



# AABA-LAW

amarillobar.org

Volume 30  
February 2016  
No. 6

A PUBLICATION OF THE AMARILLO AREA BAR ASSOCIATION

*“Just a reminder that the world’s greatest legal seminar and golf tournament is only a few months away. Our Spring Institute is a wonderful event every year and I do hope that all can take part to make this year’s one of our best.”*

-Page 2

*“I realized that each issue of the Bar Journal—December 2015 back to January 2015—was still in the stack along with each quarterly version of the Advocate and Oil and Gas Section Report. Staring at this daunting stack, I thought about why I have not had the time to read a single magazine.”*

-Page 6

## CONTENTS

President’s Page	2
Seventh Court of Appeals	4
AAYLA Update	5
Meet Your Director	6

## Texas Lawyers Assistance Program

The presentation at this month’s AABA lunch meeting will focus on one of the most important (and perhaps least discussed) issues facing our profession today – substance and/or alcohol abuse. The State Bar of Texas has established the Texas Lawyer’s Assistance Program (TLAP) to provide confidential support and referrals for lawyers, law students and judges who are suffering problems with this issue. Through TLAP, the lawyer, student or judge who is challenged by these issues is matched with a local volunteer lawyer who has received training from TLAP and is interested in helping the challenged person recover.

AABA is pleased to announce that Richard Gore of the Randall County District Attorney’s office will be our speaker at the AABA lunch meeting on Thursday, February 11, 2016, at the Amarillo Club. Richard earned his undergraduate degree from West Texas A&M University and graduated from Texas Tech law school. Prior to joining the Randall County District Attorney’s office, Richard served as a staff attorney at the Seventh Court of Appeals and was in private practice for several years. Richard is a volunteer with TLAP and has a moving story to tell. I hope that you will join us at the February lunch meeting to become informed of the options available for those affected by this very important issue.





# PRESIDENT'S PAGE

By: Dusty Stockard

Happy Valentines from the Amarillo Area Bar Association. Hallmark's stock should rise significantly this month so invest now as we won't see another spike until Mother's Day.

For those of you who attended the Amarillo Bar Foundation's Wine Dinner, you know what a good time was had by all – if you had a really great time, you may not remember, so this will serve as your reminder that it was a fun event that was very well-attended. While we will not be serving wine at our monthly bar meeting, I do encourage you to attend as Mark Logsdon has brought in some really great speakers this year. I know that all of you probably jumped to this article first, but I'm sure there will be great write-up on this month's speaker on the front page of this fantastic publication.

We are once again in political sign season where every corner is littered (sorry, to those of you who are candidates in the races going on) with a sign for every candidate regardless of which county the race is being staged. As most of you, I receive questions from friends and family about who they should vote for in the coming elections. Don't worry, I'm not endorsing or de-dorsing (it will be in Webster's soon) any candidate, but I encourage each of you to familiarize yourself with the candidates as those who are not lawyers really take your opinion to heart.

I do want to congratulate our candidates that are members of this Association for some really great head shots, which is important when you are sticking them on giant billboards. You all compete very nicely with Happy State Bank and State Farm's advertising of large heads.

Just a reminder that the world's greatest legal seminar and golf tournament is only a few months away. Our Spring Institute is a wonderful event every year and I do hope that all can take part to make this year's one of our best.

## CLE SCHEDULE 2015-2016

Feb 19 \$225  
Building Blocks of Wills, Estates &  
Probate  
6.75 CLE HRS 3.5 HRS ETHICS  
Basement Training Room,  
Eagle Center

Feb 24-25-26 \$400  
Advanced Real Estate Law  
17.75 CLE HRS 3 HRS ETHICS  
Happy State Bank,  
Basement Training Room



AMA-LAW is published monthly from September through May by the Amarillo Area Bar Association.

### Advertisement Rates

	Single Issue
Business Card	\$50
Quarter-Page	\$75
Half-Page	\$150
Full Page	\$300

Discounted rates are available for multiple issues. Publication of an advertisement does not imply endorsement of any product or service. AABA reserves the right to select and edit materials to be published. Advertisements are limited to those products and services that are substantially related to improving the legal profession and the legal community in the northernmost twenty-six counties of the Panhandle of Texas. Contact Jo Ann Holt, Executive Director, at 371-7226 or [director@amaril-lobar.org](mailto:director@amaril-lobar.org) for more information about advertising in AMA-LAW.

### Contact Us

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

**Amarillo Area Bar Association**  
Eagle Center  
112 West 8th Avenue, Suite 615  
Amarillo, Texas 79101  
e-mail: [director@amarillobar.org](mailto:director@amarillobar.org)  
Phone: 806-371-7226

Also visit our website at [www.amaril-lo-bar.org](http://www.amaril-lo-bar.org) for information and links to both local and state-wide legal resources.



**\*\*\* CAREER OPPORTUNITY \*\*\***



**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS**

---

<b>Position Title:</b>	<b>Pro Se Law Clerk #16-01</b>
<b>Location:</b>	<b>Amarillo, Texas</b>
<b>Closing Date:</b>	<b>Open Until Filled</b>
<b>Starting Salary/Range:</b>	<b>\$71,012 - \$129,723* (JSP 12 -14)</b>

**\*Depending upon qualifications and experience. Funding for this position is contingent upon future prisoner case filings.**

The United States District Court for the Northern District of Texas is recruiting for the position of Pro Se Staff Attorney. The responsibilities of this position include, but are not limited to: reviewing motions to proceed in forma pauperis; screening prisoner petitions and motions, motions to vacate sentence, and civil rights complaints; and assisting judges who preside over cases in the Abilene, Lubbock, and San Angelo Divisions of the U.S. District Court with all aspects of prisoner case management. The position is also responsible for drafting appropriate recommendations and orders for approval by the judges.

Employees of the U.S. District Court are entitled to benefits which include a retirement system, health and life insurance programs, scheduled holidays, leave accrual, and periodic salary increases. The Court is not authorized to reimburse candidates for travel or moving expenses. This position is subject to mandatory Electronic Funds Transfer participation for payment of net pay.

To qualify, an applicant must be a law school graduate and a member of a state bar. Experience as a judicial law clerk is preferred. Legal research and writing experience is required.

The selection of a qualified candidate will be contingent upon the results of a mandatory criminal background records check. The final candidate will be subject to a background investigation by law enforcement agencies, which includes FBI fingerprinting. The applicant must be a United States citizen or provide documentation proving eligibility to work in the U.S. This is an at will position. This is a full time position. Funding for the position is contingent on the court's prisoner caseload, which is reevaluated annually.

**Submit a resume, law school transcript, and writing sample to:**

**Attention: Human Resources #16-01**

United States District Court  
1100 Commerce Street, # 1452  
Dallas, Texas 75242  
Fax (214) 753-2247

Email: [humanresources@txnd.uscourts.gov](mailto:humanresources@txnd.uscourts.gov)

Resumes without code 16-01 and missing transcripts will not be considered.

**\*\*\*\* The Court is an Equal Opportunity Employer \*\*\*\***

The Court reserves the right to modify the conditions of this job announcement, to withdraw the announcement, or to fill the position sooner than the closing date without prior notice. The United States District Court requires employees to adhere to a Code of Ethics and Conduct.





# 7TH COURT OF APPEALS UPDATE

By Chief Justice Brian Quinn

In putting my thoughts to keyboard this month, a line from the Yes song “Leave It” came to mind. It goes “one down one to go, another town and one more show.” The lyric struck me since one column for the year is “down” and I’m here writing another one. Funny how thoughts just pop in and out. Maybe the better lyric would have been “the road goes on forever and the party never ends,” by Robert Earl Keen. Here’s another step down the road . . .

We all know that parents of a child can be appointed joint managing conservators. That decision normally lies within the trial court’s discretion after considering the best interests of the child. But, the trial court has no discretion to do that when one of the

parents has a history of child neglect or physical or sexual abuse against someone in the family, according to § 153.004(b) of the Family Code. Because one of the parents in *In the Interest of L.B.*, No. 07-15-00175-CV, 2015 Tex. App. LEXIS 13075 (Tex. App.—Amarillo December 31, 2015) had been convicted of family violence against his spouse, we had to reverse his appointment as a joint managing conservator of L.B. I wonder though if the trial court can appoint the parents as sole managing conservator; the statute seems not to address that.

A bit about standards of review when attacking the sufficiency of the evidence. In criminal cases, an appellant cannot argue that the evidence is factually insufficient to support the verdict, but he can in civil cases. Well, how about in a juvenile delinquency proceeding. It’s civil, not criminal. Well, it appears that appellate courts may conduct a factual sufficiency review only when the burden of proof at trial is less than “beyond a reasonable doubt.” The burden of proof in a juvenile adjudication hearing is “beyond reasonable doubt.” So, in *In re B.S.*, No. 07-15-00148-CV, 2015 Tex. App. LEXIS 11822 (Tex. App.—Amarillo November 17, 2015), we had to overrule the appellant’s contention that the evidence was factually insufficient to support the decision to adjudicate delinquency.

How about a bit more in the family law arena? Can *res judicata* apply in a case where the issue is termination of parental rights? In *In the Interest of D.L.W.*, No. 07-15-00243-CV, 2015 Tex. App. LEXIS 12372 (Tex. App.—Amarillo December 4, 2015), we faced a situation where the trial court first decided that maintaining the parents as conservators of Child A was in that child’s best interest but later ruled that termination was in the best interests of Child B. The two proceedings began as one but were severed, and the question became whether the “best interests” finding as to Child A controlled the “best interests” of Child B. *Res judicata* requires an identity of parties and claims, among other things. Since the severed actions involved different children, we held that *res judicata* did not apply. The question remains though whether the outcome would be different if the suits had not been severed.

**HISTORY IN THE MAKING**  
DOWNTOWN AMARILLO'S ORIGINAL HIGH-RISE  
CELEBRATES 90 YEARS



The Historic Amarillo Building, built in 1925, proudly celebrates her 90<sup>th</sup> Birthday!

Restored to its Art Deco grandeur by owners Kevin and Ginger Nelson, Amarillo's history permeates throughout as Amarillo's most respected businesses, accounting and law firms continue to make their mark.

EST 1925  
**AMARILLO BUILDING**

For Leasing Information, kindly call Kevin or Ginger Nelson  
806.342.4700 • 301 South Polk Street

Images courtesy The Amarillo Public Library

# AAYLA UPDATE

By Blair Oscarsson



Have you heard? The young lawyers (and the fun old lawyers) are going to Las Vegas!

For those of you who think

this is simply an opportunity to skip out on a Friday's worth of work, you should know that there is a value-packed 6-hour\* CLE on



Saturday morning that shouldn't be missed. Judge Board and Judge Schapp are back this year, and their presentation never disappoints. Other local presenters include David Jones (Happy State Bank), Slater Elza (Underwood), Dusty Stockard (Stockard, Johnson, & Brown), and Mark White (Sprouse).

And, of course, we are going to Vegas where you could win\*\* cold, hard cash . . . or catch Britney Spears, if you're trying to re-live the late 90s.

This is AAYLA's biggest event—so big, in fact, that it only comes around every two years. We truly appreciate the Big Bar's support of this and everything else we do all year long.

And, door prizes\*\*\* may be given!!!

\*CLE credit not yet approved by the State Bar.

\*\*Odds of winning are significantly greater than winning the \$1B Powerball jackpot.

\*\*\*If you'd like to donate a door prize, we are accepting pretty much whatever you have to offer.

## SAVE THE DATE

**AMARILLO AREA ESTATE PLANNING COUNCIL**

**TWENTY-FIFTH ANNUAL INSTITUTE  
ON  
ESTATE PLANNING**

**Thursday & Friday  
May 12 and 13, 2016**

**See Next Month's AMALAW for speakers and topics!**

# MEET YOUR DIRECTOR: CHRISTOPHER L. JENSEN



*Christopher L. Jensen*

As a person who likes to consider himself organized, the time between Christmas and New Year's Day provides an excellent opportunity to clear the clutter from the past year, get ready for the next year, and complete important but unprofitable tasks such as preparing articles. In my clearing-the-clutter phase, I went to the stack of professional magazines that I regularly receive including the Bar Journal, the Litigation Advocate, and the Oil and Gas Section Report. You may be like me in that when I receive these magazines I place them in a "to-be-read" stack

on my credenza with the genuine intent to read them when I have the time. As I went through the stack recently, I realized that each issue of the Bar Journal—December 2015 back to January 2015—was still in the stack along with each quarterly version of the Advocate and Oil and Gas Section Report. Staring at this daunting stack, I thought about why I have not had the time to read a single magazine. There are many reasons. Sherry, my wife of 19 years, and I are active members of our church where we serve in a variety of ways. We have also enjoyed living on the La Paloma golf course and have played a significant amount of golf, sufficient for me to finally and for the first time establish a very high handicap. We also spent considerable time with Madeline, our oldest daughter and a senior at Tascosa High School, as she played volleyball and toured prospective colleges (gulp). We spent a corresponding amount of time with our youngest daughter Emma, who is a sixth grader, as she played club and school volleyball and basketball. This year I served as Past President of my Rotary Club and as Vice President of your AABA. I have continued to serve as the campaign treasurer for Scott Brumley, the Potter County Attorney. Between these activities, I have tried to practice law as a member of Sprouse Shrader Smith PLLC, representing clients with litigation and appellate needs in commercial, oil and gas, wind, water and condemnation matters. In addition and as I make plans for 2016, I will try to set aside the time to replace the toilet valve that has been leaking since September. And maybe, in that process, find a new place for my "to-be-read" stack.





# LEGAL BRIEFS



## Fish Bowl Drawing

\$25 Charles Jared Knight  
 \$50 James Farren  
 \$75 Mark Baskett  
 None were present to win

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

## 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](mailto:magnew@bf-law.com) and you will win a rolling briefcase provided by the State Bar of Texas.

**Question: When was the Potter County Courthouse listed on the National Register of Historic Places?**



STATE BAR of TEXAS

1-800-204-2222

## Downey Investigations

Texas License A-19370



### Dean Downey

Owner/President

P.O. Box 52134  
 Amarillo, Texas 79159

(806)236-5787

Email: [atxpi2014@gmail.com](mailto:atxpi2014@gmail.com)

[www.downeyinvestigations.com](http://www.downeyinvestigations.com)

Divorce, Child Custody, Missing Persons, Background Checks, Process Server, Criminal and Civil Defense Investigations

Happy • Abilene • Amarillo • Borger • Canadian • Canyon • DFW Metroplex • Dalhart • Dumas • Floydada • Hereford  
 Higgins • Lockney • Lubbock • Olton • Pampa • Panhandle • Plainview • Silverton • Stratford • Sunray • Texline

## Creating, Managing & Preserving Wealth



[happybank.com](http://happybank.com)  
 806-356-TRUST



**HAPPY TRUST COMPANY**  
 CREATING, MANAGING & PRESERVING WEALTH

Member FDIC



112 West 8th Ave., #615  
Amarillo, Texas 79101

Presorted  
Standard  
US Postage  
**PAID**  
Amarillo, TX  
Permit No. 227

Return Service Requested

**Dusty Stockard**, President  
**Mark Logsdon**, President-Elect  
**Chris Jenson**, Vice President  
**Joby Mills**, Secretary-Treasurer  
**Tim D. Newsom**, Immediate Past President

#### EXECUTIVE COMMITTEE

Terms Expire 2016

**Jeremi Young**  
**Walt Weaver**  
**Sarah Pelley**

Terms Expire 2017

**Chris Stewart**  
**Briar Wilcox**  
**Rhett Hubbard**

**Blair Oscarsson**, AAYLA President  
**Jo Ann Holt**, Executive Director  
**Matthew Agnew**, Editor of AMA-LAW

## YOUR BAR EVENTS - FEBRUARY 2016

S	M	T	W	T	F	S
	1	2	3	AABA Board Meeting, Petroleum Room, Amarillo Club 4	5	6
7	8	9	10	AABA Bar Luncheon, Sunburst Room, Amarillo Club 11	12	13
14	President's Day Office Closed 15	16	17	18	CLE: Building Blocks of Wills, Estates & Probate 19	20
21	22	23	24	25	26	27
28	29					

CLE: Advanced Real Estate Law, Happy State Bank