



AMARILLO-LAW

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FEBRUARY'S SPEAKER: MICHAEL DOBBS



There was a day, once upon a time, when lawyers were not allowed to advertise. No billboards, no radio spots and certainly no helicopters, tanks, baseball bats, dastardly insurance adjusters, strong legs, or heavy clubbers inviting themselves into your living rooms to let you know about the hundreds, dare I say, thousands of dollars you are missing out on. No ads for dangerous drugs, hips, heart valves or leaky bladders with the warning that "time is running out." Many of you probably think those were the good 'ole days, while most of us have grown so accustomed to the daytime deluge of these ads that they go unnoticed.

We all know that these ads, despite their format, need State Bar approval. (If you were not aware of this, now is the time to worry if you have pre-paid for television time.) What many are not aware of is how these same Rules apply to your websites and social media.

I know several lawyers and firms that condemn the use of advertising on one hand while paying thousands of dollars to web designers and the like. Guess what? You are advertising and those websites and other methods of social media must comply with Part VII of the Texas Disciplinary Rules of Professional Conduct.

It can be extremely frustrating to submit your content, have it reviewed, and find out there are problems. Better to find out early than find out after your website is up and running or your tweet has been viewed over and over. This month's

speaker will provide a very helpful discussion of the pitfalls and requirements of the Rules.

Michael Dobbs has served as Program Coordinator in Advertising Review for the State Bar of Texas since 2004. His job is to review around 3900 advertisements and solicitations submitted annually to check for compliance with Part VII of the Texas Disciplinary Rules of Professional Conduct. These include websites, social media materials, radio and television ads, print media advertisements, and all kinds of solicitation communications. He investigates complaints and requests for information/open records requests and responds to them appropriately. Mr. Dobbs also assists the Advertising Review Committee who has oversight over the interpretation of the Rules with developing policies concerning interpretations of the Rules.

Mr. Dobbs will be presenting a Rules Overview of the advertising section of the Texas Disciplinary Rules of Professional Conduct. This presentation will cover how the Rules apply to the internet and social media. Further, he will provide advice on how to submit proposed advertising, internet content and other social media content to the Committee.

This really is a topic that everyone needs to hear. And, as always, the luncheon gives you the opportunity to see who is still keeping their New Year's resolutions and who has given in to the desert table. I look forward to seeing each of you there.

"The American jury is not just any other institution of power. As stated by Thomas Jefferson, the jury is 'the only anchor yet imagined by man, by which a government can be held to the principles of its constitution.' . . . The fundamental rights given to us by the Bill of Rights—freedom of speech, freedom of religion, the right to bear arms, and the right to trial by jury, just to name a few—are dependent on one another. We cannot pick and choose the fundamental rights to enforce. 'We must preserve and protect each fundamental right if we are to protect any of them.'"

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PRESIDENT'S PAGE

By Tim Newsom

IF THEY TAKE JURY TRIALS, THEY CAN TAKE YOUR GUNS, AND THEN . . .

Everyone in a courtroom stands up when the jury enters and exits—even the trial judge. This is a symbol of the reverence and respect our country has for the jury. Standing for the jury is also a symbol of the jury's power. And, just like any other institution that holds significant power, there is always a faction that wants to take the power away so they can have it for themselves. But, the American jury is not just any other institution of power. As stated by Thomas Jefferson, the jury is “the only anchor yet imagined by man, by which a government can be held to the principles of its constitution.”

“Ninety percent of the jury trials on the planet take place in the United States of America.” Judge William G. Young, *In Celebration of the American Jury Trial*, VOIR DIRE MAGAZINE, Fall/Winter 2014, at 7 (citing Fred Graham, *American Juries, an Anatomy of a Jury Trial*, 14 EJOURNAL USA 7, 4 (2009)). Based on the statistics from Judge Young's article, if American citizens sit idly by and allow jury trials to continue on a declining course, then jury trials run the risk of extinction on Earth. Numerous articles have been written over the past two or more decades about the dwindling number of jury trials in America. Just as many articles have been written about the cause of the decline in jury trials. Lawyers understand this problem, but must do more to correct it. We cannot rely upon business interests to preserve jury trials, because business factions consider the jury as an uncontrollable risk to their business model. Nor can we rely upon politicians, because most, but not all, are more interested in getting re-elected and must rely upon their anti-jury business backers for financial support. So, lawyers must turn to the general public to preserve the jury trial. The key is how to get the general public invested in this debate. This article will suggest an approach to educating the general public on why they should fight against the forces trying to limit to extinction the role of the jury in our society.

We must start with the United States Constitution and the Texas Constitution. If you believe in the Constitution of the United States and of our state, then you must believe in the right to trial by jury. Period. Do not ask citizens to just take your word for it. Tell them what the Constitutions say about trial by jury. The right to trial by jury is not only in the 5th, 6th, and 7th Amendments to the Bill of Rights, but is also in Article III of the Constitution, which says “The Trial of all crimes, except in cases of Impeachment, shall be by Jury.” U.S. CONST. art. III. The right to trial by jury was so important to the framers that they insisted on placing it in both the body of the Constitution and the Bill of Rights. *See also* Young at 8. The Texas Constitution likewise guarantees an impartial jury to a person accused of a crime and, as applied to civil cases, states the “right of trial by jury shall remain inviolate.” TEX. CONST. art. I, §§ 10, 15.

Citizens will acknowledge they believe in the Constitution but will ask if the right to a jury trial is that important, because most of them have never needed one. Now, turn toward something Americans do hold very important. Americans will not give up their right to own a gun. Nor will most Americans (and particularly those in our area) agree to their 2nd Amendment right being restricted in any manner. After all as the argument goes, a slight restriction now will result in wholesale abolition later. Of course, any faction desiring to restrict

CLE SCHEDULE 2014-2015

Feb 13 Building Blocks of
Wills, Estates & Probate \$225
6.75 CLE HRS 3.50 HRS ETHICS
Basement Training Room, Eagle Center

March 20 Firearms Law \$225
7.00 CLE HRS 1.00 HRS ETHICS
Basement Training Room, Eagle Center

our 2nd Amendment rights will not promote an all-out weapon ban; they will restrict our rights in creative ways that stay under the radar to most citizens who will only realize the magnitude of the restriction after it becomes law. This is what happened with the creative restrictions on the right to jury trials that were passed in the 2003 Texas legislature and then voted into law that same year by Texas voters. Business and insurance lobbyists disguised the tort reform laws as a Trojan horse to preserve a single profession when, in fact, the legislation was a direct limitation on our right to trial by jury.

Once citizens commit to the Constitution and their right to own a gun, ask them what entity has the power to stop a creatively disguised unconstitutional restriction on their right to bear arms. The answer is a jury of their peers. If they do not believe you, tell them the National Rifle Association has a division that performs that very task by enforcing the 2nd Amendment through use of the 7th Amendment. *See* Brett Emison, *Defending the 2nd Amendment*, KANSAS CITY LEGAL EXAMINER, Feb. 14, 2013. In addition, the NRA website asks people to sign a “Declaration of Individual Rights” that lists all fundamental rights bestowed upon American citizens in the Bill of Rights, including the right of trial by jury.

In conclusion, the fundamental rights given to us by the Bill of Rights—freedom of speech, freedom of religion, the right to bear arms, and the right to trial by jury, just to name a few—are dependent on one another. We cannot pick and choose the fundamental rights to enforce. “We must preserve and protect each fundamental right if we are to protect any of them.” *Id.* So, bring the right to jury trial home for American citizens and they will fight to preserve their rights from becoming extinct just as they have done for over 200 years.

AAYLA UPDATE

By Courtney Miller

AAYLA's First Annual Easter Egg Hunt Eggstravaganza



On March 28, 2015, from 10:00 A.M.–11:30 A.M., AAYLA is hosting their first Easter Egg Hunt Eggstravaganza at the Potter County Courthouse. This is a special Easter Egg Hunt for the children and grandchildren of Amarillo area lawyers and judges. Make plans to bring your favorite egg hunters out - there will be eggs to hunt, refreshments, and a visit from the Easter Bunny himself!

Between now and March 21, 2015, AAYLA is hosting a fundraiser to determine which member of our Bar Association will have the honor of being the Easter Bunny. The costume is one size fits all so anyone is eligible! Starting today you can participate by anonymously voting for your favorite lawyer to be the Easter Bunny. Each vote is \$5.00. Cast your votes by e-mailing Cassie Ross at cross@bflaw.com. Each Friday a list of the top five attorneys receiving votes will

be e-mailed to the Bar. This means that the top nominee can cast votes sufficient to move someone else into the top spot.

AAYLA will excuse nominees from bunny duties for scheduling difficulties, medical reasons or any legitimate bunny phobias. Votes will be accepted regardless of the nominee's actual willingness to be the Easter Bunny. All votes must be paid up prior to the announcement of the winner on March 21, 2015. The winning nominee will attend the event in full bunny costume.

The funds collected this year will be used to benefit The Bridge Children's Advocacy Center. The Bridge is a comprehensive, child focused program that offers a one stop approach to child abuse investigation. The Bridge also offers a comfortable, private, child friendly setting where forensic interviews and exams can be conducted. The center also focuses on the health and future of child victims.



January's Fishbowl Drawing

\$25.00 Rosa Pace

\$50.00 Tate Eldridge

\$75.00 Eddy Scott

None were present.

If you have news, we want to hear from you. Send your information to the AABA: email director@amarillobar.org, fax 379-9259, or call 371-7226.



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LEGAL YARNS:

How it Used to be

Sausages and Laws

By Walter Wolfram

I just read the Legal Yarn article from the November 2014 AMA-LAW monthly publication styled “How it Used to Be” by the Hon. John T. Forbis commenting on women and Texas juries. I thought perhaps that another side of this matter might be of some interest to the younger lawyers of AMA-LAW Bar Association.

In January, 1960, I tried the first District Court jury case in Potter County that had women in on it. The Hon Mary Lou Robinson was the presiding judge of the 108th District Court. She had appointed me to represent a man charged with molesting little girls. I thought he was insane and we submitted the case on a pre-trial sanity issue to a jury. I realized quickly that women might well listen better than men on this issue so I cut the men and ended up with 10 women and two men. The first vote was 10 to 2—10 women for insanity and 2 men for no. Finally the women persuaded the men and we sent the man to the nut house.

At that time, Judge Robinson was married and under the rules of coverture. She could not buy or sell her own automobile without the written permission of her husband. Perhaps an amendment to our State Constitution was in order.

In the early 1970's, I officed with the Hon. Grady Hazelwood, State Senator for this District. He was Chairman of the Senate Finance Committee and wielded considerable legislative power. As a result of my officing with him, I was asked from time to time to lobby him and others on behalf of various interests. I always obtained his permission.

During this time frame, the Texas legislature was considering the submission of an equal rights amendment to the Texas Constitution that would require equal treatment to all races and women. It ultimately was adopted. This proposed amendment was sponsored by the Business and Professional Women of Texas (Judge Forbis mentioned them in his article). I was asked by this organization to lobby the House of Representatives who had bottled-up the proposed amendment in committee for over two years. With Senator Hazlewood's permission, I went to Austin during the

regular session at the request of my mother and the Business and Professional Women's lobbyist, Hermine Tobolowski, a notable Dallas Attorney. Upon my arrival, they asked me to go into a specific committee room where the committee involved was in session and ask them to seek relief. Once in, there sat three of my law school classmates. We spent a few minutes getting reacquainted then they asked why I was there and what I wanted. I told them my mission. If they didn't do it my mother was in the next room and she was going to do bad things to me—whereupon they said that they would immediately vote out the amendment. When I came out, I reported what had happened and what was going to happen. Hermine Tobolowski could not believe that old law school friendships could accomplish the seemingly impossible.

She went to her grave believing that I would not tell her my terrible power I held over that committee!

The amendment came out; the Senate had already voted it out; the Governor signed off and the amendment was submitted to the people at the next general election and was adopted overwhelmingly.

As a secondary prize—no money was paid for my services, not even a reimbursement of expenses—the Business and Professional Women's next Texas State Convention was held in Amarillo and I was asked to speak to the opening session, which I did!

The moral to this story is; “The less we know about how sausages and laws are made, the better we sleep at night.” John Godfrey Saxe, The Daily Cleveland Herald, Mar. 29, 1869.

If you are an attorney in our area, you will want to be included in the **2015 Red Book Legal Directory**, which will be published in the Spring. You can add a

new listing or update your existing listing at our new website, www.nalsamarillo.com/redbook. If you need a copy of the 2014 Red Book Legal Directory and did not get one, there are still a limited number available. For more information, contact chuffman@bf-law.com.



NALS of Amarillo
P. O. Box 1044
Amarillo, TX 79105

NALS of Amarillo is the local chapter affiliated with NALS – *the association for legal professionals*. Members include legal secretaries, legal assistants and paralegals. Membership is open to all persons engaged in work of a legal nature and who agree to comply with the NALS Code of Ethics and Professional Responsibility. For membership information, please contact becky.braden@sprouselaw.com, or go to www.nalsamarillo.com/membership.

YOUNG LAWYER OF THE MONTH: RACHAEL RUSTMANN



Rachael Rustmann

Growing up the daughter of an Air Force Colonel, you would think Rachael Rustmann moved around a lot and

lived in exotic locations. If you consider Beresford, South Dakota, or Ocean Springs, Mississippi, exotic, then you would be correct. After finally making her way to God's Country, she realized there was nowhere else she would rather be. Not even a summer spent studying abroad in London could tear her away from the greatest country in the world, Texas.

After some much needed divine intervention, Rachael decided to attend Texas A&M University. After a few years and just as many department switches, Rachael graduated with a degree in Maritime Business Administration from Texas A&M University, where she found her first love, college football. When she finally realized she was not going to become a football coach just because she loved football so much, she decided to try law school. However, she still hasn't given up on her dream of being college football's first female coach.

While attending law school at Texas Tech University, Rachael found herself in a place no Aggie wants to be, Lubbock, Texas. However, she grew quite fond of Lubbock and its haboobs. The clay covered skies of West Texas made her realize west Texas is her home. After finishing law school and finding her future husband, Johnny Manziel, Rachael decided to move herself and her English Bulldog, Stuart, to Amarillo to set up a home for herself and Johnny Football, before he eventually fizzles out in the NFL. When Rachael isn't working, she likes to bake, watch the Aggies BTHO themselves, and attend various college football games across the nation with her Dad. If you see Rachael around town, make sure to ask her about meeting Pete Carroll at a USC/Notre Dame game.



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Contact Us

For more information about your local area bar association or for address changes, contact Jo Ann Holt, Executive Director, at:

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e-mail: director@amarillobar.org
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Also visit our website at www.amarillobar.org for information and links to both local and state-wide legal resources.



AABA History Quiz WIN A ROLLING BRIEFCASE!

Be the first to correctly answer the question below and send your answer to magnew@bf-law.com and you will win a rolling briefcase provided by the State Bar of Texas.

When was the Amarillo Area Bar Association founded?

December's Answer: John T. Boyd
December's Winner: Ed Hill



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YOUR BAR EVENTS - FEBRUARY 2015

S	M	T	W	T	F	S
1	2	3	4	AABA Board Meeting, 11:45am Petroleum Room, AC 5	6	7
8	9	10	11	AABA Luncheon, 11:45am Sunburst Room, AC 12	13 CLE: Building Blocks of Wills, Estates & Probate	14
15	16 President's Day Office Closed	17	18	19	20	21
22	23	24	25	26	27	28