Dallas Bar Association

HEADNOTES

June 2025 | Volume 50 | Number 6 | Focus | Criminal Law/Government Law

Major EAJ Campaign Donors Support Critical Work of DVAP

BY MICHELLE ALDEN

The high demand for pro bono legal services in Dallas County continues unabated. The Dallas Volunteer Attorney Program (DVAP) stands ready to assist, with virtual clinics happening every week, as well as several in-person clinics each month, including locations in South Dallas, West Dallas, East Dallas, and the VA Hospital. DVAP also hosts periodic wills clinics in partnership with The Senior Source, as well as small business clinics.

Recently, DVAP was able to assist "Wren" with a housing issue. When Winter Storm Uri hit Dallas in February 2021, Wren's pipes froze completely. As the weather began to warm, Wren noticed cracks in the foundation of her home. She contacted a foundation company, which informed her that there could be a sewer line leak and recommended calling a plumber. When the plumber came out, he found the leak and informed Wren that it needed to be repaired immediately. Wren filed an insurance claim and submitted all the necessary documents provided by the technicians. Although she had a basic homeowner's insurance policy with foundation coverage, the insurance company denied the claim. For six months, she filed appeals. During that time, she could no longer sleep in her own bedroom because the leaking sewer line began to smell. The issue soon impacted her breathing and immune system. She reached out to DVAP for assistance.

John Hardin, of **Perkins Coie LLP**, accepted the case for pro bono representation. In February 2023, John filed a lawsuit against the insurance company. For nearly two years, John litigated on Wren's behalf. In June 2024, the insurance company agreed to settle the case, and it was dismissed without any party admitting liability. The insurance company issued a payment of $17,125 to Wren. With this money, Wren was able to hire contractors to fix the ongoing leak and the cracked foundation. She is greatly relieved to be able to enjoy her home again.

"I have always appreciated the opportunities DVAP provides to serve those in need. Wren was facing significant financial and personal challenges due to her situation. It was more than just a dispute; it was impacting her quality of life in multiple ways, and she deserved fair treatment. It was incredibly satisfying on a personal and professional level to be able to help and make a positive impact on her life," said John.

DVAP relies not only on the pro bono attorneys who represent clients, but also the major donors who provide the funding to keep the program thriving. **Capital One**, **E. Leon** and **Debra Carter**, **Jones Day**, and **Margaret** and **Jaime Spellings** stepped up to support the Equal Access to Justice Campaign at the $20,000 level this year.

"Jaime and I support the EAJ Campaign because we believe that DVAP serves a real need in Dallas. People come to DVAP seeking help for a wide range of legal problems, including divorce, custody, and estate matters. The DVAP staff does a great job of supporting its pro bono lawyers and their work. In my volunteer work, I felt fortunate to have the DVAP mentor attorneys as a resource if I had questions or needed help with a case. We want to help ensure that DVAP can continue this good work," Margaret Spellings explained.

Leon Carter agrees, "Debra and I truly believe that equal justice is not only an ideal worth pursuing, but it is a spiritual mandate imposed on each of us. For that reason, it is paramount that access to justice is available to everyone. Being dispassionate or disinterested in the cause of justice not only has a dramatic effect on certain portions of our population, but our entire community as well. That is why we will continue to support DVAP's EAJ Campaign."

Akin Gump Strauss Hauer & Feld LLP, **BakerHostetler**, **Ann Bruder**, **Gibson Dunn & Crutcher LLP**, **Katten Muchin Rosenman LLP**, and **McKool Smith, a Professional Corporation**, all committed their support at the $15,500 level.

"We at Akin are fortunate to have forged strong relationships with community-based organizations, which are essential to connecting us to clients in need. We are pleased and proud to support DVAP and the invaluable work it does for low-income people in Dallas," stated **Steven Schulman**, Akin's firmwide Pro Bono Partner, who is based in Dallas.

The firms, individuals, and the corporation listed above have joined forces to generously support access to justice this year. Their contributions allow DVAP to continue to assist thousands of clients. Once again, the commitment of Dallas attorneys and the DBA to the Equal Access to Justice Campaign is impressive. Since 1997, the DBA and Legal Aid have joined forces to raise money for the program, with Dallas lawyers donating over $20 million. For more information, or to donate, visit www.dallasvolunteerattorneyprogram.org. **HN**

Michelle Alden is the Director of the Dallas Volunteer Attorney Program. She can be reached at aldenm@lanwt.org.

Law Day Luncheon 2025

On May 9, the DBA hosted its annual Law Day Luncheon, with keynote speaker **Carl D. Smallwood**, Executive Director, Divided Community Project at The Ohio State University Moritz College of Law. DBA President **Vicki Blanton**, on behalf of the DBA Board of Directors, presented a Resolution in support of the Rule of Law and the Judiciary. In addition, Judge **Rebecca Rutherford** led lawyers in renewing their oaths.

Awards were presented to the Dallas ISD student winners of the Law Day Dallas ISD art and essay contests. In addition, DAYL presented awards to: **Andy Jones** (Outstanding Young Lawyer Award), Hon. **Rebecca Rutherford** (Outstanding Mentor Award), and **Allicia Graham Frye** (Liberty Bell Award).

Inside

NEED HELP? YOU'RE NOT ALONE.

Texas Lawyers' Assistance Program.....(800) 343-8527
Alcoholics Anonymous.....(214) 887-6699
Narcotics Anonymous.....(888) 629-6757
Al Anon.....(214) 363-0461
Mental Health Assoc.....(214) 828-4192
Suicide Crisis Hotline.....(800) 273-8255
Student Suicide Crisis Hotline.....(214) 828-1000
Metrocare Services.....(214) 743-1200

www.tlaphelps.org | DBA Attorney Wellness Committee

Calendar | June Events

Programs in green are Virtual Only programs. All in person programs are at the Arts District Mansion unless otherwise noted. Visit www.dallasbar.org for updates.

LGBTQ PRIDE MONTH

June is LGBTQ Pride Month. For additional resources, visit www.americanbar.org/groups/diversity/sexual_orientation or www.lgbtbar.org. To find out more about the Dallas LGBT Bar Association, visit https://dlgbtba.org/. For more on the DBA's Diversity Initiatives, log on to www.dallasbar.org.

WEDNESDAY WORKSHOPS

JUNE 18
Noon *"Basics of Mediation," Bo Berry.* (MCLE 1.00)*

MONDAY, JUNE 2

Noon **Tax Law Section**
"Talking Tax with Tax Court Judge Jeffrey Arbeit." (MCLE 1.00)* ***In person only***

TUESDAY, JUNE 3

Noon **Child Welfare & Juvenile Justice Section**
"Overview: Law and Services for Unaccompanied Minors," Matt Haygood. (MCLE 1.00)* *Virtual only*

Corporate Counsel Law Section
"Safeguarding Corporate Interests Against Nuclear Verdicts," Emily Buchanan, Ritu Gupta, Mark Trachtenberg, and Victor Vital. (MCLE 1.00)*

Tort & Insurance Practice Section
Topic Not Yet Available

5:00 p.m. **Hearsay Speakeasy**
Join fellow DBA members for a social hour with drinks and hors d'oeuvres. Password found on page 4.

6:00 p.m. DAYL Board of Directors

WEDNESDAY, JUNE 4

Noon **Solo & Small Firm Section**
"Navigating Disciplinary Rules When a Client's Conduct Could Be Illegal," Martin Merritt. (Ethics 1.00)*

New Member Welcome Lunch. *RSVP sbush@dallasbar.org*

Allied Bars Equality Committee. ***In person only***

4:00 p.m. LegalLine E-Clinic. *Volunteers needed. Contact mmejia@dallasbar.org.*

THURSDAY, JUNE 5

Noon **Law Student Professionalism Program**
2025 Law Student Professionalism Program. (Ethics 2.00) **Sponsored by Morris Harrell Professionalism Committee. RSVP at dallasbar.org.* ***In person only***

Construction Law Section
Topic Not Yet Available

Judiciary Committee. *Virtual only*

FRIDAY, JUNE 6

Noon **DVAP Summer Associates Pro Bono Luncheon**
Fernando Avelar, Vicki Blanton, Hon. Audrey Moorehead, and Will Stovall. (MCLE 1.00)* *To register, email martinm@lanwt.org.* ***In person only***

SUNDAY, JUNE 8

1:00 p.m. **Dallas LGBT Pride Fundraiser**
Pride Scholarship Fundraiser at Roundup (3912 Cedar Springs Rd., Dallas). Tickets available at the door. More information at dallaslgbtbar.org.

MONDAY, JUNE 9

Noon **Public Forum**
"The Rule of Law: The Foundation of Our Democracy," Chad Baruch, Hon. Royal Furguson, Chad Ruback, and moderator Vicki Blanton. (MCLE 1.50, Ethics 0.50)*

Real Property Law Section
"The Last Great Property Tax Cut? A Look at the 2025 Legislative Session—and Beyond," John Brusniak. (MCLE 1.00)*

Attorney Wellness Committee. *Virtual only*

TUESDAY, JUNE 10

Noon **Business Litigation Section**
Topic Not Yet Available

Immigration Law Section
"Representing Immigration Clients in Bond Proceedings for Pro Bono Attorneys," Patricia Freshwater. (MCLE 1.00, Ethics 0.50)*

Legal Ethics Committee. *Virtual only*

Minority Participation Committee. *Virtual only*

5:00 p.m. **Hearsay Speakeasy**
Join fellow DBA members for a social hour with drinks and hors d'oeuvres. Password found on page 4.

6:00 p.m. Dallas LGBT Bar Board of Directors

WEDNESDAY, JUNE 11

Noon **Bankruptcy & Commercial Law Section**
Topic Not Yet Available

Family Law Section
Topic Not Yet Available

Bench Bar Conference Committee. *Virtual only*

Public Forum Committee. *Virtual only*

DWLA Board of Directors

4:00 p.m. LegalLine E-Clinic. Volunteers needed. Contact mmejia@dallasbar.org.

THURSDAY, JUNE 12

Noon **The Privilege - General Counsel Series**
A Conversation with Kaleisha Stuart and Amon Simmons, of the Dallas Cowboys. (MCLE 1.00)* ***In person only***

Alternative Dispute Resolution Section
Topic Not Yet Available

Appellate Law Section
"Case Update on the 5th Court of Appeals and the 5th Circuit," David Coale. (MCLE 1.00)* ***In person only***

CLE Committee. *Virtual only*

Publications Committee. *Virtual only*

3:30 p.m. DBA Board of Directors

FRIDAY, JUNE 13

Noon **Trial Skills Section**
Topic Not Yet Available

Attorney Wellness Committee
"An Instructive Training for How Lawyers Can Intervene in Mental Health and Substance Use Challenges," Michelle Fontenot and Alison Freeman. (Ethics 1.00)* *Virtual only*

MONDAY, JUNE 16

Noon **Government Law Section**
Topic Not Yet Available

6:00 p.m. **Labor & Employment Law Section**
"Judicial Panel," Hon. Rebecca Rutherford and Hon. Mariela Breedlove. (MCLE 1.00)* ***In person only***

TUESDAY, JUNE 17

Noon **Education Law Section**
"Best Practices for Handling Workplace Accommodations," David Campbell and Kelsey McKeag. (MCLE 1.00)* *Virtual only*

Franchise & Distribution Law Section
"Hot Topics in Franchise Law: 2024 Year-in-Review," Kristina Pierre-Louis and Wilson Miller. (MCLE 1.00)* *Virtual only*

International Law Section
"FCPA Enforcement: The Current State of Play," Lewis Zirogiannis. (MCLE 1.00)* *Virtual only*

Community Involvement Committee. *Virtual only*

WEDNESDAY, JUNE 18

Noon **Energy Law Section**
Topic Not Yet Available

Employee Benefits & Executive Compensation Law Section
"Public Company Compensation Trends and Developments," Krista Hanvey and Kayoko Fong. (MCLE 1.00)* *Virtual only*

Health Law Section
"Bad Acts, Bad Facts & Perjury. Navigating Disciplinary Rules When a Client's Conduct Could Be Illegal," Martin Merritt. (Ethics 1.00)* ***In person only***

Wednesday Workshop
"Basics of Mediation," Bo Berry. (MCLE 1.00)*

Law in the Schools & Community Committee. *Virtual only*

Pro Bono Activities Committee. *Virtual only*

4:00 p.m. LegalLine E-Clinic. *Volunteers needed. Contact mmejia@dallasbar.org.*

THURSDAY, JUNE 19

No DBA events scheduled

FRIDAY, JUNE 20

No DBA events scheduled

MONDAY, JUNE 23

Noon **Science & Technology Law Section**
"Using Old Tools to Combat New Fraud and Infringement," Dustin Mauck. (MCLE 1.00)*

Securities Section
Topic Not Yet Available

TUESDAY, JUNE 24

4:30 p.m. **Arts District Mansion Summer Social**
4:30-6:00 p.m.- Open House for VIP/DBA Members. General admission 6:00 p.m.

WEDNESDAY, JUNE 25

Noon **Entertainment, Arts & Sports Law Section**
"The AI Creator's Dilemma: Innovation, Ownership, and Legal Boundaries," Elizabeth Berthiaume. (MCLE 1.00)*

THURSDAY, JUNE 26

Noon **Voting Rights Act Program**
"60th Anniversary of the Voting Rights Act." ***In person only***

Criminal Law Section
Topic Not Yet Available

Environmental Law Section
Topic Not Yet Available

Intellectual Property Law Section
"IP Risk Assessment in Gen AI Transactional Matters," Robert Hill. (MCLE 1.00)*

FRIDAY, JUNE 27

Noon **Allied Bars Equality Committee**
"Book Club – "Love Wins: The Lovers and Lawyers Who Fought the Landmark Case for Marriage Equality," Prof. Dale Carpenter, Thomas McMillian, and moderator Derek Mergele-Rust. (Ethics 1.00)* *Virtual only*

MONDAY, JUNE 30

No DBA events scheduled

If special arrangements are required for a person with disabilities to attend a particular seminar, please contact Alicia Hernandez at (214) 220-7401 as soon as possible and no later than two business days before the seminar.

All Continuing Legal Education Programs Co-Sponsored by the DALLAS BAR FOUNDATION.

For confirmation of State Bar of Texas MCLE approval, please call the DBA office at (214) 220-7447.

Experience. Expertise. Empathy.

The Know-how to Make it Happen

These attorneys, and every lawyer at ONDA Family Law,
have what it takes to get you through your divorce.

A Family Law Firm

ONDA
orsinger nelson downing anderson

Dallas | Frisco | San Antonio | ondafamilylaw.com

President's Column

Engaging the Next Generation

BY VICKI D. BLANTON

June begins the full-blown, official Summer Clerk season—that time of year when law students get a taste of what it is like to work in a real law office. From the students' perspectives, this is the time when they are somewhat auditioning for potential associate positions. From either side of the desk, it is the time when our profession expands into the next generation. And there are so many ways that the Dallas Bar Association can help with that.

My first introduction to the Dallas Bar Association was as a summer clerk. I'm sure most members had a similar experience of being brought to the DBA Headquarters by a senior partner who extolled the virtues of bar engagement. I remember that **DeMetris Sampson**, who I still consider a mentor, brought me to a luncheon meant to encourage summer clerks to return to Dallas to practice law. As part of my stewardship of that tradition, I likewise continued to bring summer clerks to the now named Arts District Mansion for fellowship and engagement opportunities.

What does this do for current members? Other than creating an opportunity for informal networking, this also reminds me of my clerkship days. As this was a tryout of sorts, it was important to not lose this great opportunity to impress my potential employer. When I made a misstep, I recited the poster that I read every day in middle school orchestra, "Forget your mistakes, but remember what they taught you."

There were moments when I was assigned projects that I didn't quite understand or know how to tackle. Once I received a tax law research request, and I didn't even know how to get into the tax reporters. I then thought of the time I showed off something to my grandmother stating that I accomplished something that I didn't know how to do before. She simply responded, "Baby, there's a whole lot of things that you don't know. I suspect that there's a lot more that you don't know than you do know."

Yes, I was a bit crestfallen. However, that sage bit of wisdom instilled in me that you must have a lifelong love of learning. You must be willing to be curious, to find out, to explore. As I recall her in my memories, I also remember my grandmother sitting quietly always reading a book, a magazine, her Bible—always seeking out more information and knowledge. That image recalls for me this quote, "If you are not willing to learn, no one can help you. If you are determined to learn, no one can stop you." So, I understood that a quest for knowledge requires a willingness to learn.

A great example of the ongoing knowledge quest was the successful DBA Delegation to Morocco, which returned last month. In addition to an immersive experience in food, art, and culture, the 28-member cohort also participated in substantive CLEs. These sessions explored significant legal issues of small business entrepreneurship; the legalities of the winemaking business; the reforms in family law; comparisons in the education systems; freedom of speech and religion; the legislative process; domestic violence and human rights; and the empowerment of women through a culinary skills training NGO. We also learned that Morocco was the first nation to recognize the sovereignty of the United States of America by allowing the portage of USA-flagged ships in its harbors in 1777 and entering in the first accord with the USA in the Treaty of Friendship and Amity of 1787. Thank you to those DBA members who traveled with us.

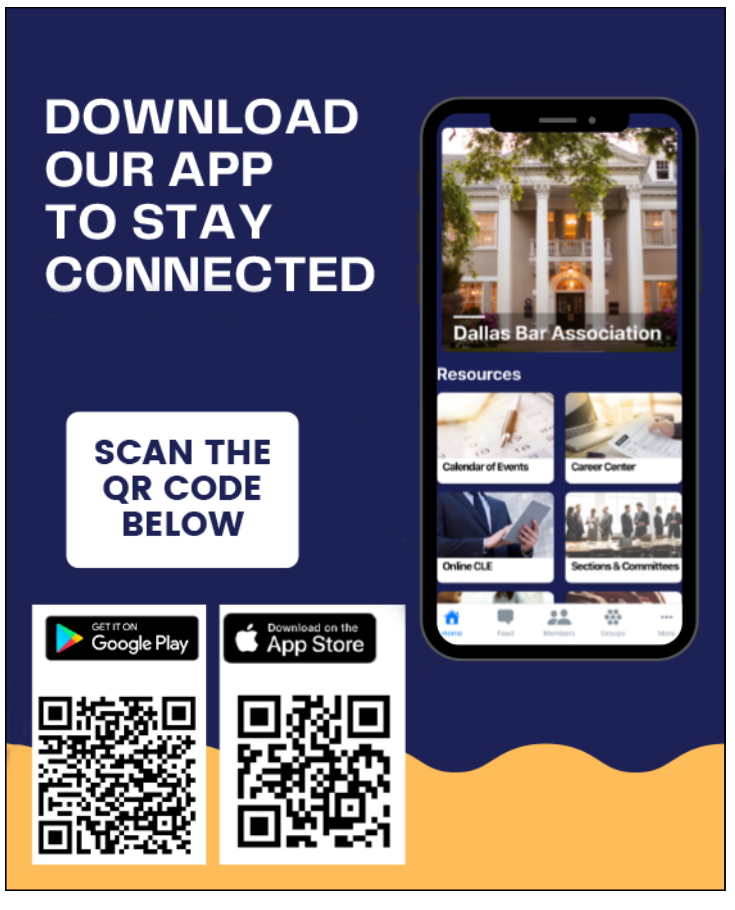
The Dallas Bar Association intends to ignite this same love of learning by supporting the summer clerkship season with several programs:

- Hearsay Speakeasys - June 3 and June 10
- New Member Luncheon - June 4
- Law Student Professionalism Program - June 5
- DVAP Summer Associate Pro Bono Luncheon - June 6
- Rule of Law Public Forum - June 9
- The Privilege Program with Kaleisha Stuart, Deputy General Counsel for the Dallas Cowboys - June 12
- Instructive Training for How Lawyers Can Intervene in Mental Health and Substance Use Challenges - June 13
- Voting Rights Act 60th Anniversary - June 26
- The Arts District Mansion Summer Social - June 24 - with members-only early access

These great programs, in addition to all of the other regularly scheduled, substantive CLEs, Sections and Committees, are your opportunities to both pay it forward as the now more senior attorney. Bring a law clerk to the Arts District Mansion, while simultaneously providing resources for a potential new colleague seeking to start a legal career in the Dallas area. We're ready to instill a love of learning while also showing why the Dallas Bar Association is Simply the Best!

Hearsay password: Summer Clerks

Vicki



TEXAS LAWYERS' ASSISTANCE PROGRAM
Confidential. Respectful. Voluntary.

TLAP provides confidential help for lawyers, law students, and judges who have problems with substance abuse and/or mental health issues. In addition, TLAP offers many helpful resources, including:

- Live Ethics CLE presentations
- TLAP Newsletter
- Request of specific educational materials
- 1-1, group telephone calls on topics
- Friday noon AA telephone meeting
  1-800-393-0640, code 6767456

Find out more at www.tlaphelps.org

HEADNOTES
Published by:
DALLAS BAR ASSOCIATION

2101 Ross Avenue
Dallas, Texas 75201
Phone: (214) 220-7400
Fax: (214) 220-7465
Website: www.dallasbar.org
Established 1873

The DBA's purpose is to serve and support the legal profession in Dallas and to promote good relations among lawyers, the judiciary, and the community.

OFFICERS
President: Vicki D. Blanton
President-Elect: Jonathan Childers
First Vice President: Sarah Rogers
Second Vice President: Stephanie G. Culpepper
Secretary-Treasurer: Javier Perez
Immediate Past President: Bill Mateja

Directors: Stephanie Almeter, Katie Anderson, Lauren Black (Vice Chair), Steve Bolden, Rob Cañas, Amanda Cottrell, Rocío Cristina García Espinoza, Chelsea Hilliard, Hon. Martin Hoffman, Andy Jones, Jennifer King (Chair), Thomas McMillian, Hon. Audrey Moorehead, Hon. Nicole Muñoz, Timothy Newman, Berenice Medellin Pruettiangkura, Hon. Irma Ramirez, Elizabeth "BB" Sanford, Kandace Walter, and Ashley Yen

Advisory Directors: Maria Alonso, Josh Dossey, Britney Harrison, Rhonda Hunter, Stephen Huschka, Krisi Kastl, Sharonda Roberson, Alen Samuel, Drew Spaniol, Paul Stafford, Jasmine Tobias, and Aaron Tobin

HEADNOTES
Executive Director/Executive Editor: Alicia Hernandez
Communications/Media Director & Headnotes Editor: Jessica D. Smith
In the News: Judi Smalling
Display Advertising: Annette Planey, Jessica Smith

PUBLICATIONS COMMITTEE
Co-Chairs: John Koetter and Gracen Daniel
Co-Vice-Chairs: Ian Brown and Jay Spring

DBA & DBF STAFF
Executive Director: Alicia Hernandez
Accounting Assistant: Jessie Smith
Communications/Media Director: Jessica D. Smith
Controller: Sherri Evans
Events Director: Rhonda Thornton
Executive Assistant: Elizabeth Hayden
Executive Director, DBF: Elizabeth Philipp
LRS Director: Biridiana Avina
LRS Interviewer: Giovanna Alvarado, Esteban Hernandez
LRS Program Assistant: Marcela Mejia
Legal Education Coordinator: Viridiana Rodriguez
Director of Marketing: Mary Ellen Johnson
Membership Director: Shawna Bush
Programs Assistant: Araceli Rodriguez
Receptionist: Crystal Tello
Publications Coordinator: Judi Smalling
Texas High School Mock Trial & Law Related Education: Melissa Perez

DALLAS VOLUNTEER ATTORNEY PROGRAM
Director: Michelle Alden
Managing Attorney: Holly Griffin
Mentor Attorneys: Kristen Salas, Katherine Saldana
Paralegals: Whitney Breheny, Miriam Caporal, Tina Douglas, Molly Jakkamsetti, Carolyn Johnson, Suzanne Matthews, Andrew Musquiz, Alicia Perkins
Program Assistant: Laci Payton
Community Engagement Coordinator: Marísela Martin
Secretary: Charnese Garrett

Copyright Dallas Bar Association 2025. All rights reserved. No reproduction of any portion of this publication is allowed without written permission from publisher.

Headnotes serves the membership of the DBA and, as such, editorial submissions from members are welcome. The Executive Editor, Editor, and Publications Committee reserve the right to select editorial content to be published. Please submit article text via e-mail to jsmith@dallasbar.org (Communications Director) at least 45 days in advance of publication. Feature articles should be no longer than 800 words. DISCLAIMER: All legal content appearing in Headnotes is for informational and educational purposes and is not intended as legal advice. Opinions expressed in articles are not necessarily those of the Dallas Bar Association.

All advertising shall be placed in Dallas Bar Association Headnotes at the Dallas Bar Association's sole discretion.

Headnotes (ISSN 1057-0144) is published monthly by the Dallas Bar Association, 2101 Ross Ave., Dallas, TX 75201. Non-member subscription rate is $30 per year. Single copy price is $2.50, including handling. Periodicals postage paid at Dallas, Texas 75260.
POSTMASTER: Send address changes to Headnotes, 2101 Ross Ave., Dallas, TX 75201.


FAMILY LAW • DIVORCE • CHILD CUSTODY • TRIAL LAW
OWLS
BEST D 2025
BEST LAW FIRMS
RANKED BY Best Lawyers
OWLAWYERS®
TRIAL LAW
The Wise Choice®
OWLAWYERS.COM
» DALLAS
» FORT WORTH
» FRISCO
» HOUSTON
DALLAS:
1845 WOODALL RODGERS FRWY, STE 1525
DALLAS, TX 75201
T: (214) DIVORCE | F: (214) 306-7830
PRINCIPAL OFFICE: 1845 WOODALL RODGERS FRWY, STE 1525, DALLAS, TX 75201
BEST LAW FIRMS IS A REGISTERED TRADEMARK OF WOODWARD/WHITE, INC.

DBA Website Upgrade: Easier, Faster, Smarter

STAFF REPORT

You may have noticed that the Dallas Bar Association website has a new look. We have redesigned our website to serve you better, offering enhanced navigation, updated content, and a streamlined experience.

While the new website may look different, the member management system is the same, which means that your My DBA Page, E-Communities, and Calendar will work the same way—but you can now access them faster.

Quick Links

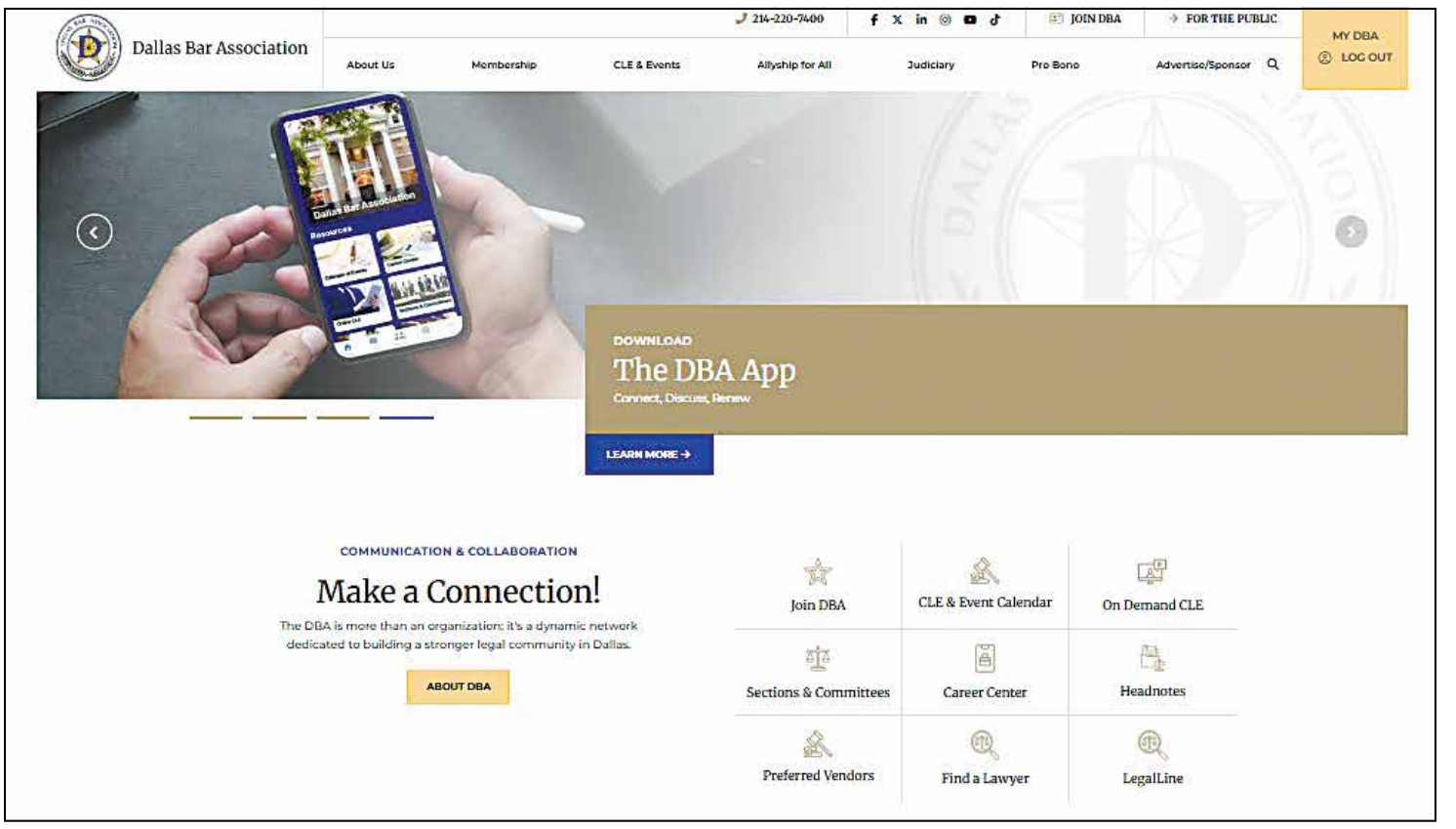
The new homepage offers easy access to our most popular resources. While the menu dropdown options are still available, you can easily find quick links to the Join Form, CLE & Event Calendar, On Demand CLE, Sections & Committees, Career Center, *Headnotes*, Preferred Vendors, Find a Lawyer, and LegalLine front and center on the homepage. Simply click on one of these icons and be taken straight to your requested page.

Calendar

Also on the homepage, you will see Upcoming Events highlighted. This area will give you quick access to the Calendar of CLEs & Events, but also a highlight of some of the daily programs, as well as a quick view of the meeting format—Online, In Person, Hybrid, or Offsite.

Vendor Opportunities

Newly added is our Preferred Vendors Directory, which offers a list of various vendors, consultants, expert witnesses, and more for legal professionals to explore to find trusted partners and resources to strengthen their practice. In addition to an online option, the Directory is sent to all DBA members twice per year. Legal vendors interested in being added to the Directory should contact Jessica Smith at jsmith@dallasbar.org.



For the Public

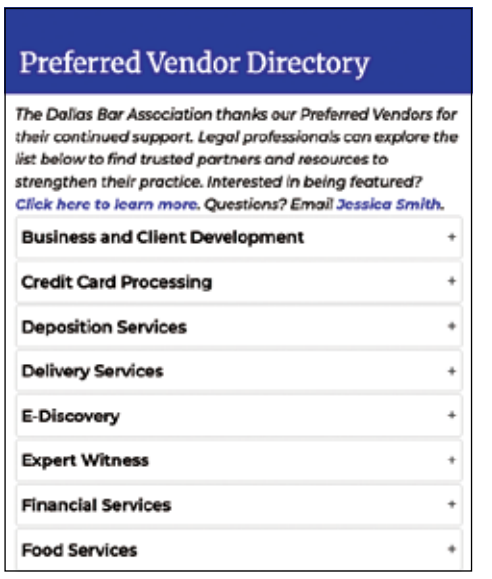
Members of the public can easily access helpful information by clicking the "For the Public" link at the top of the browser. This page offers quick access to our most popular public resources, including the Lawyer Referral Service and LegalLine.

DBA Online

You may also notice that our weekly enewsletter *DBA Online* has a new look. This too has been updated to be cleaner and more concise, making our brand consistent, and providing an easier read so that you can clearly see what upcoming DBA events you need to add to your calendar.

Better Access for All

Overall, the best thing about the new website overhaul is the modern look and functionality, enabling better interaction, communication, and connection for all DBA members. Be sure to keep an eye on the weekly enewsletters *DBA Online* and *Weekly Spotlight* to keep up with new developments, events, CLEs and member benefits. If you have not been receiving these enewsletters, email mjohnson@dallasbar.org to get back on the mailing list. **HN**



COMMUNITIES FOUNDATION of TEXAS
Vester Hughes Award

Congratulations,
DAVID M. ROSENBERG
of Holland & Knight LLP

Communities Foundation of Texas is thrilled to announce that David M. Rosenberg has been selected as **CFT's 2025 Vester Hughes Award** honoree.

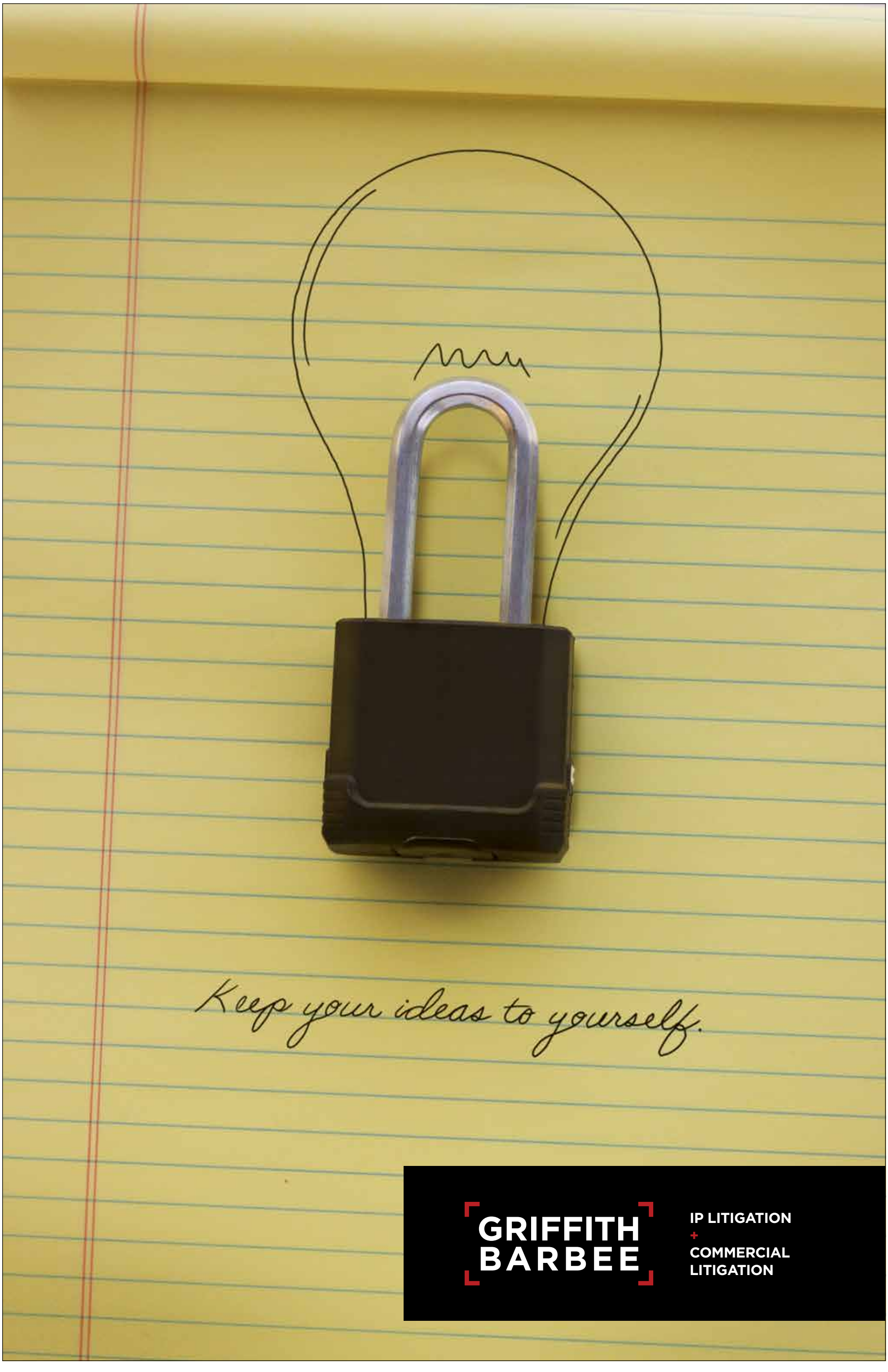
"David Rosenberg embodies the best qualities of Vester Hughes, and we are excited to recognize him as our 2025 Vester Hughes Award Recipient. There is no greater seal of approval than something David has created or blessed for a nonprofit. He has dedicated his professional career to the charitable sector, and our region's philanthropic community has truly been made better through his efforts."

– Carolyn A. Newham, J.D., CFT General Counsel

Learn more about David's impact and watch CFT's tribute video:

CFTEXAS.ORG/VESTERHUGHES

COMMUNITIES FOUNDATION of TEXAS


Keep your ideas to yourself.
GRIFFITH
BARBEE
IP LITIGATION
+
COMMERCIAL
LITIGATION

Focus | Criminal Law/Government Law

Breaking the Cycle: Dallas County's Approach to Mental Health

BY TONYA WHITZEL

Dallas County DA's Office – Mental Health Division

The Mental Health Division of the Dallas County District Attorney's Office is committed to transforming the traditional prosecution model by providing alternatives to incarceration for defendants whose involvement in the criminal justice system is directly linked to a diagnosed mental illness.

The division has expanded significantly, growing from five attorneys and one administrative assistant to a dedicated team of eleven attorneys, one administrative assistant, four clerks, four mental health/substance abuse case managers, and four mental health peer support specialists. With this expanded team and expertise, the Mental Health Division has been able to develop and expand research-based diversion programs that focus on positive long-term outcomes, aiming to reduce recidivism, improve community safety, and assure that the justice system is equitable and fair for all.

Mental Health Diversionary Programs

The Mental Health Division offers pre-plea diversion programs designed to prevent individuals with mental illnesses from repeatedly cycling through the criminal justice system. These programs address fundamental needs such as housing, food security, employment, substance abuse treatment, medication management, mental health education, coping strategies, and community reintegration.

By focusing on comprehensive support, these programs not only benefit participants but also enhance public safety and reduce the financial and systemic burdens on jails, emergency rooms, and psychiatric treatment facilities.

Referral & Case Evaluation Process

Defense attorneys can obtain mental health diversion referral forms from the Mental Health Division, either in person (6th floor of the Frank Crowley Courthouse) or via the District Attorney's webpage. To submit a case for consideration, attorneys must provide a completed referral form, including the assigned ADA's approval for the case to be transferred into the Mental Health Division if accepted. With that referral form, documentation of the defendant's mental health diagnosis is also required.

Each case undergoes an individualized review, considering factors such as:

- Criminal history
- Treatment history
- Willingness to comply with treatment
- Risk of violence
- Impact on victims

Eligible cases may be referred to a Mental Health Specialty Court or assigned to a mental health assistant district attorney (ADA) for a Mental Health Pretrial Intervention (PTI). This assignment is made by our intake attorney. One attorney does all of the intake to ensure consistency across all cases.

Mental Health Specialty Courts & Pretrial Interventions (PTI)

1. SET (Stabilization, Engagement, and Transition) Program

- Designed for high-risk, high-needs felony defendants with mental illnesses
- Typically, the program is 12 to 18 months in length
- It is treatment-team based with a specialized public defender, prosecutor, probation officer, case worker and judge

2. MHJD (Mental Health Jail Diversion) Program

- Tailored for low-risk, high-needs misdemeanor defendants
- Typically, the program is 6 months in length
- It is treatment-team based with a specialized public defender, prosecutor, probation officer, case worker and judge

3. Mental Health Pretrial Interventions (PTIs)

- Customized interventions based on needs assessments, psychological evaluations, and risk assessments
- May include mental health education, substance abuse treatment, and housing assistance
- Developed collaboratively with ongoing support from both the prosecution and defense
- Contract can be adjusted throughout the program to add additional treatment responses as needs arise since it is a prosecutor-lead program

Successful completion of a mental health specialty court program or PTI may result in dismissal of the case and expunction eligibility without the statutory waiting period. A defendant may go through a mental health specialty court program or PTI more than once if warranted by the circumstances of their case or situation.

A 2021 study revealed that 91 percent of participants successfully completed the Mental Health PTI. Felony re-arrest rates for PTI graduates were significantly lower than the 50-70 percent average recidivism rate, with:

- 20 percent re-arrested after one year
- 15 percent re-arrested after two years

Impact & Cost Savings

The expansion of mental health-focused initiatives has led to a proven reduction in recidivism. Additionally, the newly established mental health positions have enabled the division to eliminate 91,285 jail days for individuals with mental illnesses, resulting in $7,771,092.05 in cost savings for Dallas County.

These results underscore the importance of diversion programs as a viable alternative to traditional prosecution. Dallas County's mental health diversion programs represent an innovative and humane approach to criminal justice, prioritizing treatment and recovery over incarceration. By addressing the root causes of criminal justice involvement for individuals with mental illnesses, these programs are effectively breaking the cycle of incarceration and reducing the stigma surrounding mental health. **HN**

Tonya Whitzel is an Assistant District Attorney in the Mental Health Division of the Dallas County Criminal District Attorney's Office. She may be reached at tonya.whitzel@dallascounty.org.

Steno

Smoother Depositions. Better Transcripts.

Steno takes the chaos out of depositions, delivering seamless support from scheduling to receiving your transcript, so you can breathe easy and shine at what you do best.

All-in-One Court Reporting: Book your court reporters, videographers and other litigation support services with Steno's virtual platform.

Award-winning AI: Turn hours into seconds with our transcript analysis AI tool: Transcript Genius.

Remote Depositions: Enjoy the flexibility & features of Zoom with seamless exhibit handling with Steno Connect for Zoom.

Concierge Care: From routine requests to urgent needs, we're an extension of your team throughout.

For court reporting that works as hard as you, visit

Steno.com

steno


DIVORCE
CUSTODY
PRENUPS
McCLURE
LAW GROUP
2146928200
WANT
HELP?
MCCLURE-LAWGROUP.COM

Then & Now, Forth & Back: the Voting Rights Act at 60

BY PAUL STAFFORD

The opportunity for citizens to participate in their own governance and to choose their own leaders is critical to progress in a democratic republic. Voting is a critical component of that participation, acknowledged when Congress overrode President Andrew Johnson's veto, established a joint committee on Reconstruction, and passed the 14th Amendment (1868), primarily incorporating the provisions of the Civil Rights Act of 1866. Consequently, Black voting participation in the South increased rapidly during Reconstruction, as did the number of Blacks elected to office. That progress continued until the "Compromise of 1877," which ended Reconstruction in the South and facilitated the imposition of impediments to Black voter participation. Attempts by freedmen to exercise their Constitutional rights were also obstructed by "Black Codes" and "Jim Crow" laws, which required segregation in general society, the constitutionality of which was upheld by the U.S. Supreme Court in *Plessy v. Ferguson*, 163 U.S. 537 (1896), condoning "separate but equal" as a legal doctrine. The political progress of freedmen was compromised, resulting in a dramatic decrease of Black voter registration and participation and officeholders in the decades that followed.

In time, the NAACP, ACLU, and other individuals and groups worked tirelessly to address the suppression of, and to regain, Black enfranchisement. After the Court struck down the grandfather clause, *Guinn and Beal v. United States*, 238 U.S. 347 (1915), and the "white primary," *Smith v. Allwright*, 321 U.S. 649 (1944), change was coming, and it manifested itself when people of goodwill and conscience stood up for justice and equality, bolstering a Civil Rights movement that made progress in registering Black voters. In response to the Movement and the violence, President Lyndon Johnson proposed and passed the Civil Rights Act of 1964. However, the violence and intimidation continued, and on March 7, 1965, peaceful protesters drawing attention to the violent resistance to Black voter registration were attacked by state troopers and local lawmen while crossing Selma's Edmund Pettus Bridge on a march to Montgomery, Alabama. "Bloody Sunday" galvanized support for the Civil Rights Movement, prompting President Johnson to intervene, and shortly thereafter, to propose a voting rights law calling for direct federal intervention to uphold the guarantees of the 15th Amendment.

The resultant Voting Rights Act (VRS) was enacted five months later, on August 6, 1965. Among other provisions, VRA §2 prohibited states or a political subdivision from "imposing qualifications or practices" to deny or abridge the right to vote based upon race or color (later expanded to include minority groups). VRA §3 authorized a federal court to require the appointment of federal examiners to ensure voting rights in a jurisdiction. It suspended the use of literacy tests and established a §4(b) "coverage formula" under which federal intervention in the electoral process was permitted in states and political subdivisions in which any test or devise was used as a condition of voter registration resulting in a discriminatory impact upon voter participation. Upheld by the Court in *South Carolina v. Katzenbach*, 383 U.S. 301(1966), and reaffirmed in *City of Rome v. United States* (446 U.S. 156, 183 (1980)), and again in *Lopez v. Monterey County* (525 U.S. 266 (1999)), VRA §5 requires "preclearance" of new laws in covered states' jurisdictions to ensure that these states' new laws did not have the purpose, nor would have the effect, of denying the right to vote on account of race or color.

Following passage of the VRA, once again Black voter registration and participation in the South increased dramatically. Originally intended to expire after five years, the VRA has been amended and reauthorized throughout the decades. The 2006 VRA reauthorization cited a continued need for the law, based upon evidence of discrimination against minority voters and the reduced effectiveness of the law due to Court decisions. Through the 2006 reauthorization, the VRA was extended for 25 years, until 2032.

This year, as we commemorate the 60th anniversary of the passage of the Voting Rights Act, we are reminded of the progress that has been, and is yet to be, made. Throughout the decades, the Voting Rights Act has served to maintain the integrity of our elections and our electorate, with local and state groups such as "Election Protection" safeguarding the process and serving as a resource for countless voters. There remains work to be done to uphold the spirit of the Voting Rights Act and in maintaining its pivotal role in preserving our democratic republic. **HN**

Paul K. Stafford is Managing Partner at Stafford Moore, PLLC, and can be reached at paul@staffordmoore.law.

DBA 100 Club - Join Today!

WHAT IS THE DBA 100 CLUB?
The DBA 100 Club is a special membership category that recognizes firms, agencies, law schools, and organizations that give 100% membership support to the DBA!

WHAT IS THE COST TO JOIN THE DBA 100 CLUB? **IT'S FREE!**

HOW DO YOU JOIN?
Firms, government agencies, and law schools with two or more lawyers as well as corporate legal departments can qualify if all of their Dallas office attorneys are DBA members. To join the 2025 DBA 100 Club, please submit a list of all lawyers in your Dallas office to Shawna Bush, sbush@dallasbar.org. Once approved, we will add your organization to the **2025** DBA 100 Club member recognition list!

WHAT ARE THE PERKS?
2025 DBA 100 Club members will be recognized in *Headnotes* and at our Annual Meeting.

DALLAS BAR ASSOCIATION
LAWYER REFERRAL SERVICE

NEED TO REFER A CASE?

The DBA Lawyer Referral Service Can Help.

Log on to www.dallasbar.org/lawyerreferralservice or call (214) 220-7444.

JAMS Dallas has moved to 5956 Sherry Lane Place

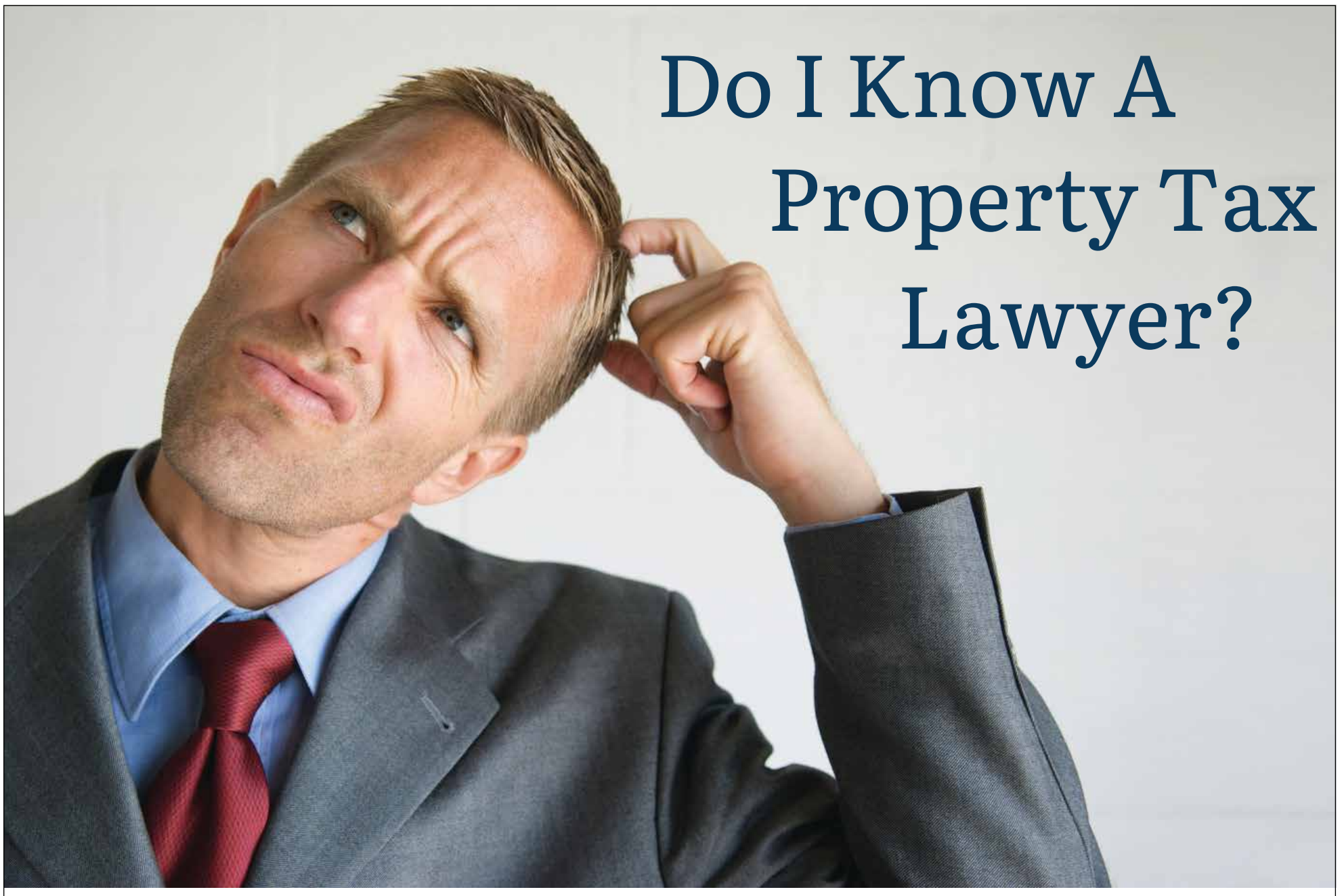




- 14 conference rooms for cases of all sizes plus private day offices & a wellness room
- Premium technology & amenities, upgraded security, luxury seating, breathtaking views

jamsadr.com/dallas

JAMS®



COMPREHENSIVE STATEWIDE PROPERTY TAX REPRESENTATION

Trusted by Lawyers, Tax Consultants
and Taxpayers Since 1981

WWW.TEXASPROPERTYTAXATTORNEYS.COM

BRUSNIAK TURNER
★★ PROPERTY TAX ATTORNEYS ★★

The Art of Injecting Humor into Legal Documents

BY J. EDWIN MARTIN

Some lawyers occasionally inject humor into their legal documents (including Yours Truly).

For example, throughout my entire career, I have quipped this "legal definition": A title-insurance policy is a receipt for a premium paid and a disclaimer of all liability.

In accordance with the *Bob Hope Rule of Citation (a/k/a The Rule of Evaporating Attribution)*, I omitted any citation to this familiar adage (which I learned in law school). As Bob Hope explained his eponymous rule, if he stole a joke from Red Skelton, the first time, Bob would duly note, "As Red Skelton once said..." The second time, Bob would observe, "As someone once said..." The third time, Bob would smile, "As I always say…"

If you read a title policy cover-to-cover, this witticism rings true. The insuring provision (which is very short) and Schedule A (which is akin to a declarations page in a traditional insurance policy) favor insureds. Virtually, every other provision of the title policy (which constitute another 10 or more pages of text) favors underwriters, and the proverbial fine print is fraught with peril (containing "gotchas" such as conditions, exclusions, property-specific exceptions, and standard exceptions).

So long as you inject humor smartly, sparingly, and in context, this tactic engenders easier reading. This observation holds equally true for injecting anecdotes, asides, flair, metaphors, musings, parables, pizzazz, sizzle, tangents, and the like. Just remember (quoting *This Is Spinal Tap*): "It's such a fine line between stupid and clever."

When using funny legalese, ask yourself whether a parenthetical or footnote explanation may help the reader.

The *Big Idea* is to maintain the interest of the readers by making them smile, not belly laugh. You are not writing a script for a standup-comedy routine. Keep it short. Remember this mantra (quoting *Hamlet*): "Brevity is the soul of wit."

Injecting humor into legal documents is purely a personal choice. If you think an attempt at humor takes away from the gravitas of your writing, then abstain from doing so.

Of particular note, silly slang is strictly taboo. Examples include: anywho, cool, cool beans, coolio, correctomundo, okey dokey, woo hoo, yahooey, yay, yippee-ki-yay, and yippie skippy (all of which are sometimes expressed in casual conversations by Yours Truly).

Below are a few examples of subtle, humorous legal writing that can enhance your documents without sacrificing professionalism.

Readers may not know what "ad nauseam" means, but they think it sounds funny. Once they learn its meaning, it tends to stick with them. I typically italicize the phrase, so the readers know it has a special meaning unbeknownst to them at first blush.

The use of "ad nauseam" is more commonplace in litigation, but, in a transactional practice, one might use the phrase in correspondence.

Similarly, readers may not know what "ipso facto" means, but it rhymes, and readers think the phrase sounds funny, as though The Three Stooges coined it. Once they learn its meaning, it tends to stick with them. I typically italicize and underline the phrase, so the readers know it is important and has a special meaning unbeknownst to them at first blush. If you prefer, say "automatically" or something similar. Regardless of your word choice, incorporate the concept into your documents.

Here is an example: "any default under the Deed of Trust (after any applicable notice and cure period has elapsed without cure) will *ipso facto* constitute a Default under this Note."

Here is another example: if the purchaser of a membership interest in a limited-liability company meets all the requirements of the membership-interests-transfer-restriction agreement, then, *ipso facto*, that purchaser is deemed a member of the limited-liability company holding that interest.

Readers may know the nursery rhyme "Old Mother Hubbard;" the title character did whatever she could to feed her beloved dog until her cupboard was empty. In legalese, a Mother Hubbard provision may direct someone to do whatever is appropriate to complete an endeavor in its entirety, to the point where nothing else can be done, or capture everything intended to be captured in a transaction, to the point where nothing else remains to be captured.

For example, you can use a Mother Hubbard provision in a closing-instruction letter (to direct the closer to do everything appropriate to close the transaction); if you prefer, entitle the provision "Further Actions" or similar language. Also, you can use a Mother Hubbard provision in a bill of sale or a deed (to convey any remaining interests), although I typically entitle the provision "Further Conveyance." Finally, you can use a Mother Hubbard provision in a settlement agreement to assign to the released party any claims intended to be released that were not, although I typically entitle the provision "Incidental Assignment of Claims."

Readers understand the concept underlying a Mother Hubbard provision. Embrace the concept and appropriately entitle the provision in its context.

In summary, feel free to inject humor into your legal documents when appropriate. When used wisely, humor effectively enhances your writing and keeps your readers engaged with otherwise dry legal content. **HN**

J. Edwin Martin can be reached at jedwinmartin@yahoo.com.

SUPPORT THE
DBA HOME PROJECT
Help us reach our goal of $100,000 to build our 35th house for Habitat for Humanity.
For more information, log on to www.facebook.com/DBAHomeProject or contact David Fisk (dfisk@ghlaw-llp.com) or Ted Huffman (edwin.a.huffman@gmail.com).
Make checks payable to Dallas Area Habitat for Humanity
and mail to:
Dallas Bar Association, 2101 Ross Avenue, Dallas, TX 75201


JHM3 MEDIATION
YOUR PATH TO RESOLUTION
SPECIALIZING IN
THE RESOLUTION OF
INSURANCE COVERAGE DISPUTES
James H. ("Hamp") Moody III
Attorney

IMPARTIAL - EXPERIENCED - KNOWLEDGEABLE
MEDIATION | ARBITRATION | EXPERT WITNESS — FEES, BAD FAITH
Super Lawyers James H. Moody III 20 YEARS
Best Lawyers RECOGNIZED BY 2006-2025
2024 Chair - Tort and Insurance Practice Section
(469) 972-8980
www.jhm3mediation.com
hamp@jhm3mediation.com

TED B. LYON & ASSOCIATES

Experience • Resourced • Preparation • Results

TRAUMATIC BRAIN INJURY

MAKING A DIFFERENCE IN HIGH-STAKE CASES

The law firm of Ted Lyon & Associate's last four mild traumatic brain injury cases resulted in over **$61 Million in verdicts.**

Mild traumatic brain injury clients are sometimes the most difficult clients to help because, cognitive challenges affect their good judgment. We use MODERN MEDICAL science to prove brain injury cases to jurors.

Our firm has successfully represented hundreds of brain injury cases and helped countless victims. We have paid out millions in referral fees. Other attorneys place their confidence in us by referring many of their largest personal injury cases. Call us, we pay generous referral fees.

Dallas | Mesquite | Houston | El Paso | Lubbock | McAllen | Odessa | Tyler | Wichita Falls
PH: (972) 279-6571 | Toll Free 800-Ted-Lyon | TedLyon.com

Focus | *Criminal Law/Government Law*

Know Your Rights When You've Been Stopped by Police

BY JOHNNY LANZILLO AND OMAR SHERIF

When you are pulled over by the police, it can be one of the most stressful situations that you have ever been in. This is true whether it is your first time being pulled over, or your 100th time being pulled over. What are you required to do, and what rights do you have?

Simply put, you always maintain the right to remain silent, refuse to consent to searches, and the right to request legal counsel if you are detained or arrested. Do not make any statements or answer any questions that could be used against you. The general rule is to provide your license and registration, and not to volunteer extra information.

Now, this is of course easier in theory, but some day you will be in a situation where you feel the need to respond to the officer's small talk. You may be thinking, "I can't just ignore the officer the whole time, right?" In those situations where the officer is searching for information, you can respectfully let them know that you will not be answering those types of questions. Remaining calm and polite will go a long way in these types of situations, and even then, you are still not giving out any information that may be used against you.

If the officer wants to search your vehicle, they must have probable cause. The only time probable cause is not required is when you waive that right and give them consent. As echoed throughout this passage: These are your rights, so do not give them up.

What if you are arrested or detained? You have the right to ask for an attorney, but you must invoke it. The officer cannot just assume you are going to request an attorney, so be sure to let them know. Everything you say will be recorded and will be used against you. It is in your best interest to have an attorney there who will make sure you do not put yourself in a position to face potentially more severe consequences.

If you are not a citizen—you do not have to answer any questions either. You are still protected by the Constitution of the United States. You do not have to answer any questions about where you were born, or what your citizenship status is, or even how you entered the country. All the rights we have discussed thus far are extended to you whether you are a citizen or not.

Now that you know everything you do not have to do, the next question is, what are you required to do?

First and foremost, you are required to stop if an officer pulls you over. It is recommended that you slow down, and signal to the right. Park your vehicle on the right shoulder of the highway, if available, or find a well-lit street or parking lot away from busy traffic and put your vehicle in park.

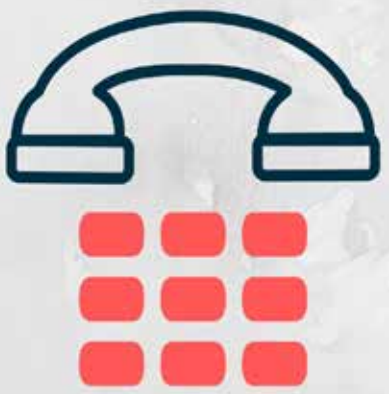
When the officer approaches your vehicle, roll down your window and comply with any lawful orders (short of answering questions!). If asked for your license or insurance, you must provide those documents; if you must reach into your center console or glove box, the best practice is to ask permission and move slowly. If the officer gives you directions, make sure you comply with their lawful instructions. If you fail to show your identification, or you provide false documentation, expect to be arrested on those charges.

If you are asked to step out of the vehicle, you must also comply with that order. Continue to comply while at the same time maintaining your right to remain silent. If the officer believes he has probable cause to search your car, he will do so. Do not try to interfere; if anything illegal is found, your attorney can review the case and determine if the officer did or did not actually have probable cause, and that fact can be challenged in court. So, when you refuse to consent, do not try to physically resist a search.

To recap: Invoke your rights! Remain silent, do not consent to a search, and ask for an attorney. And if you are not a citizen, you are absolutely not required to answer questions about your status—you only have to provide your identity.

Johnny Lanzillo is Criminal Division Trial Chief at Deandra Grant Law. Omar Sherif is an Attorney at the firm. They can be reached at johnny@defenseisready.com and omsher.16@gmail.com, respectively.

LegalLine Volunteers Needed



LegalLine is seeking volunteer attorneys for our LegalLine E-Clinics on Wednesdays.

Calls may be made between 4-8 p.m. from the comfort of their own homes.

Participating attorneys will be emailed contact information for those who have submitted a request for a call.

www.DallasBar.org/LegalLine

The right perspective comes from experience.

As a former Dallas County Prosecutor, District Attorney and State District Court Judge, Susan Hawk has presided over more than 25,000 criminal cases. Susan's experience gives her a behind-the-bench perspective into the workings of cases, juries and judges that few attorneys can match. And her experience and passion for advocating for mental health brings an added focus on treatment over incarceration.

If your client is facing criminal charges, make sure they come to court with the advantage of an insider's perspective. Because in crafting a defense, the right perspective is everything.

hawk
CRIMINAL LAW

CRIMINAL DEFENSE • MENTAL HEALTH LAW

214.550.2872 • hawk-law.com

WHEN YOU'RE INJURED OR ACCUSED, WE'RE READY TO FIGHT.

Serious criminal charges and catastrophic personal injuries have one thing in common: If you're faced with either, you need a team that has the skill, experience and tenacity to fight for you. Chris Lewis & Associates is ready to take up your cause and fight the only way they know how: **To win.**

CHRIS LEWIS + ASSOCIATES

REFERRALS WELCOMED
CONSULTATIONS AVAILABLE

214.665.6930
LEWISDEFENSE.COM
@chrislewislaw

Focus | Criminal Law/Government Law

Top Five Tips for Filing a Qui Tam Whistleblower Lawsuit

BY ALLISON COOK

It is a recurring pattern: Employee witnesses corporate wrongdoing at work. Employee flags corporate wrongdoing. Employer retaliation ensues. What is often evident in hindsight is that the corporate wrongdoing transcends garden-variety fraud; it is also defrauding the government. And when government funds are potentially being exploited, it is a different ballgame of litigation—one that could yield more benefits for your client but requires rigorous, proactive measures for counsel to take up front.

Under the False Claims Act, a whistleblower can bring a lawsuit on behalf of the government against an individual or company who has defrauded the government. These cases often coincide with wrongful termination or unlawful labor practices, so the fact patterns may initially seem like employment cases. And they often are. But if government funds are involved, you should evaluate whether government loss exists. If so, consider consulting with a False Claims Act specialist and following these guidelines.

1. Gather All the Facts and Understand Your Legal Theory. This is the first and arguably most important part of pursuing a *qui tam* case under the False Claims Act. As soon as a whistleblower files a *qui tam* complaint and serves the government with a "disclosure statement" letter, the government takes over investigations. Thus, the complaint (and accompanying disclosure statement) is a whistleblower's primary chance to convince the government that the allegations are worth pursuing. It can be tempting to rush the process and file something that is prompt but not thorough. While there are some instances where you must be fast *and* thorough (like if you know another whistleblower is trying to file a similar case that might bar your client's right to recover), the best practice is to invest the time to draft a well-written, well-researched, and comprehensive complaint.

This means having an ongoing dialogue with your client and taking the time to understand your legal theory. In the simplest sense, you need to understand—both factually and legally—how the defendant's fraud caused the government to pay out money. The most common types of fraud that violate the False Claims Act are healthcare fraud, procurement fraud, and government contractor fraud. Each of these types of frauds implicates vast and complex regulatory schemes (i.e., Medicare and Medicaid rules and regulations and the Federal Acquisition Regulations). Sorting through the rules and regulations can feel challenging and laborious, but the time you spend could save the government some of its extremely limited time and resources.

2. Give the Government a Roadmap. In the same vein, your complaint should provide a playbook for the government's investigation. Your complaint should include all significant facts, and your disclosure statement should tell the government where to look to find additional relevant information. This might include a witness list with contact information, virtual venues where the company might keep relevant documents (email, Slack, Teams chats, etc.), potential topics for a Civil Investigative Demand, or search terms that could yield important documents.

3. Don't Violate the Seal. Under the False Claims Act, as soon as the complaint is filed, the court must seal the case, and it will likely remain sealed for several years while the government investigates the allegations. You should therefore impress upon your client the importance of keeping the matter confidential.

4. Consider Retaliation Causes of Action. As explained above, whistleblower lawsuits often go in tandem with retaliation lawsuits. If your client reported fraud and was subsequently fired, they likely have standing for a retaliation claim under the False Claims Act. Under that provision, your client can recover any relief necessary to make him or her whole. This includes two times back pay, reinstatement, and any special damages sustained as a result of the wrongful termination.

5. Don't Be Afraid to Litigate the Case. The government may decline to prosecute the case after investigation. If so, don't be discouraged. Declination decisions are rarely merits-based and are often the result of the government's lack of resources. When this occurs, you and your client have the right to litigate the case and potentially share in a higher percentage of any proceeds recovered.

Bonus Tip: Consider Other Whistleblower Programs. You may ultimately decide that your client does not have the information necessary to merit an FCA case. Before calling it quits, consider whether the conduct violates laws covered by another whistleblower program that allows whistleblowers to report allegations of misconduct and potentially share in a portion of any recovery. These programs include: (1) the SEC Whistleblower Program; (2) the Commodities Futures Trading Commission (CFTC) Whistleblower Program; (3) the DOJ Corporate Whistleblower Awards Pilot Program; and (4) the IRS Whistleblower Program.

All of these programs save the government, taxpayers, and victims hundreds of millions (if not billions) of dollars annually. Those numbers would not be possible without the courage of whistleblowers and the dedication of their lawyers. **HN**

Allison Cook is an Associate at Reese Marketos LLP. She can be reached at allison.cook@rm-firm.com.

DBA/DAYL Moms in Law

Being a working mom can be challenging. Being a working lawyer mom can be a different ballgame with its own unique challenges. Moms in Law is a no pressure, no commitment, informal, fun, support group for lawyer moms.

Join Moms in Law for lunch
Thursday, June 26, noon at Postino Addison
5280 Belt Line Rd Suite 100, Dallas
RSVP to Rebecca at rfitzgib@gmail.com
Email cpleatherberry@gmail.com to join the Moms in Law email listserv.

Y'all.

Y'all | definition: meaning to refer to a group of people – "you all". As in, we'd like to help y'all succeed.

We know Texas. Since 1979, we've been protecting Texas lawyers, across all Texas jurisdictions, in all areas of practice. We use the best Texas defense trial lawyers around. And, we insure more lawyers in the State of Texas than any other insurance provider.

Y'all is who we serve.

Apply today to be protected by the best.

We help Texas attorneys succeed.

TLIE TEXAS LAWYERS' INSURANCE EXCHANGE®
Experience when you need it most.

TLIE.ORG or (512) 480-9074


WIN | WIN
When you're faced with a case involving wrongful death or injury, Payne Mitchell Ramsey relentlessly pursues every possible avenue to secure the compensation our clients deserve. Beyond achieving substantial judgments for plaintiffs, we are dedicated to upholding the confidence our referral partners place in us, and to driving meaningful improvements in manufacturing processes and industry standards. In short, it's a win for all.
214.252.1888 • paynemitchell.com
AVIATION CRASHES • PRODUCT DEFECTS • NEGLIGENCE • MEDICAL MALPRACTICE • VEHICLE COLLISIONS
Left to right: Jim Mitchell, Andy Payne, Todd Ramsey
PAYNE MITCHELL RAMSEY
LAW GROUP

Focus | *Criminal Law/Government Law*

Texas State vs. Federal Bonds: Big Differences

BY CLINT BRODEN

When a client is about to be arrested for a federal criminal offense, they will often ask, "How much will my bond be?" The client may be assuming that the procedures around bonds in federal court are not unlike those in Texas state court. However, federal court is very different from state court.

If a person is arrested for a state offense in Texas, a bond will be set regardless of the seriousness of the offense. Whether the person arrested has the financial resources to post the bond and be released from custody is, of course, a different story.

Things are very different, however, when a person is charged with a criminal offense in federal court. Under the Bail Reform Act of 1984, whose constitutionality has been upheld by the Supreme Court, defendants have no right to be released pending trial despite the presumption of innocence. On the other hand, if a defendant is released pending trial, it is extremely rare (at least in the four federal districts in Texas) for a defendant to be required to post any financial bond to secure their release.

When a defendant initially appears in federal court before a United States Magistrate Judge, the issue of detention will be addressed. If the government does not request that a defendant be detained, the defendant usually will be released the same day (although in very limited cases a judge can detain a defendant on their own motion). In that event, the defendant will be released on the "least restrictive condition or combination of conditions" that will reasonably ensure the defendant's appearance at future proceedings and the safety of the community. Such conditions very often will include travel restrictions and the requirement that the defendant be monitored by a Pretrial Services Officer. Less frequently, more onerous conditions can be imposed, such as a curfew, home monitoring, or both.

On the other hand, if the government moves for a defendant's detention pending trial, a "detention hearing" will be held usually within three to five business days. Pending that hearing, the defendant will be temporarily detained. At a detention hearing, the government will be required to prove, by a preponderance of the evidence, that the defendant is a flight risk and/or, by clear and convincing evidence, that the defendant will be a physical or economic danger to the community if released. Absent such proof, the defendant will be released on conditions similar to those discussed above. In considering the issue of detention, the magistrate judge will rely heavily on a report prepared by a Pretrial Services Officer, which will include the officer's recommendation as to whether the defendant should be released.

Drug cases, however, are a different story. In drug cases, there is a presumption in *favor* of detention. In drug cases, defendants have a burden of production to present "some credible evidence" that they are neither a flight risk nor a danger to the community; however, the government retains the burden of persuasion on these issues.

At a detention hearing, either side can proffer evidence, but the government will generally call its case agent as a live witness. Meanwhile, the defendant's attorney often will be able to cross-examine the government's case agent regarding the "weight of the evidence" against the client. Likewise, the attorney can require the government to produce any reports prepared by the agent related to his or her testimony. In light of these opportunities available to the defense, waiving the right to a detention hearing is rarely advisable, even in cases where detention seems likely.

To prepare for a detention hearing, a defense attorney will want to be in a position to present evidence regarding the defendant's family ties and employment to establish the defendant's "ties to the community." While this can be done by proffer, it is almost always more persuasive to have these types of witnesses present and available to testify. Even if a client has a criminal history, that they have made all prior court appearances or successfully served out a term of probation or both is evidence that they are not a flight risk. If detention would otherwise be likely, a defense attorney can propose that a family member act as a "third party custodian" of the defendant with a sworn obligation to report to the court if the defendant violates any release conditions that might be set.

If the magistrate judge determines that a defendant should be detained, the defendant may file a "motion to revoke detention order" with the district judge. Similarly, if a defendant is released after the government has moved to detain the defendant, the government can appeal the decision to the district judge. The District Court considers such motions *de novo*.

Of course, if a defendant is released and then violates conditions of their release, the release can be revoked if a judge finds that no condition or combination of conditions will thereafter ensure the defendant's appearance and/or the safety of the community. **HN**

Clint Broden, a Partner at Broden & Mickelsen, is board certified in criminal law and criminal appellate law and can be reached at clint@texascrimlaw.com.

Professionalism Tip

"My word is my bond."
Tex S. Ct. Order enabling the Creed.

Find the complete Creed online at https://rb.gy/7h7kkb.

Provided by the Morris Harrell Professionalism Committee

FITZPATRICK JACKS SMITH & UHL

FEDERAL & STATE CRIMINAL DEFENSE | FEDERAL & STATE CIVIL TRIAL MATTERS

Robert Smith ✯ Ritch Roberts ✯ Jim Jacks ✯ Mike Uhl ✯ Knox Fitzpatrick

500 NORTH AKARD STREET, ROSS TOWER, SUITE 2150 DALLAS, TEXAS 75201-6654 | 214-237-0900
*Independent Law Offices

THE PREEMINENT FIRM FOR FAMILY LAW IN TEXAS.

KOONSFULLER NORTH TEXAS TEAM

LEFT TO RIGHT:

R1: Heather King,* Rick Robertson,* Ike Vanden Eykel,*† Charla Bradshaw,* Liz Porter*

R2: Jessica Janicek,* Brian Loughmiller,*† Neda Garrett,* Julie Crawford*

R3: Laura S. Hayes,* Sean Abeyta,* Dana Manry,* Chris Meuse,* Fred Adams,* Sally Pretorius,* Rob McEwan*

R4: Jessica Perroni,* Kevin Segler,* Courtney Walker, Deron Sugg, Tom Daley,* Kimberly Stoner

R5: Justin Whiddon, Lauren Harris,* Lindsey Vanden Eykel,* Grant Gosser, Paul Leopold‡

R6: David Thompson, Sarah Cary, Drew Williamson,* Tarrah S. Lett

R7: Jason Patalano, Eniya Richardson

*Board certified in family law by the Texas Board of Legal Specialization.

†Board certified in civil trial law by the Texas Board of Legal Specialization.

‡Board certified in civil appellate law by the Texas Board of Legal Specialization.

DIVORCE
CHILD CUSTODY
POST-DIVORCE MODIFICATIONS
CHILD SUPPORT
MARITAL PROPERTY AGREEMENTS
ENFORCEMENTS
GRANDPARENT'S RIGHTS
PATERNITY
COLLABORATIVE LAW
APPEALS

TRUSTED LEADERS IN FAMILY LAW

With more than 30 experienced attorneys across four North Texas offices, the KoonsFuller team creates an unrivaled network of resources and family law expertise.

For over 50 years, our attorneys have lived and worked in the areas they serve, ensuring deep connectivity to their community and the court systems. From informal negotiations to mediations, collaborative law to court proceedings, KoonsFuller's proven attorneys are equipped to handle estates of all sizes, cases of all complexities, and custody issues of any kind. With this level of clout, it's no wonder KoonsFuller is one of the most trusted family law firms in the Southwest.

BEST LAW FIRMS RANKED BY Best Lawyers DALLAS/FORT WORTH FAMILY LAW • TIER 1 2025

KoonsFuller

DALLAS** | 1717 McKinney Avenue, Suite 1500 | Dallas, Texas 75202 | 214.871.2727
DENTON | 320 West Eagle Drive, Suite 200 | Denton, Texas 76201 | 940.442.6677
PLANO | 5700 W. Plano Parkway, Suite 2200 | Plano, Texas 75093 | 972.769.2727
SOUTHLAKE | 550 Reserve Street, Suite 450 | Southlake, Texas 76092 | 817.481.2710

**Principal office.

Summertime at the DBA!

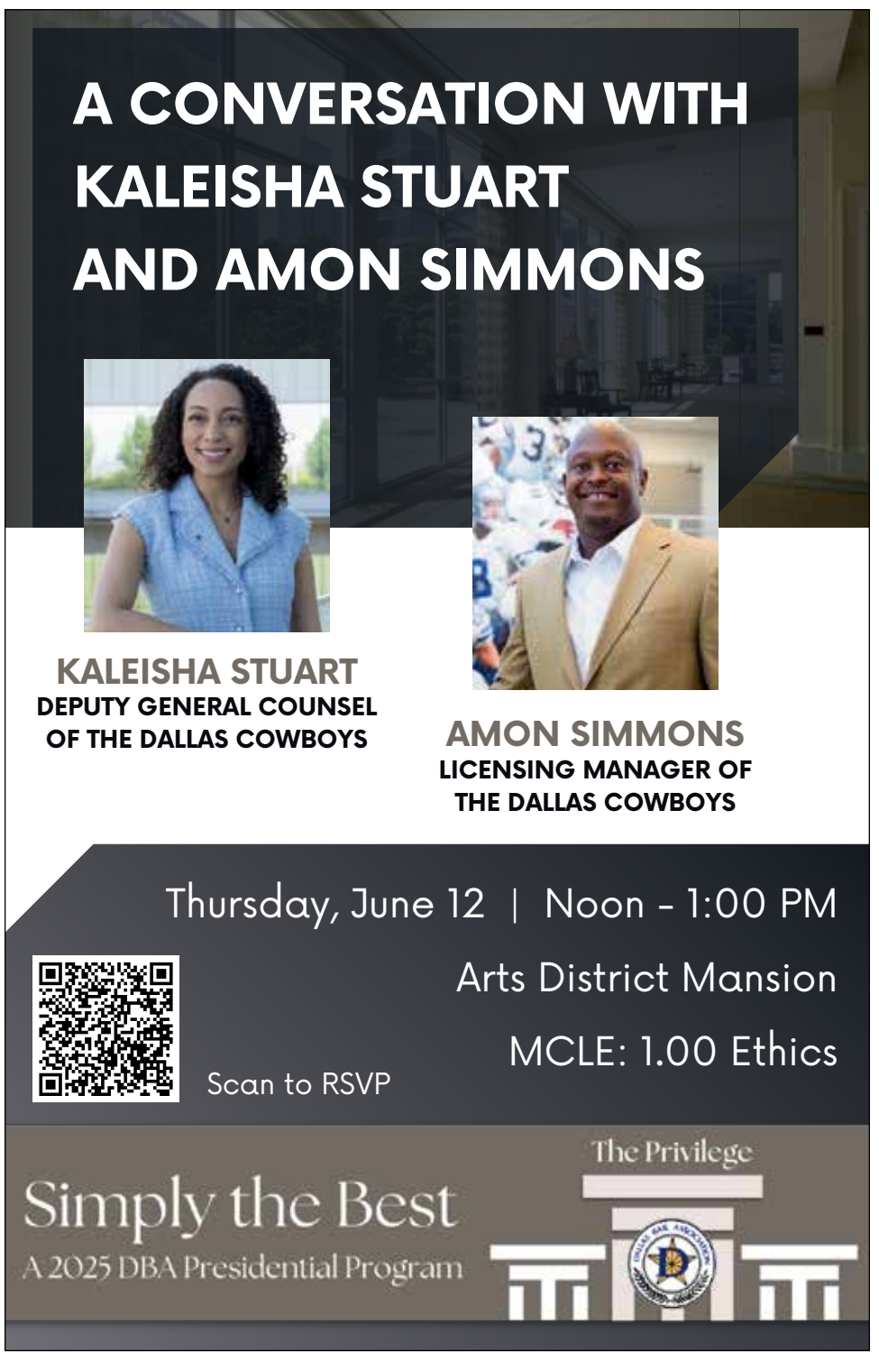
With events happening almost every day, the Dallas Bar Association has something for everyone! Whether it is participating in this year's presidential programs, focusing on mental health and well-being, attending social events, or participating in one of the DBA's signature programs, we've got you covered! Visit dallasbar.org to find your next event.

On May 5, the DBA hosted A Conversation with Dena Stroh and James Hofmann, of NTTA, as part of The Privilege Corporate Counsel Series. (left to right): Mr. Hofmann, Program Co-Chair Rocío C. García Espinoza, DBA President Vicki Blanton, Mrs. Stroh, and Program Co-Chair Mey Ly Ortiz.

The DBA We Lead program is in full swing. In May, the group's session focused on business development, branding, and networking. (left to right): Mauri Hinterlon, Dena Stroh, and Mary Scott

On May 1, the Family Law Section hosted their 2nd Annual Hot Wings Challenge and social.

As part of DBA President Blanton's The Pursuit of Happiness pillar, the DBA hosted internationally acclaimed Happiness Strategist Monique Rhodes, who presented "Mastering Your Mind: The Key to Thriving in Law and Life."



The DBA Does Morocco!

In April, a DBA delegation traveled to Morocco as part of the 2025 CLE Abroad program. They experienced the culture, food, and art, while also exploring substantive legal issues related to: small business entrepreneurship; legalities of the winemaking business; reforms in family law; the comparison of education systems; freedom of religion; freedom of speech; the legislative process; domestic violence and human rights; and a culinary skills NGO for women's empowerment. Be on the lookout for more information on the 2026 CLE Abroad program!

Honoring the United States Constitution

BY MICAH SKIDMORE

On June 21, 1788, New Hampshire became the ninth of thirteen states to ratify the United States Constitution. Under Article VII, this act established the Constitution thereafter as the supreme law of the land. This June, we observe the 237th anniversary of its ratification.

In memorial to this anniversary, it is appropriate that we take the opportunity to pay tribute to the United States Constitution. As a framework for our national government and as a monument to the rule of law, the United States Constitution enshrines at least three foundational principles worthy of our remembrance, protection and support.

First, through its first 10 amendments, the Bill of Rights, the United States Constitution codifies and yields to the natural freedom and equality with which all people are endowed by God. Initially, in late 1787 and early 1788, only Delaware, Pennsylvania, New Jersey, Georgia and Connecticut ratified the Constitution. Other states opposed the document on the basis that it failed to secure the freedoms of speech, religion and the press. But in February 1788, the Massachusetts Compromise provided that the amendments now known as the Bill of Rights would be immediately proposed, opening the way for ratification by Massachusetts, Maryland, South Carolina and, finally, New Hampshire.

Every person is free to pursue what the Declaration of Independence calls the inalienable rights to life, liberty, and the pursuit of happiness. The United States Constitution expands this bequest to include the freedoms of worship, speech, assembly, and "to petition the Government for a redress of grievances." The right to bear arms and to be free from unreasonable searches and seizures are also guaranteed. Specific to our profession as lawyers and stewards of the rule of law, the Constitution promises the right to due process, a jury trial, a speedy and public trial, and freedom from cruel and unusual punishment. The 13th, 14th, and 15th Amendments extend the liberties of citizenship, including the franchise of the secret ballot, to all persons born or naturalized in the United States. By acknowledging these freedoms as birthrights of all people, the Constitution grants perhaps the greatest legacy to its constituents—that of fundamental equality whether in the eyes of the government, before the operation of its agencies, or between and among its citizens.

Second, from its very introduction, the United States Constitution confirms that the authority and power of the federal government is derived from its citizens, "the people." As Thomas Jefferson expressed in the Declaration of Independence, "[g]overnments … deriv[e] their just powers from the consent of the governed." The Tenth Amendment to the Constitution accordingly grants the federal government limited powers, with all authority not delegated to the United States, being reserved to the States and the people. Each branch of government is not only subject to the others through prescribed checks and balances, but the executive, legislative, and judicial agents of government are subject to ultimate review by the voting citizenry. No expansion in the power of one branch can be exercised without inevitably curtailing the rights and authority of another, including the superseding fourth branch of government inexorably occupied by the people. As a result, no branch or agent of the federal government may infringe upon the power of another without ultimately doing violence by precedent or through the polls to its own authority.

Third, because it provides a principled framework for the governance and interaction of federal, state, and individual powers, the United States Constitution is adaptable to the exigencies of an evolving nation and our modern world. With the advent of judicial review under *Marbury v. Madison*, 5 U.S. 137 (1803), the Constitution has remained the standard by which individual, executive, legislative, and judicial action may be measured.

Over the 237-year tenure we observe this June, the Constitution has endured many tests and challenges, none perhaps greater than the crises attendant to the Civil War. Yet, the Constitution and the precepts for which it stands have endured. During that contest, the blood and treasure of this nation was consecrated for the proposition, not only that all are created equal, but that "government of the people, by the people, [and] for the people, shall not perish from the earth."

If the values and principles engrained within the Constitution can persist through this and all of the highs and lows of the American experience before or since, the Constitution can and should remain the North Star of our jurisprudence and the inner voice of our national conscience. In the words of Benjamin Franklin, let us "all hang together" as lawyers in our support for the rule of law embodied in the United States Constitution, which we remember this June 2025. **HN**

Micah Skidmore is a Partner at Haynes and Boone, LLP and is Vice Chair of the Allied Bars Equality Committee. He can be reached at micah.skidmore@haynesboone.com.

Client Development—Speak at a DBA Program

Interested in sharing your legal knowledge and expertise with your colleagues?

The CLE Committee is looking for speakers and hot topics for the Wednesday Workshop programs it holds throughout the year. Please submit a short bio, title, and 2-3 sentence description of your presentation to Araceli Rodriguez at arodriguez@dallasbar.org. Submissions will be discussed at monthly CLE Committee meetings.

Calabrese Budner FAMILY MATTERS®

YOUR TRUSTED REFERRAL PARTNER IN FAMILY LAW

Expert Strategy for High-Stakes, High-Conflict Cases

Pictured: Carla M. Calabrese, Lee Budner

Trusted by attorneys for the people who matter most—their clients, their friends, and their families. Calabrese Budner approaches every referral with the same thoughtful, responsive care, treating each client with the respect and attention they deserve. Whether navigating high-net-worth divorces, complex business valuations, or contested custody disputes, we bring a strategic mindset and a steady, compassionate approach to every case.

Better Strategy. Better Divorce.

BEST LAWYERS UNDER 40 2025 | BEST LAWYERS 2025 | HALL OF FAME BEST LAWYERS 15+ YEARS

CALABRESEBUDNER.COM | 214.939.3000

PARK CITIES | PRESTON HOLLOW | DALLAS | PLANO | FRISCO

Focus | Criminal Law/Government Law

Narrowing the Definition of "Prevailing Party"

BY BENJAMIN GIBBS

This February, in a 7–2 opinion, the Supreme Court held that a party who is granted a preliminary injunction and no other relief is not a "prevailing party" for purposes of § 1988 and so is not entitled to an award of attorney's fees. *Lackey v. Stinnie*, 604 U.S. ____ (2025). The decision will have ramifications for attorneys who represent clients in civil rights litigation, on either side of the "v."

In the case, Virginia drivers with suspended licenses sued the Commissioner of the Virginia Department of Motor Vehicles, alleging that the suspensions constituted a deprivation of rights. Under Virginia law at the time, state courts were directed to suspend the license of any driver who failed to pay "any fine, costs, forfeitures, restitution, or penalty lawfully assessed against him" for violation of a federal, state, or local law until the amount due was paid in full or the driver started a payment plan. The plaintiffs alleged that the law violated due process and equal protection by depriving drivers of their licenses without providing a hearing or opportunity to seek relief based on, for example, indigence.

In December 2018, the District Court granted a preliminary injunction in favor of the drivers, prohibiting enforcement of the law by the State. In April 2019, based on a temporary stay of the law in the General Assembly's budget, along with other indications the law would be repealed, the court granted a motion to stay the case. In April 2020, the General Assembly repealed the law and required permanent reinstatement of licenses suspended under it, effectively ending the underlying litigation.

The drivers moved for an award of attorney's fees under § 1988. As Texas attorneys know, the American Rule requires that each party bear its own costs of litigation. The fee-shifting provisions in civil rights cases arose from a common-law doctrine which awarded fees to those litigants who vindicated their own rights and also benefitted all other similarly situated plaintiffs. That common-law doctrine was codified in 42 U.S.C. § 1988, creating fee-shifting provisions for civil rights cases. Courts were then tasked with determining what constitutes "prevailing" in litigation, and a battle of inches began that continues today.

Following Fourth Circuit precedent, the District Court denied the fees, holding that the drivers were not sufficiently "prevailing." On review, the Fourth Circuit first affirmed, then on en banc rehearing rejected precedent and reversed, holding that some injunctions may "provide enduring, merits-based relief."

The Supreme Court granted certiorari and reversed.

To understand the underlying struggle that makes *Lackey* relevant, it is necessary to briefly examine a line of cases spanning the second half of the twentieth century: the rise and fall of "Catalyst Theory."

Catalyst theory was a theory of recovery of costs and attorney fees when voluntary action by the defendant afforded the plaintiff all or some of the relief sought, rendering the plaintiff's claim moot. This theory grew parallel to and out of the fee-shifting doctrine in early civil rights case law and was embraced by the circuits until 1992, when Supreme Court dicta in *Farrar v. Hobby* (506 U.S. 103) indicated it would be rejected. However, the theory hung on for another decade.

In a 5–4 decision in a 2001 case called *Buckhannon Board & Care Home, Inc. v. West Virginia Dept. of Health and Human Res.* (532 U.S. 598), the Supreme Court stepped in and settled the matter, rejecting the Catalyst Theory and requiring a "judicially sanctioned change in the legal relationship of the parties" to allow an award of attorney's fees. This appeared to eliminate the Catalyst Theory once and for all.

The Fourth Circuit's rehearing opinion in *Lackey* seemed to suggest a circuit-revival of Catalyst Theory, reviving the quarter-century-abandoned law. The Supreme Court's opinion, though, firmly rejected this approach. The Supreme Court held that "[a] plaintiff who wins a transient victory on a preliminary injunction does not become a 'prevailing party' simply because external events convert the transient victory into a lasting one."

This should be a strategic consideration for plaintiffs seeking relief and defendants resisting it. The Court articulated the standard thus: "a Plaintiff 'prevails' under the statute when a court conclusively resolves a claim by granting enduring judicial relief on the merits that materially alters the legal relationship between the parties." **HN**

Benjamin Gibbs, of the Second Court of Appeals, Fort Worth, can be reached at gibbsbenj@gmail.com.

STATE BAR OF TEXAS ANNUAL MEETING
SAN ANTONIO, JUNE 19-20, 2025

Register now for the SBOT 2025 Annual Meeting

San Antonio, June 19-20, at the JW Marriott Hill Country Resort
For more information and to register, visit www.texasbar.com/annualmeeting.

engage
Workspace for Lawyers

Join a Community of Lawyers

- Secure, professional environment for attorneys and their legal staff
- Private Wi-Fi, office equipment and supplies, and full-time guest reception
- All-inclusive pricing, managed conference room scheduling, convenient location, and free parking

8150 N Central Expy
10th Floor
Dallas, TX 75206

lawofficespace.com
(214) 865-7770
←Book a tour

FREE MCLE

One of the many Member Benefits
that the DBA offers
is more than 400 CLE courses each year,
most of which are offered at no charge.

JOIN OR RENEW NOW AT
WWW.DALLASBAR.ORG.

ECL ATTORNEY SPOTLIGHT

DEBORAH KRANE

Deborah Krane launched her law firm in August 2024, shortly before joining the Entrepreneurs in Community Lawyering (ECL) Program. She primarily practices Labor & Employment Law, representing law enforcement officers and labor unions in contract negotiations, mediations, arbitrations, and litigation. A former union member herself, Deborah's firsthand experience fuels her long-standing commitment to workplace justice.

With over 30 years of legal experience, she has handled discrimination claims, employment contract disputes, wage-and-hour violations, and disciplinary matters involving licensed professionals and police officers.

Through the ECL Program, Deborah has grown her professional network, reached her ideal clients, and adopted technology to streamline her practice. She plans to continue advocating for union members and law enforcement officers in employment-related matters and is exploring expansion into criminal defense.

ECL ENTREPRENEURS IN COMMUNITY LAWYERING
A program of the Dallas Bar Association


CHANGING
CRISIS TO
CONFIDENCE.
Complexity is our specialty.
Board Certified by the Texas Board of Legal Specialization in Aviation Law, attorneys Mike Slack and Ladd Sanger, along with senior attorney Derek Quick, of the law firm Slack Davis Sanger, specialize in navigating and winning challenging aviation cases. With three decades of experience and a team of highly-regarded lawyers consisting of licensed pilots and a former NASA® engineer, we have the technical and legal expertise to outwork, out-think, and out-resource any opposition.
Austin | Dallas | Fort Worth | SLACKDAVIS.COM
Slack Davis Sanger
Commercial Airline | Private & Charter Planes | Helicopter | Air Ambulance

Focus | Criminal Law/Government Law

Emerging Trends in DWI Treatment Courts are Reshaping Justice

BY HON. AUDREY MOOREHEAD AND AARON J. VEULEMAN

As a DWI Court judge and a prosecutor in Dallas County, we do not always see eye to eye on everything—but we do share a commitment to keeping our communities safe and ensuring that justice is both effective and fair. In our time as key team members in the misdemeanor DWI court program, we have witnessed firsthand how emerging trends in DWI courts have begun to reshape the way we respond to repeat DWI offenders. These courts aren't just changing outcomes—they are changing lives.

A New Vision for Justice

For years, the standard response to DWI offenses, particularly repeat offenses, was to increase penalties—higher fines, longer license suspensions, and more jail time. But that model does not decrease recidivism; the same faces come back through the system, again and again. The punishment-only model was not working. That is why we have embraced the DWI Court model in Dallas County—a collaborative, treatment-focused approach that targets the root of the problem: addiction.

Our DWI Court Program focuses on high-risk, high-need individuals with multiple DWI offenses. These are not hardened criminals—they are people struggling with substance use disorders who need structure, accountability, and support. This yearlong program includes intensive supervision, mandatory treatment, frequent drug and alcohol testing, and regular check-ins with the court. As judge and prosecutor, we sit at the same table—alongside defense attorneys, treatment providers, probation officers, and case managers—to ensure participants get what they need to succeed.

The Role of Technology in Accountability

Accountability is at the core of our work, and technology has become one of our most valuable tools. Ignition interlock devices, portable breath alcohol devices, and GPS-enabled alcohol and drug monitoring bracelets help us track compliance in real time. These tools don't just keep impaired drivers off the road—they give us data to make informed decisions and intervene when someone begins to struggle.

Treating the Whole Person: Mental Health and Trauma

We have both come to understand that substance abuse rarely exists in a vacuum. Many of our participants have co-occurring mental health conditions, histories of trauma, and systemic challenges. Addressing these issues is not just compassionate—it is essential for breaking the cycle of addiction and criminal behavior.

Our Court team includes professionals who can provide mental health assessments and referrals. We have adopted trauma-informed practices, which means we look beyond the offense and try to understand the person behind it. This shift has improved our outcomes and transformed the way we interact with participants in court.

Other counties in Texas are taking similar steps. Bexar County, for example, has built strong partnerships with mental health service providers, creating a model we have learned from and adapted accordingly. Across the state, we are seeing DWI Courts evolve into comprehensive recovery programs that treat the whole person.

Making Justice Accessible for All

A justice system that only works for some isn't justice at all. That's why we have been intentional about expanding access to our DWI Court. To that end, we have increased bilingual resources to better serve our Spanish-speaking community.

We are committed to identifying and addressing disparities in who has access to the program. That means collecting data and asking hard questions about race, income, geography, and other factors. It also means building relationships with community organizations that can provide additional support—like intensive in-patient treatment centers. We have seen how stability in these areas can mean the difference between relapse and recovery.

The Results Speak for Themselves

DWI courts are working. Studies show—and we have witnessed—that participants are far less likely to reoffend compared to those in the traditional court system. In Dallas County, we have seen program graduates go on to rebuild their lives, reconnect with their families, and become productive members of the community. That is a win not just for them, but for public safety and taxpayer dollars.

We are also seeing cost savings. Treating addiction through court-supervised recovery programs is significantly less expensive than repeated incarceration and emergency services tied to drunk driving crashes.

Justice Reimagined

The evolution of DWI Courts in Dallas reflects a larger shift in the criminal justice system—a move toward accountability with purpose, punishment with compassion. We do not see these courts as being "soft" on crime. On the contrary, they are demanding, rigorous, and structured. But they offer something jail time alone cannot: the possibility of true change.

As we look to the future, we are hopeful. We are proud to be part of a system that no longer sees repeat DWI offenders as lost causes, but as individuals capable of recovery and redemption. Together—as judge and prosecutor—we are working to ensure that justice in Dallas County continues to evolve, not just for the sake of the law, but for the safety and well-being of our entire community. **HN**

Hon. Audrey Moorehead, DWI Court Judge, Dallas County and Aaron J. Veuleman, Assistant Criminal District Attorney, Dallas County, can be reached at attorneyaudrey@gmail.com and aaron.veuleman@dallascounty.org, respectively.

DVAP's Finest

JOHN WALKER
John Walker is an Associate at Sidley Austin LLP.

1. How did you first get involved in pro bono?
I first got involved in pro bono as a Summer Associate at Sidley Austin. Folks at my firm heard that I came from a military family and asked me if I'd be interested in assisting a veteran in a disability claim. I said yes, and through that first project came many more veterans' cases, which led to DVAP and opened the door to a more diverse range of pro bono work and clients.

2. Describe your most compelling pro bono case.
Recently, I had the privilege of assisting a young married couple in their attempts to recover their security deposit from a former landlord. The landlord claimed that my clients failed to provide adequate move-out notice and had damaged the apartment. As a result, the landlord issued over $3,000 in fees, unilaterally converted the lease to a month-to-month lease and charged my clients over two months' rent despite the clients having moved out and surrendered the property. When my clients disputed the charges, the landlord sent the bill (totaling nearly $8,000) to collections. After examining the lease and email correspondence between my clients and the landlord, it was clear that the landlord's claims were false. Sidley then sent a letter to the landlord demanding the return of the security deposit, as well as a refund of nearly $1,000 in improper charges paid in attempts to resolve the dispute. The landlord ultimately wrote a check for the full amount demanded and entered a settlement agreement ensuring their cooperation as we pursued a discharge of the debt held by the collection agency, which was granted.

3. Why do you do pro bono?
When I think back on my life and career, it's obvious that I wouldn't be where I am today without the help of others. Not only did I benefit from having dedicated and passionate teachers growing up, but I also had the kindness of people who had little to no stake in my success or failure; neighbors, mentors, and even complete strangers, who extended opportunity and took an interest in my personal and professional development. Pro bono is my way of paying that kindness forward and leveling the playing field for others, as was done for me.

Pro Bono: *It's Like Billable Hours for Your Soul.*

To volunteer or make a donation, call 214/748-1234, x2243.

DVAP
Dallas Volunteer Attorney Program

Strengthening Our Commitment to 35 More Years of Top-Tier Legal Representation

Congratulations, Joseph Zopolsky.

Glast, Phillips & Murray is now Glast Phillips Murray Zopolsky.

New name. New location. Same dedication.

Our law firm is delighted to announce that Joseph Zopolsky has been named partner in Glast Phillips Murray Zopolsky. Mr. Zopolsky is AV Preeminent Peer Review Rated by Martindale-Hubbell and represents clients in civil litigation and business-related matters in Texas and across the country.

In other exciting news, we're also pleased to announce the relocation and opening of our new offices at:

14901 Quorum Drive, Suite 300
Dallas, TX 75254-6735

Joseph Zopolsky and Troy Phillips

Glast Phillips Murray Zopolsky

DALLAS (HOME) | HOUSTON (SATELLITE) | AUSTIN (SATELLITE)

WWW.GPMZ-LAW.COM | (972) 419-8300

DALLAS BAR ASSOCIATION
100 CLUB

2025 DBA 100 CLUB MEMBERS – THANK YOU!

The Dallas Bar Association is proud to recognize our **2025 DBA 100 Club** members. The following firms, government agencies, organizations/schools and corporate legal departments have 100% membership in the DBA.

The **DBA 100 Club** is a distinguished membership recognition category that reflects a commitment to the advancement of the legal profession and involvement in the community. The **DBA 100 Club** consists of firms with two or more attorneys as well as corporate legal departments, organizations, law schools and government agencies that have 100% membership in the DBA. Recognition is free and given to the **2025 DBA 100 Club** members at DallasBar.org, in our *Headnotes* publication, and at our Annual Meeting in the fall.

Please note that the DBA 100 Club is FREE recognition and open for renewal annually. We do not automatically renew an organization's membership due to changes in attorney rosters each year.

It is not too late! To become a **2025 DBA 100 Club** member, submit your request via email and include a list of all lawyers in your Dallas area office to Shawna Bush, sbush@dallasbar.org. Your list will be verified with our member records, and if eligible, your firm will be added to the 2025 DBA 100 Club!

If we receive your qualifying list by June 5, your firm will be included on the July and August **DBA 100 Club** recognition lists in *Headnotes*.

Send in your list TODAY!

THANK YOU FOR YOUR SUPPORT OF THE DALLAS BAR ASSOCIATION!

DBA 100 Club Members as of May 7, 2025

2 to 5 Attorneys
Adair, Morris & Osborn, P.C.
Adam L. Seidel, P.C.
Addison Law Firm P.C.
Akere & Akere P.C.
Aldous Law
Alexander Dubose & Jefferson LLP
Anderson Grossman PLLC
Anozie, LLP
Ashcraft Law Firm
Atwood Gameros LLP
Balekian Hayes, PLLC
Battiste Clement PLLC
Biles Wilson, PLLC
Booth Albanesi Schroeder PLLC
Brian Lauten, P.C.
Brousseau Naftis Erick & Massingill, P.C.
Brusniak Turner PC
Buether Joe & Counselors, LLC
Calabrese Budner LLP
Caldwell, Bennett, Thomas, Toraason & Mead, PLLC
Chris Lewis & Associates, P.C.
Clark Law Firm
Conley Rosenberg & Mendez P.C.
Crain Brogdon LLP
Cuccia Wilson, PLLC
Davis Stephenson, PLLC
Deans Stepp Law, LLP
Dedman Law, PLLC
Dismuke & Waters, P.C.
Escoto Law, PLLC
Fisher & Welch, P.C.
Flournoy McLain, P.C.
Grau Law Group, PLLC
Griffith Davison, P.C. (Fort Worth)
Herrera & Herrera
Holmes PLLC
Hosch & Morris, PLLC
Hunt Huey, PLLC
Jackson Spencer Law PLLC
JMA Firm, PLLC
Johnston Tobey Baruch, P.C.
KB Family Law, PLLC
Kinser & Bates, L.L.P.
Klemchuk PLLC
Koning Rubarts LLP
Koons Real Estate Law (Corinth)
Koons Real Estate Law (Dallas)
Laperouse Kennedy, PC
Law Office of Andrew & Mark Cohn
Law Office of Jodi McShan, PLLC
Law Offices of Frank J. Wright, PLLC
Law Offices of Marc H. Richman
Law Offices of Richard A. Gump, Jr., P.C.
Lawrence Law PLLC
LeBoeuf Law, PLLC
Leu & Peirce, PLLC
MIC Criminal Law
Maduforo & Osimiri, P.L.L.C.
McCathern, Shokouhi, Evans (Highland Park)
McDowell Hetherington LLP
Mier Law PLLC
Parsons McEntire McCleary PLLC
Passman & Jones, P.C.
Patterson + Sheridan LLP
Phillips Murrah PC
Quaid Farish, LLC
Randall Greer PLLC
RegitzMauck PLLC
Rendall Sikes PLLC
Ross & Ross Law, PLLC
Sawicki Law
Sbaiti & Company PLLC
Schubert & Evans, P.C.
Scroggins Law Group, PLLC
Shackelford, McKinley & Norton, LLP (Fort Worth)
Sheils Winnubst, PC
Smith, Stern & Friedman, P.C.
Sorrels Ola
Sprigg-Novak Law Firm, PLLC
Stromberg Stock, PLLC
The Law Office of Ray R. Singh
Turley Law Firm
Vassar, McCown, Dear & Sicotte, LLP
Voge Rohe PLLC
Westerburg & Thornton, P.C.
Woolley Wilson, LLP
Wright Hailey & Russell PLLC

6 or More Attorneys
Ackels & Ackels, L.L.P.
Armstrong Divorce and Family Law, PLLC (Dallas)
Armstrong Divorce and Family Law, PLLC (Plano)
Atwood & McCall, PLLC
Bell Nunnally & Martin LLP
Boswell PLLC
Burke Bogdanowicz PLLC
Burns Charest LLP
ByrdAdatto
Canterbury, PC
Carrington, Coleman, Sloman & Blumenthal, L.L.P.
Cavazos Hendricks Poirot, P.C.
Champion LLP
Cobb Martinez Woodward PLLC
Condon Tobin Sladek Thornton Nerenberg
Connatser Family Law
Cooper & Scully, P.C.
Cowles & Thompson, P.C. (Dallas)
Cowles & Thompson, P.C. (Plano)
Cozen O'Connor
Crawford, Wishnew & Lang PLLC
David Allen Law Group
Duffee + Eitzen LLP
Estes Thorne Ewing & Payne, PLLC
Farrow-Gillespie Heath Wilmoth LLP
Fee, Smith & Sharp, L.L.P.
FordHarrison LLP
Gauntt Koen Binney & Kidd, LLP
GoransonBain Ausley PLLC (Dallas)
GoransonBain Ausley PLLC (Plano)
Griffith Barbee PLLC
Griffith Davison, P.C. (Dallas)
Higier Allen & Lautin, P.C.
Holmes Firm PC
Kane Russell Coleman Logan, PC
Katie L. Lewis Family Law
Kershaw Anderson King, PLLC
Kessler Collins PC
Kilpatrick Townsend & Stockton, LLP
KoonsFuller (Dallas)
Linebarger Goggan Blair & Sampson, LLP
Lynn Pinker Hurst & Schwegmann
Matthews, Shiels, Knott, Eden, Davis & Beanland, LLP
McCathern, Shokouhi, Evans (Dallas)
McCathern, Shokouhi, Evans (Frisco)
McKool Smith P.C.
Meadows, Collier, Reed, Cousins, Crouch & Ungerman, L.L.P.
Morgan, Lewis & Bockius LLP
Payne Mitchell Ramsey Law Group L.L.P.
Peckar & Abramson, P.C.
Richardson Koudelka, LLP
Riddle & Williams, P.C.
Rochelle McCullough LLP
Ryan Law
Scheef & Stone, L.L.P. (Dallas)
SettlePou
Shackelford, McKinley & Norton, LLP (Dallas)
Silvera Deary Ray PC
Skiermont Derby LLP
Slates Harwell Campbell LLP
Sommerman, McCaffity, Quesada & Geisler, L.L.P.
Song Whiddon, PLLC
Steed Dunnill Reynolds Bailey Stephenson LLP
Stewart Law Group PLLC
The Ashmore Law Firm, P.C.
The Hartnett Law Firm
Thiebaud Remington Thornton Bailey LLP
Touchstone Bernays
Vartabedian Hester & Haynes LLP
Zelle LLP
Ziegler Gardner Bell, PLLC

Corporate Legal Departments
Arcosa, Inc.
Borden Dairy
Gaedeke Energy
HomeVestors of America, Inc.
LALA U.S., Inc.
North Texas Tollway Authority
Sammons Corporation
Sammons Infrastructure, Inc.
The Rosewood Corporation

Government Agencies, Law Schools & Organizations
City of Irving City Attorney's Office
Office of the City Attorney, City of Mesquite
UNT Dallas College of Law

Special Recognition
Students of the UNT Dallas College of Law

ALLIED BARS EQUALITY COMMITTEE

DEI BOOK CLUB

"Love Wins: The Lovers and Lawyers Who Fought the Landmark Case for Marriage Equality"
by Debbie Cinziper and Jim Obergefell

Friday, June 27 | Noon - 1:00 PM
MCLE: 1.00 DEI Ethics
Hosted on Zoom

Speakers:
Prof. Dale Carpenter, SMU Dedman School of Law
Derek Mergele-Rust, Mergele-Rust, PC
Moderator: Thomas McMillian, Dallas County District Attorney's Office

Scan to register for the webinar

Sponsored by Dallas LGBT Bar Association

THE PETTIT LAW FIRM proudly celebrates #61 Top Verdict in Texas

WHEN EVERYTHING WAS ON THE LINE, WE DELIVERED A TOP VERDICT

When a Texas entrepreneur's life savings in a Kwik Kar and car wash venture hung in the balance, our attorneys navigated complex legal standards and challenging evidence to win a 7-figure breach of fiduciary duty and declaratory judgment verdict in *Zidan v. Zidan.*

THE PETTIT LAW FIRM

1900 N. Pearl, Suite 1740 Dallas, Texas 75201

214-329-0151 | PettitFirm.com

Column | *Ethics*

Confusion in TDRPC 1.18: Duties to Prospective Clients

BY FRED MOSS

Texas Disciplinary Rule 1.18, "Duties to Prospective Clients," is new. It adopts the ABA's Model Rule with minor improvements not relevant here. The rule is intended to fill a gap in the rules regarding a consulted lawyer's duties to a former prospective client who did not retain the lawyer or their firm. The rule deals with the potential imputation of the consulted lawyer's conflict of interest to the lawyer's firm should the firm become adverse to the prospective client in the same or a substantially related matter. Essentially, the rule permits the consulted lawyer to be screened to avoid the imputation. Herein, I submit, lies the confusion.

Comment 4 to Rule 1.18 advises that "to avoid acquiring *disqualifying information* from a prospective client, a lawyer . . . should limit the initial consultation to only such information as reasonably appears necessary" to decide whether to take the new matter. (Emphasis added.) "Disqualifying information" is defined in the Rule as information that could be "significantly harmful" to the prospective client.

That is, if the lawyer so limits the initial consult, they avoid getting any "*disqualifying information*" and, therefore, has no conflict with the prospective client if the lawyer or the firm later becomes adverse to the prospective client in the same or a substantially related matter. Moreover, since there is no conflict that would be imputed to the rest of the firm, screening the consulted lawyer should be unnecessary.

However, subsection (d)(2) of the Rule contradicts this. It says that when a lawyer has received *disqualifying information* from the prospective client, adverse representation by the consulted lawyer or by others in the firm is permitted if the prospective client consents. Absent consent, adverse representation by the firm is permitted if,

(2) the [consulted lawyer] took reasonable measures to avoid exposure to more disqualifying information that was reasonably necessary to determine whether to represent the prospective client; AND (emphasis added)

(I) the disqualified lawyer is timely screened…

But, per Comment 4, if the lawyer did so limit the consult, they have no disqualifying information and, thus, personally can become adverse to the prospective client in the same or a substantially related matter. Further, if the lawyer has no disqualifying information that could be imputed to the firm, screening is not necessary to allow other lawyers in the firm to become adverse to the prospective client.

Nevertheless, to permit screening, (d)(2) requires a limited consult, whereas Comment 4 says that when there was a limited consult there is no conflict and, it would follow, no need for screening.

The confusion is caused by the "and" at the end of (d)(2), which, to be consistent with Comment 4, should be an "or." An "or" would permit the lawyer and the firm to become adverse to the former prospective client if the conflict is waived, or the consult was limited as described, *OR*, absent either of the above, the consulted lawyer is screened.

Subsection (d)(2) and Comment 4 should be revised so they are consistent.

Moreover, (d)(2)'s requirement that the consult be limited "*and*" the consulted lawyer be screened before others in the firm can be adverse to the former prospective client is misguided because it affords too much unnecessary protection to the prospective client's information.

By contrast, Rule 1.09 addresses a lawyer's duties to a former client. Without consent, a lawyer cannot represent a client who is adverse to a former client in the same or a substantially related matter if the lawyer "had acquired information protected by Rules 1.05 and 1.09(c)." New Rule 1.10 addresses the imputation of a lawyer's former client conflict to the lawyer's firm and now allows the conflicted lawyer to be screened. It does not (nor could it) condition the screening of the conflicted lawyer on their having limited the information they received from the former client. Indeed, it is assumed that a lawyer learns all there is to know concerning the represented matter from a client. Yet, Rule 1.10 allows screening.

Rule 1.18 affords prospective clients more protection to limited information they provided to a consulted lawyer than a former client receives for the possibly massive amount of information provided to their former lawyer. This makes little sense and is wholly unnecessary.

Rule 1.18(d) should say that the consulted lawyer and other lawyers in the firm can represent a client adverse to a former prospective client if the conflict is waived or the consult was limited, and the firm may do so when the conflicted lawyer is screened, regardless of how much information the consulted lawyer obtained. If we trust screened lawyers to protect former client confidences, we should trust them to protect former prospective client confidences as well. **HN**

Fred Moss is a retired Professor of Law at the SMU Dedman School of Law where he taught Legal Ethics for 30 years. He may be reached at fmoss@mail.smu.edu.

Join the Texas UPL Committee

The **Unauthorized Practice of Law Committee** (UPLC) is comprised of nine volunteers who are appointed for three-year terms. The UPLC is authorized to investigate and eliminate the unauthorized practice of law. Members of the UPLC volunteer to help with cease-and-desist letters and injunction lawsuits. Serving on this committee is an excellent opportunity to get involved, network, meet people, and develop business.

Sign up at https://buff.ly/3E8qadk

READY TO LAUNCH YOUR OWN SOLO PRACTICE? WE CAN HELP!

Is ECL for you?

Are you a licensed attorney (or law school graduate awaiting bar results)?

Do you want to start a solo practice offering reasonable fees that everyday people can afford?

Do you have an entrepreneurial spirit?

Are you ready to put in the work needed to create a successful business?

The DBA's Entrepreneurs in Community Lawyering (ECL) helps lawyers start solo practices that cater to everyday people.

ECL is a year-long program that provides:

- Extensive training on establishing a successful practice
- One-on-one coaching from an experienced solo/small firm practitioner
- Free practice management resources
- Mentoring from lawyers in successful specialized practices
- Free access to legal research resources
- Networking/business development opportunities

ENTREPRENEURS IN COMMUNITY LAWYERING
A program of the Dallas Bar Association

More info and application at www.dallasbar.org/ecl

"I would recommend the ECL program to anyone who is looking for a way to set up their law firm with the help of the best of the best! The community you build within your ECL cohort is priceless. My law firm would not have the growth it had without the help of ECL."

- Laura Torres, ECL graduate and Latino Leaders Magazine 2022 Rising Star Lawyer and 2023 D Magazine Best Lawyer in Dallas

Focus | Criminal Law/Government Law

The New Regulatory Takings Landscape in Texas

BY ART ANDERSON AND MATT JOECKEL

Citing John Milton's *Paradise Lost*, Texas regulatory takings law has been referred to as a sophistic Miltonian Serbonian bog "where armies whole have sunk." *Sheffield Dev. Co., Inc. v. City of Glenn Heights*, 140 S.W.3d 660 (Tex. 2004). Both the Texas and U.S. Constitutions protect landowners from having their protected property rights taken by a governmental entity. Distinguishing between valid and impermissible uses of police power has proven to be challenging, as courts have struggled with delineating how far a government regulation can go before it has gone too far.

One of the contributing factors to this struggle is varying interpretations of the multifactor test set forth by the U.S. Supreme Court in *Penn Central Transp. v. City of New York*, 438 U.S. 104 (1978). The three factors of this regulatory taking test are: (a) the economic impact of the regulation; (b) extent to which the regulation interferes with distinct investment-backed expectations; and (c) character of the governmental regulation. Courts consider these elements on an ad hoc basis.

During the last 20 years, Texas-reported opinions applying *Penn Central* have been all over the map, swinging on each case's factual background and judicial preference. But in recent years, the bog has cleared (somewhat) as Texas and federal courts have expanded landowner rights at the expense of governmental entity authority. The Texas Supreme Court recently clarified regulatory takings law in *Commons of Lake Houston, Ltd. v. City of Houston*.

After Hurricane Harvey flooded thousands of structures in Houston, the city amended its development ordinances to increase the building elevation requirements for construction in a floodplain. Before the enactment of the amended ordinances, a developer, Commons, was in the process of entitling and developing 3,300 residential acres within the city. When the city approved Commons' original plan for the development, city ordinances required that buildings be constructed at least one foot above the 100-year floodplain. However, the city's new ordinances mandated that new slabs be constructed at an elevation at least two feet above the 500-year floodplain. While this new requirement would provide increased safety, it also increased construction costs and reduced developable areas.

In response to the ordinances, Commons brought a regulatory takings claim against the city, alleging that the new ordinances resulted in a *Penn Central* taking of Commons' most desirable 300 acres. Commons asserted that the regulations increased the required slab elevations in the remaining section of the development by an average of 5.5 feet, which rendered 557 of the 669 total lots undevelopable.

The Texas Supreme Court ultimately reviewed this case following the city's appeal of the trial court's denial of its plea to assert jurisdiction. The Court's opinion sets forth at least three significant takeaways.

First, although previous reported opinions touched on various criteria for a regulatory takings claim, the Court set forth the elements in one place. To prevail on an inverse condemnation claim, the owner must plead and prove that (1) the government engaged in affirmative conduct; (2) that proximately caused; (3) the taking, damaging, destroying, or applying; (4) of specific private property; (5) for a public use; (6) without paying the owner adequate compensation; and (7) did so intentionally or with knowledge that the result was substantially certain to occur.

Second, the Court wholeheartedly rejected the city's argument that a valid exercise of the police power can never result in a regulatory taking. The Court held that whether a regulation constitutes a valid exercise of the police power is irrelevant to whether the regulation may cause a compensable taking.

Finally, the Court took up the issue of ripeness. Historically, for a regulatory takings claim to be ripe, the government must make a final determination on a permit application—that is, the city must vote on and either conditionally approve or deny the application. However, reaching a final determination can be challenging, and development applications typically require expensive and time-consuming reports and studies.

The city argued Commons' claim was unripe because the city had not formally rejected a development permit. Commons, as a developer, submitted general plan applications with floor elevations, but the city rejected them for incomplete building plans. The Court ruled the city should not have blocked Commons from processing applications without providing a final determination or compromise. Despite no formal denial, the city improperly imposed procedures to avoid making a final decision.

Commons reinforces that governmental actions, even when rooted in police power, can still result in compensable takings. By establishing the elements for a regulatory takings claim, the Court ensures a more methodical approach to upholding a landowner's constitutional protections. *Commons* signals a clearing of the bog and reflects the trend toward stronger protection of landowner rights. **HN**

Art Anderson is a Shareholder at Winstead PC. He can be reached at aanderson@winstead.com. Matt Joeckel is an Associate at the firm. He can be reached at mjoeckel@winstead.com.

988 SUICIDE & CRISIS HOTLINE

988 SUICIDE & CRISIS LIFELINE

988 offers 24/7 access to trained crisis counselors who can help people experiencing mental health-related distress. That could be:

- **Thoughts of suicide**
- **Mental health or substance use crisis, or**
- **Any other kind of emotional distress**

People can call or text 988 or chat 988lifeline.org for themselves or if they are worried about a loved one who may need crisis support.

summer
law student programs

June 05

Law Student Professionalism Program
Thursday, June 5 | Noon - 2:00 PM
Arts District Mansion
MCLE: 2.00 Ethics

Scan me
RSVP to the Professional Program

June 06

Summer Associates Pro Bono Luncheon
Friday, June 6 | Noon - 1:00 PM
Arts District Mansion
MCLE: 1.00

Speakers:
DBA President Vicki Blanton, AT&T
Hon. Audrey Moorehead, County Criminal Court No. 3
Fernando Avelar, Dorsey & Whitney, LLP
Will Stovall, Solo Practitioner

Scan me
RSVP to the Pro Bono Luncheon

Dallas Bar Association
Community Involvement Committee
2025 PROJECTS

JUNE	9-20	Backpack Drive Donation drive benefiting Community Partners of Dallas. Donate backpacks filled with school supplies for abused and neglected children.
AUG		Lions Club Book Drive New and used book donation drive benefitting Little Free Libraries for children in high crime/low-income areas.
SEPT	20	Day of Service Volunteer for service projects. Past participating organizations: NTX Food Bank, Salvation Army-Organic Gardening & Habitat for Humanity.
OCT		Carter BloodCare Blood Drive Blood donation drive with Carter BloodCare at multiple locations including the Arts District Mansion.
NOV-DEC		Sand Branch Food Drive Food drive benefiting the Dallas County Sand Branch Community. Items needed include canned and nonperishable food, and toiletries.
NOV-DEC		Santa Brings a Suit Donation drive benefiting Dallas Life Foundation. Donate gently used business attire such as suits, pants, belts, purses, shirts & winter attire.
DEC		DBA Holiday Toy Drive Guests who attend the DBA Holiday Party bring unwrapped toys to be donated to the Children's Medical Center Dallas.

FOR MORE INFORMATION CONTACT
Jessie Smith
jessies@dallasbar.org
DallasBar.org

Client Communication: Ethics & Professionalism Basics

BY JESSICA MASON

When I passed the bar exam, I thought the two shiny letters added after my name ensured a certain level of deference from my clients. I also believed that as long as I updated clients when there were concrete updates—nothing more, nothing less—I had fulfilled my duty to communicate, and my clients would be satisfied with that with no further "unnecessary" emails or calls. How quickly do you think that illusion was shattered? As lawyers sometimes forget, ours is a service profession. A good outcome is clearly key to good service, but consistent communication as a case progresses is what elevates the client's experience—yet poor communication tends to be one of the top client complaints against lawyers. With that in mind, let us consider the basic ethical requirements regarding communication, as well as a few practical tips to incorporate in your practice.

Guiding Rules

In the Texas Lawyer's Creed, we promise that our word is our bond. I admit to a tendency to over-promise—which either disappoints my clients or makes me overextend myself to meet deadlines. As a result, when we set client meetings or update calls or timelines that we believe will meet goals, we need to be reasonable and intentional with our time, so we do not erode our client's faith in us.

The Texas Disciplinary Rules of Professional Conduct require communication with our clients that allows them to be "reasonably informed." The rules also require lawyers to "promptly comply with reasonable requests" and provide that we *shall* explain matters to allow our clients to make informed decisions. A time or two in my practice, I have cringed as I overheard fellow attorneys rushing through plea paperwork with a client with virtually no explanation of what exactly the client was signing and with little opportunity for questions. Hopefully, these attorneys had already reviewed and discussed the documentation with the client. Regardless, we must not forget that as we represent our clients, we are dealing with people's lives, freedoms, and finances. Each client's case is the most important thing in the world to them. Take the time to ensure our clients have at least a basic understanding of their case, the facts at play, their options, and exactly what we agree to on their behalf.

Helpful Tips

(1) Schedule Blocks for Clients

Your calendar is your friend. I set a reminder to check in with all clients at least once a month, no matter the case status. Clients typically appreciate news of no update to the status of a case rather than no news at all. During your dedicated time to respond to client communications, start with the hardest one first—the one where bad news needs to be conveyed, or the one to the client who argues the law with you, or the one to the client who is struggling to accept where his choices have landed him (allegedly). Your instinct may be to put them off, but then—poof—all our time is gone, and the eventual call to that client only grows longer.

(2) Our Staff are Our Lifelines

If you are fortunate to work with support staff as warm and diligent as mine, it is a complete failure to not ask them to help you with your communication obligations. There's only one of you, so divide and conquer. I cannot tell you how many clients have told me they scheduled a consultation merely based on their positive initial contact with my staff. Our legal assistants are our greatest resource.

If your only staff is your technology, setting reminders or automated check-in text messages or emails is far superior to no contact at all. Not every contact needs to be a call. In this modern age, a substantial portion of my clients appreciate a quick message in lieu of a call.

(3) Take Care of Yourself

The more exhausted you are, the more irritable and anxious you are likely to become, and the more you may try to hide from client responsibilities. Take vacation time off when you can. Take a walk at lunch and get fresh air. Set aside at least one hour a week on your calendar to regroup and plan ahead. Your burnout will serve no one, least of all your clients.

Send-Off

I believe most of us became lawyers because we wanted to help people, and for that, I commend you. There are numerous professions in which you can help people who carry a margin of the stress we do. I urge you to optimize your practice for longevity so that you can continue to serve your clients ethically and fully for years to come. You will not please every single client, but you can ensure you are meeting your obligations to them. I am honored and humbled to serve Dallas County with you—let's continue to make it a more equitable place. **HN**

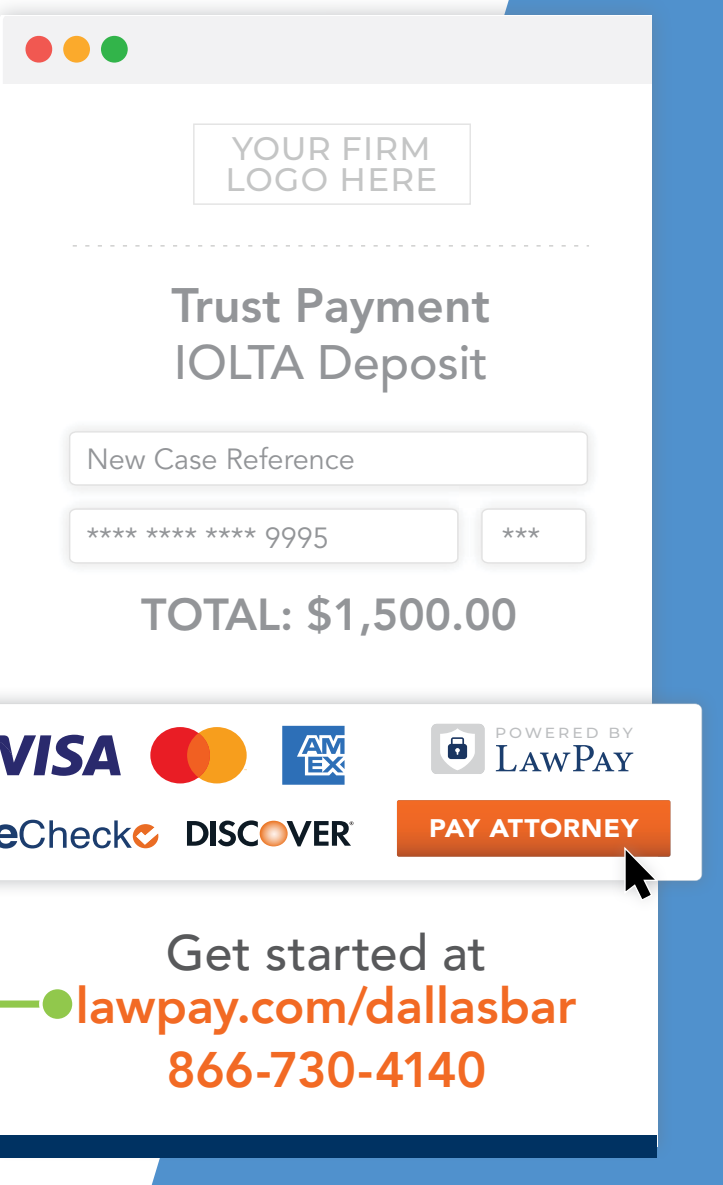
Jessica Mason is an Attorney with MC Criminal Law. She can be reached at jessica@mccrimlaw.com.

LawPay + Dallas Bar Association Member Benefit Provider

"I love LawPay! I'm not sure why I waited so long to get it set up."
– Law Firm in Ohio

Trusted by 50,000 law firms, LawPay is a simple, secure solution that allows you to easily accept credit and eCheck payments online, in person, or through your favorite practice management tools.

- 22% increase in cash flow with online payments
- Vetted and approved by all 50 state bars, 70+ local and specialty bars, the ABA, and the ALA
- 62% of bills sent online are paid in 24 hours



Get started at lawpay.com/dallasbar
866-730-4140

Data based on an average of firm accounts receivables increases using online billing solutions. LawPay is a registered ISO of Synovus Bank, Columbus, GA., Fifth Third Bank, N.A., Cincinnati, OH, and Wells Fargo Bank, N.A., Canadian Branch, Toronto, ON, Canada.

Focus | Criminal Law/Government Law

What is the Texas "Junk Science" Law?

BY JUDGE NANCY MULDER

The Texas "junk science" law is a post-conviction writ process which provides a specific, legal avenue for those wrongfully convicted to challenge their convictions if the forensic science used against them during their trial is now considered questionable or unreliable. This type of writ of habeas corpus applies when current advances in forensic science seriously undermine the integrity of the original criminal conviction. This article describes when this writ may be used and what writ applications must allege.

For a regular writ of habeas corpus, it is important to know that Article 11.07 of the Code of Criminal Procedure provides a convicted person only one opportunity to seek relief. This "one writ rule" prevents the courts from having to address writ applications which allege the same issues over and over again. This original application for a writ of habeas corpus cannot reiterate any challenges to the conviction that were already ruled on by the appellate courts. Typically, these original applications for writ of habeas corpus usually allege ineffective assistance of counsel or actual innocence based on new evidence.

However, Article 11.073, commonly called the junk science law, allows an exception to the above one writ rule for scientific evidence that was:

1. Not available to be offered at trial; or
2. Where there are new scientific standards which now contradict the scientific evidence relied on by the prosecution at trial.

To clarify further, the Texas Court of Criminal Appeals has elaborated and ruled that the junk science law writ is available:

1. When a scientific field has evolved or been discredited in the years since the conviction;
2. When individual experts who, based on further study and changes in the understanding of scientific knowledge at large, would have given a different opinion at trial under today's scientific standards; and
3. When new forensic testing techniques emerge that were not available at the time of trial.

The application for a writ under the junk science law must include the assertions that:

1. The relevant scientific evidence was not available, and not obtainable through due diligence, at the time of the original trial, and
2. This new scientific evidence would be admissible under the Texas Rules of Evidence now.

The application for the writ of habeas corpus under the junk science law is filed in the court of origin, meaning the trial court. Upon filing, the judge can appoint counsel for an indigent defendant and set the case for a hearing. For an applicant to be granted the writ, an attorney must present evidence that the scientific method has not only changed, **but that the result would be so different that the jury would have reached a different verdict**.

If the judge is so convinced, he or she must make specific findings affirming the above-listed requirements, and a specific finding regarding whether the scientific field, method, or knowledge relied on at the time of the trial has changed since:

1. The date of the trial, and
2. Since the date when any original application for a writ of habeas corpus was filed.

The judge must also make a specific finding that the applicant **would not have been convicted if the new scientific evidence had been presented at trial.**

If the judge makes findings confirming all of the above, under Article 11.0731, he or she can order new scientific testing. A judge can even order new testing of biological evidence in cases where such a request had been previously denied.

An applicant does not have to be currently in prison for the junk science law to apply. If a person was convicted and served their sentence or completed a probationary period and still suffers collateral consequences of having that conviction in his or her criminal history, they can file an application. These collateral consequences include losing the right to vote, not being able to find a job, being denied state or federal benefits, and various other limitations on civic participation.

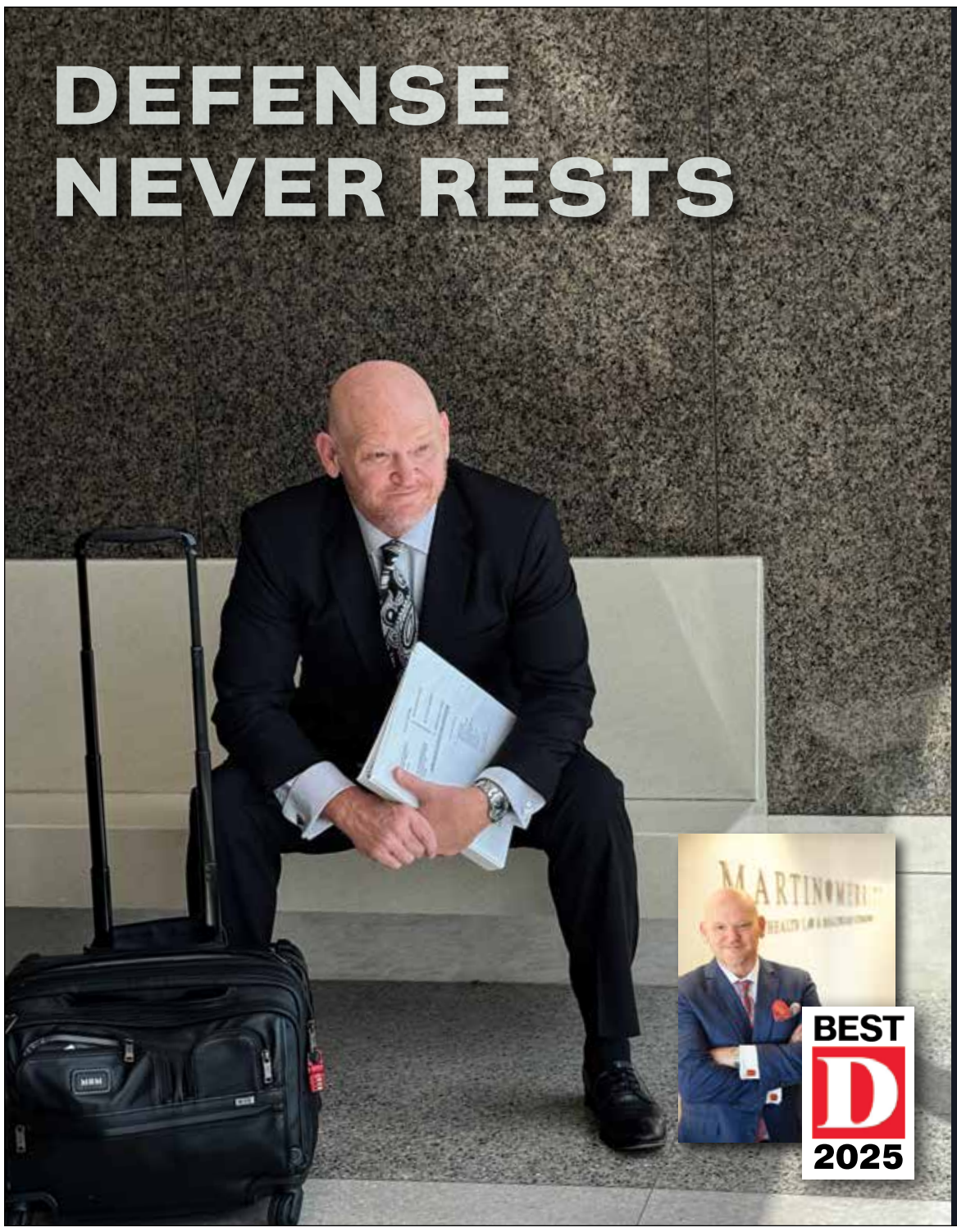
Since its inception, writs of habeas corpus under the junk science law have reflected advances in the fields of forensic DNA analysis, forensic odontology (bite-mark cases) and cases involving forensic pediatric neurology where shaken baby syndrome was offered at trial to explain injuries to a child.

While the junk science law creates an avenue for relief, getting new testing, or even a new trial, is not guaranteed even in the face of what is debunked science. Because no two criminal cases are ever alike, coming to the conclusion that the jury would have reached a different verdict had the new scientific method been available, is dependent on the nature and breadth of any other evidence that was admitted at trial. This could be a substantial burden to overcome particularly in the face of eyewitness testimony or video evidence.

Another possible problematic area is that if the new forensic methodology was available when the original application for writ of habeas corpus was filed **but was not included in that application**, it means a wrongfully convicted person could be denied relief even if the science underlying the conviction is now debunked.

In the face of how nuanced an application for writ of habeas corpus must be when utilizing the junk science law, it is imperative that criminal attorneys have an up-to-date understanding of all the forensic sciences applicable in these cases. **HN**

The Honorable Nancy Mulder is judge of Criminal District Court 6. She can be reached at nancy.mulder@dallascounty.org.



MARTIN MERRITT

Health Law and Healthcare Litigation

MARTIN MERRITT 2024-2025 Wins:

Miami Fed. Crim. "Not Guilty" Verdict (2025)
Martin Served as Health Law Counsel, CLIA Lab

$100 Million *Little River Hospital* Case Settled (2025)
Claim False Claims Act Case, E.D. Tex.

$2 Million California Fraud Audit Settled (2025)
Los Angeles California Doctor Blue Cross

N. Carolina Doctor Accused of $4 m. Ins. Fraud
Settled Amicably with BCBSNC (2024)

Trial Victory in 90th Tex. State Dist. Court (2024)
Med. Device Salesman Accused of Fraud

Case Dismissed at Tex. Med. Bd. ISC Hearing (2024)
Dallas Doctor Accused of Billing Fraud

$10 Million False Claims Act Case Settled (2024)
San Antonio Pharmacy MSO Owner

No License Surrender and No Action Taken (2024)
Dallas Doctor Accused by DEA

Martin@MartinMerrritt.com

In The News

KUDOS

Betty Ungerman, of Lennox International Inc., received the 23rd Annual Robert H. Dedman Award for Ethics & Law from the Texas General Counsel Forum.

Samuel Fubara, of Brown Fox PLLC, has been promoted to Partner. **Morgan Buller** and **Alan Carrillo**, of the firm, have been promoted to Senior Associates.

Debra Hunter Johnson, of Reciprocity, has joined the board of directors for Oncor Electric Delivery.

Kimberly Godsey, of Second Nature, has been elevated to General Counsel.

Jeffrey S. Levinger, of Levinger PC, received the 2025 Gregory S. Coleman Outstanding Appellate Lawyer Award from the Texas Bar Foundation.

Georganna L. Simpson, of Georganna L. Simpson, PC, received the 2025 Dan Rugeley Price Memorial Award from the Texas Bar Foundation.

Amy M. Stewart, of Stewart Law Group PLLC, received the 2025 Terry Lee Grantham Memorial Award from the Texas Bar Foundation.

Britney Harrison, of Turner McDowell Rowan, PLLC, has been elected chair-elect of the State Bar of Texas Board of Directors.

Elizabeth "BB" Sanford, of The Sanford Firm, received the 2025 Baylor University Young Alumna of the Year award.

ON THE MOVE

Leanne Stendell rejoined Haynes and Boone LLP as Counsel.

Michael Baum joined Brown Fox PLLC as Partner.

Robert LeBlanc and **Mohammad (Mo) Alturk** joined Greenberg Traurig as Shareholders.

Janice Davis and **Clarissa Mills** joined Haynes and Boone, LLP as Partners.

Arianna Smith rejoined Brousseau Naftis Erick & Massingill, P.C. as Senior Counsel.

John S. Morgan joined Clouse Brown PLLC.

James McGuire joined Holland & Knight LLP as Partner.

Charla Aldous opened Aldous Law with **Eleanor Aldous** and **Caleb Miller**. The firm is located at 4311 Oak Lawn Ave Ste 150, Dallas, Texas 75219.

Brent R. Walker opened Brent Walker Law located at 6703 Kenwood Ave, Dallas, Texas 75214

Teresa Clark Evans opened the firm Clark Evans Family Law PLLC located at 8080 N. Central Expressway, Suite 1700, Dallas, Texas 75206

Alison Ashmore moved to Rogge Dunn Group, PC as Partner.
Jackson C. Smith has joined Lyons & Simmons, LLP as Associate.

Larry Hall and **Jon Platt** joined Willkie, Farr & Gallagher as Partners.

Ashley Parrish and **James Phillips** have joined McGinnis Lochridge, LLP as Partners.

Alexis Wright has joined Crawford, Wishnew & Lang PLLC as Associate.

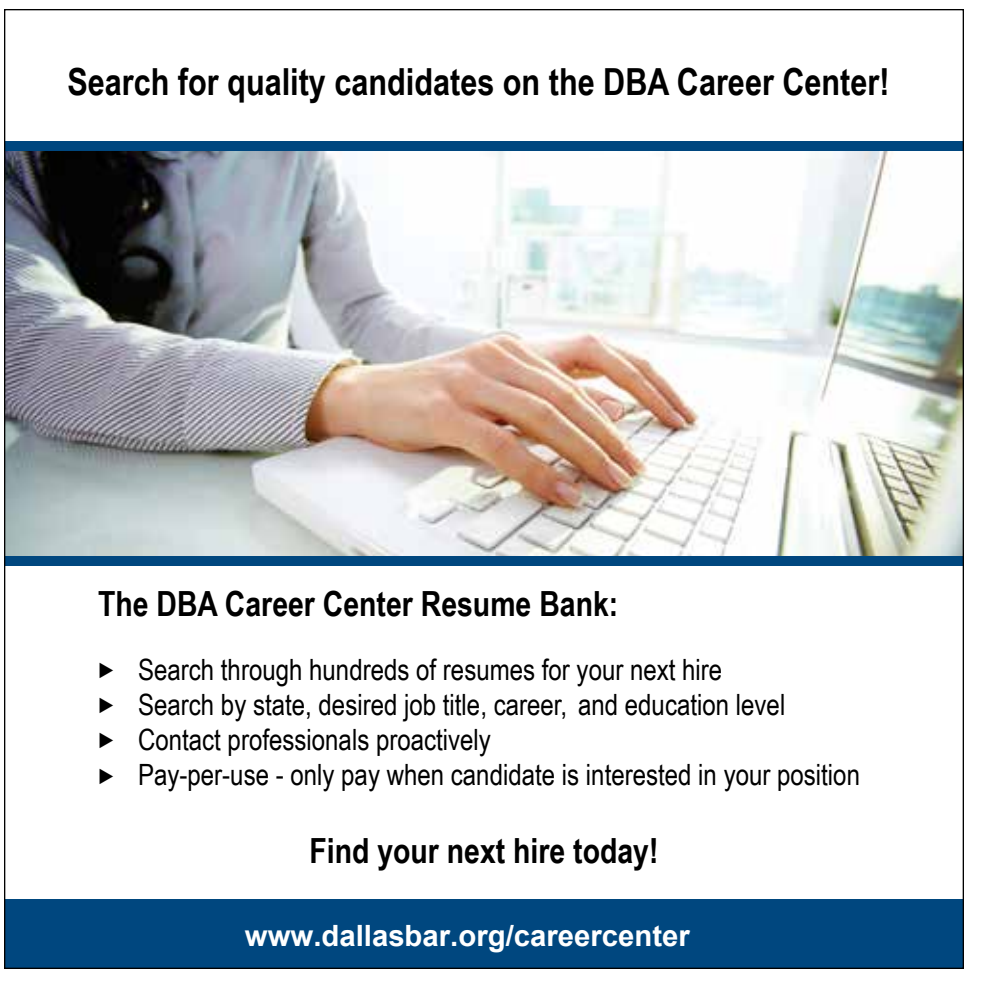
Rogelio Reyes has joined Platt Richmond PLLC as Associate.

Edward J. Loya, Jr. has joined Dorsey & Whitney LLP as Partner.

JAMS relocated the Dallas Resolution Center to 5956 Sherry Lane Place, Suite 1330, Dallas TX 75225

Glast, Phillips & Murray has changed to Glast Phillips Murray Zopolsky incorporating the name of longtime member **Joe Zopolsky**.

News items regarding current members of the Dallas Bar Association are included in Headnotes as space permits. Please send your announcements to Judi Smalling at jsmalling@dallasbar.org



Focus | *Criminal Law/Government Law*

Dallas DA's Office Uses Pre-Trial Diversion to Transform Lives

BY MAEGAN WESTBROOK AND JENNIFER LONGFELLOW

Did you know that many Dallas County defendants walk out of the courthouse every week with changed lives after completing a diversion program? Individuals struggling with substance use disorder often lack the recovery support they need within the criminal justice system, highlighting the need for expanded rehabilitation programs that promote public safety, reduce recidivism, and help people rebuild their lives. The Restorative Justice Division is constantly working to raise awareness.

Recently, the Computational Justice Lab at Claremont Graduate University conducted research showing that the Dallas diversion program saves $85,909 annually per 100 participants, reflecting significant cost savings and reduced recidivism. Additionally, the research suggests statistically significant positive outcomes for individuals participating in diversion programs.

In the Dallas County District Attorney's Office, the Restorative Justice Division handles Pre-Trial Diversion and Mental Health cases. This article will focus on the General Pre-Trial Diversion side of the division. Its goal is to address underlying issues and provide necessary treatment and services to help defendants reintegrate into society and reduce recidivism.

For Pre-Trial Diversion, first-time felony offenders with non-violent offenses may be eligible for a specialty court or Pre-Trial Intervention (PTI) Agreement. First, a referral and consent form signed by both the defendant and the defense attorney must be submitted to the Criminal Justice Department. The Division partners with the Criminal Justice Department to perform an evidence-based risk/need assessment, the Texas Risk Assessment System (TRAS), which helps determine the appropriate program for each defendant.

The Pre-Trial Diversion programs include:

1. DIVERT—The adult drug court for high-risk/high-need individuals. This program lasts 13 to18 months.
2. AIM—The youthful offender court for individuals aged 17 to24, for moderate to high risk/need. This program also lasts 13 to 18 months.
3. Veteran's Court—For veterans with mental health and/or substance use disorder. This program is a minimum of 6 months.
4. General Pre-Trial Intervention (PTI) Agreements—For low-risk/need offenders, equivalent to a conditional dismissal. This program ranges from 3-18 months.

After the Criminal Justice Department completes the TRAS assessment, it is forwarded to the defense with their preliminary program recommendations. The case is then assigned to the diversion program prosecutor for final decision and potential admittance into a specialty court or PTI Agreement. After the review is completed, if the case is appropriate, it will be staffed with the specialty court team or a program clinician for a PTI. Depending on the outcome, a contract may be extended to the defense.

Pre-Trial Intervention Tracks

Pre-Trial Intervention (PTI) Agreements account for a large portion of the Pre-Trial Diversion cases. As such, the Division has established several distinct PTI tracks to cater to different defendant profiles and ensure each individual is placed in the most appropriate program based on their needs.

There are five PTI tracks:

1. Community Supervision and Corrections (CSCD) PTI—This 6 to12-month agreement requires the defendant to report to a case manager at the Dallas County Supervision Department. It involves regular check-ins and support to help the defendant meet program conditions. There is a $102 upfront fee to begin the program.
2. Pre-Trial Services (PTS) PTI—This 6 to 12-month agreement requires the defendant to report to a PTS officer at the Frank Crowley building. The PTS officer helps the defendant stay on track with the program's conditions.
3. Felony Emerging Adult Caseload (EAC) PTI—This 18-month PTI track is designed for young adults, with the defendant required to report to an EAC officer and attend court hearings. There is a $200 upfront fee to begin.
4. Recovery Monitoring Solutions (RMS) PTI—This 9 to 12-month track is for individuals who may be experiencing issues with alcohol use. The defendant must attend an orientation, use an alcohol monitoring device, and meet other treatment conditions as outlined in the agreement.
5. Unsupervised PTI—This track is for low-risk, low-need individuals. It lasts between 3 and 12 months, with the defendant required to independently complete and submit conditions.

Each PTI track is designed with specific conditions that reflect the defendant's risk/need level, their criminal history, and their offense. By using the TRAS assessment to match individuals with the appropriate track, the Division ensures that defendants are provided with the support they need while holding them accountable for their actions.

If the defendant signs the specialty court or PTI Agreement contract, completes the program, and meets the necessary conditions, their case is dismissed and is eligible for expunction. This offers significant benefits, as the defendant avoids a conviction and its lifelong consequences. Additionally, they may be able to get their case expunged without waiting for the statutory period to apply. With recent data showing that our programs reduce recidivism, we are hopeful we can continue to grow each program and work with more defendants in the future. **HN**

Maegan Westbrook is the Deputy Chief of the Restorative Justice Division. She can be reached at maegan.westbrook@dallascounty.org. Jennifer Longfellow is a prosecutor with the Restorative Justice Division. She can be reached at jennifer.longfellow@dallascounty.org.

DREW A. JONES

WE KEEP GROWING

The Rogge Dunn Group is proud to announce the addition of its newest business litigation partner, Drew A. Jones.

Drew is a trial lawyer focused on commercial litigation in state and federal courts across the U.S. His litigation practice covers a wide range of business issues, including breach of commercial contracts, master service agreements, corporate governance disputes, and bankruptcy litigation involving financial fraud, breach of fiduciary duties, preference actions, and fraudulent transfers.

Drew also has extensive experience in data privacy disputes, including receiving his credentials as a Certified Information Privacy Professional by the International Association of Privacy Professionals.

Drew has been selected by Best Lawyers as "One to Watch" and as a "Rising Star" in Business Litigation by Super Lawyers.

CRAIN BROGDON LLP
CATASTROPHIC INJURY LAWYERS

A FLOODED ELEVATOR, UNANSWERED CRIES FOR HELP, AND A RELENTLESS INVESTIGATION.

When you refer a client to Crain Brogdon, they get an exhaustive dig into the facts and potential claims to find what others won't.

THE INCIDENT

As a hurricane struck a coastal town, a commercial building failed to take proper precautions against the expected flooding.

Despite knowing its basement and elevator shafts were filling with water, management called an employee to work without warning her of the danger. After her elevator stalled in rising water, she was trapped inside. She called for help, but no rescue came.

The employee's sister, desperate for answers about how this could happen, reached out for help.

THE INVESTIGATION

Crain Brogdon conducted an immediate site inspection, joined by contacts in the fields of safety, human factors, and the elevator industry.

Crain Brogdon's investigation included obtaining thousands of documents from various investigating agencies, including the municipal Police and Fire Departments, the Occupational Safety and Health Administration, the National Weather Service, the City's Zoning and Permitting Office, the State of Texas, the National Elevator Industry Inc. (NEII), and the American Society of Mechanical Engineers.

THE STRATEGY

Crain Brogdon's findings and experience with elevator incidents allowed the firm to hold multiple parties accountable for the client.

In addition to bringing claims against the building owner for its role in causing the death, because of evidence gathered, Crain Brogdon was also able to bring claims against the company who upgraded the elevators and failed to bring them up to code as required by contract and industry standards.

Further, claims were made against the elevator inspection companies whose annual inspections failed to catch the non-compliance of applicable regulations and codes for several years prior to the hurricane.

Ultimately, the client achieved her goals of obtaining justice and protecting the public from similar incidents.

Quentin Brogdon
Qbrogdon@crainbrogdon.com

John J. Spillane
Jspillane@crainbrogdon.com

Javier Perez | OF COUNSEL
Jperez@crainbrogdon.com

Rob Crain
Rcrain@crainbrogdon.com

4925 Greenville Ave. | Suite 1450 | Dallas, TX 75206 | Office: 214.522.9404 | Fax: 214.613.5101

crainbrogdon.com