to you?*

A. *When it's other men, yes, sir.*

Q. I don't want to pry a lot, but I'll try to get off this subject — *you think there was some infidelity* and that's what led up to the breakup of the marriage?

A. *No, sir.*

Q. *What was it about other men visiting the house that bothered you?*

A. *Sleeping with her.*

THINGS WENT TO THE BIRDS FROM THERE

From **Darryl S. Vereen** of El Paso (Mounce, Green, etc.), this excerpt "from the deposition of an architect in a wrongful death case in which the Decedent was killed when a large, unbraced cinder block wall under construction collapsed on him. The issue was whether the Decedent had ordered placement of some chicken wire, thereby necessitating removal of the wall braces."

Q. Mr. McCormick, am I correct that any potential criticism that you might have of chicken wire is related solely and only to the fact that the bracing was taken down to attach it.

A. (No verbal response).

Q. *There's nothing inherently wrong with chicken wire; am I right?*

A. Not that I know of.

Q. All right.

A. *Chickens may not like it, but —*

A GOLD MINE ON THE GROUND

From long-time contributor **C. Charles Dippel** of Houston, this excerpt from a deposition he took some years ago:

Q. And who keeps the books on that trust now?

A. I have a CPA.

Q. What's his name?

A. J.K. Hobbs.

Q. Do you know how I can get in touch with Mr. Hobbs?

A. Yeah. (281)351-1040.

Q. Boy, *I bet he's got a gold mine on the ground with that.*

A. What? *Oh, you mean the phone number?*

Q. *Yeah, 1040.*

A. Oh.

AS AN OLDER JUDGE

In response to my letter asking the parties in one of my cases to agree to a trial before **Magistrate Judge Bill Sanderson**, I received this reply from the plaintiff's lawyer (which caused me to take the rest of the day off).

I discussed your letter at length with my client. Her case is an age discrimination case. She stated that she would be more comfortable if you were the Judge because *she believes that you, as an older judge, would be more likely to understand how age discrimination can affect a person.*

THE WONDERFUL WACKY WORLD OF PRO SE

From **Judge James E. Morgan** of Comanche (220th District Court), this request from a defendant for a "time cut to time served."

Honorable Judge Morgan

Sir will you reopen my case and

see fit by lord Jesusus' Christ love to give me time served in your beatiful courts building sir.

yours truly
Perry

5'9
brown top
white skinned
blue eyes
perfect teeth

Judge Morgan says he was "unmoved" by the defendant's listing of his physical attributes until he got to the "*perfect teeth!*"

CLASSIC TYPOS

(1) From **Paul M. Fukuda** of Orange (Paul is with the Orange County District Attorney's Office), this typo from the appellant's brief in the appeal of an aggravated sexual assault conviction:

Due to the prosecutor's conduct, this conviction must be *revered*.

(2) From **Fred Krasny** of Houston (Fred is with the Gulf Coast Legal Foundation), this typo in a letter to the Fort Bend County District Clerk:

Dear Clerk:

Enclosed please find the following documents:

1. Motion to Retain Case on Docket and Order.

Please file these *in your usual manor*. Return a file stamp copy of same with the messenger.

(3) From **Susan D. Motley** of Dallas (Gillespie, Rozen & Watsky), this typo from a Rule 37(c) sanctions motion:

In addition, [Defendant] respectfully requests that the Court grant it any such other further relief, at law or **inequity**, to which the Court deems [Defendant] is justly entitled

(4) From **Gary W. McNeil** of Austin (Gary is the Executive Director of the Texas Board of Legal Specialization), this typo from a letter for an organization which conducts legal education programs:

"Thank you for your anticipated *curtsey* and cooperation."

(5) From **Becky Isom** of Dallas (Becky is a Legal Secretary with Cochran & Cochran), this typo from a letter to her boss, **John B. Larrimer** in which Becky is threatened with a subpoena:

If needed, we could even *supine* your secretary as to how many times we requested these readings.

Becky, in response to your question, you can be "supined" in my courtroom anytime.

DID THEY REALLY SAY THAT?

From **Judge Jacques L. Wiener, Jr.**, of Shreveport (U.S. Fifth Circuit Court of Appeals), the following two excerpts from a trial transcript; the witness is the husband of a shopper who was mugged in the parking lot while he was still in the store. Judge Wiener adds: This answer begs the question, "How did the couple have grandchildren ("*our grandson*") without first having children?"

Q. You're married to the other plaintiff in this case, Simon?

A. Yes, I am.

Q. How long?

A. Twenty-two years.

Q. Okay. You guys didn't have any kids together, did you?

A. No, sir.

Q. All right. Who was the little boy that was sitting with you earlier?

A. That's our grandson, the youngest one, the youngest one. We're watching him today.

Judge Wiener notes that the second excerpt "merely illustrates that the husband had his priorities straight."

Q. What do you remember about that terrible night in December '96 when that happened?

A. Well, I wasn't nowhere near because, like I say, when I go somewhere I either go and I sit down or I stay or lean up against something. I was on the counter back in the tire and the automotive department and I heard over the intercom, "Mr. Alleman, please come to the front."

So naturally, I got there as quick as I could. Of course, he called me three times before I got there. And finally, when I got to the front door, well, he asked me, you know, he said "You must be Mr. Alleman." I said, "Yeah." He said, "Well, your wife's been mugged and your car stolen." And I said, "Car stolen?"

From **Judge David R. Gibson** of Dallas, (County Court At Law No. 1), this excerpt from a post-judgment deposition:

Q. Basically, what I'm going to do is I'm going to ask you some questions and you're going to answer me. And what I ask you to do is, when I ask you a question, make sure that you answer out loud. Like if I ask you a question: Is today Friday? Don't go yes, it is — *don't nod your head up and down*. Just say yes. Do you understand me?

A. Okay. *I never use my head to answer anyway.*

READ MY LIPS

From **Cindy Madole** of Dallas (Cindy, an attorney with International Paper, was formerly with Shank, Irwin & Concert in Dallas) this excerpt from a deposition taken years ago "in a rather heated securities fraud lawsuit" — by **Bill Chaney** (who was *then* with the Shank, Irwin firm, but who is now with Whittenburg, Whittenburg & Shaster).

Q. Do you know how much money?

A. No, not specifically.

Q. You recall testifying as to a seven or \$800,000 figure concerning Roseneath yesterday?

A. Whatever the record said.

Q. You recall discussing a seven or \$800,000 contribution to GRI by Roseneath?

Q. And I said whatever the record said.

Q. You don't recall that right now?

A. I said whatever the record said.

Q. That's not responsive. Do you recall?

A. *Read my lips.*

Q. *Read mine.* Do you recall?

A. *Look at me again, read them real careful.*

Q. *And read my lips carefully* —

MR. BUTLER (wisely): All right. Gentlemen, I guess that's about enough of this.

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.