

# AMARILLO-LAW

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A PUBLICATION OF THE AMARILLO AREA BAR ASSOCIATION

*“If you are looking for a way in which to “give back” to a Veteran, then I can enthusiastically recommend the Texas Lawyers for Texas Veterans program.”*

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*“Riddle me this Batman – if an attorney who files an Ander's brief is supposed to read the entire file to determine if there is an arguable issue, how can he say that there is no arguable issue if he doesn't have the entire file?”*

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## NOVEMBER SPEAKER: DAVID ISAAK



David Isaak

David Isaak will be our speaker at the November 10 luncheon. David was a key member of the defense team that secured a “not guilty” verdict for the well site leader on the Deepwater Horizon. Over the course of four years of litigation, the trial court dismissed 11 manslaughter charges and the government dismissed 11 more. After a two-week trial on the remaining Clean Water Act charge, David's client was acquitted after the jury deliberated less than two hours. David represents companies and individuals in white-collar criminal defense, government investigations and high-stakes civil litigation. He represents clients in investigations, trials and appeals involving in-

sider trading, tax fraud, securities fraud, commodities manipulation, trademark infringement, theft of trade secrets, environmental crimes and violations of the Foreign Corrupt Practices Act.

David received his undergraduate degree from the University of North Dakota and a Masters Degree in English from the University of Illinois at Urbana. He graduated from the University of Texas Law School with highest honors and served on the law review. David then clerked at the Texas Supreme Court for Thomas R. Phillips. David is currently a partner with Smyser Kaplan & Veselka, LLP, in Houston.



# PRESIDENT'S PAGE

By: Mark Logsdon

By the time this article is circulated in the latest edition of the AMA-LAW, a very important day in our Nation will be close at hand – Veterans Day. A year ago at about this time, I loaded my family up and drove to Colorado Springs for the Army v. Air Force football game. We had a great time. We stumbled upon a Veterans Day Parade in downtown Colorado Springs that began just outside of the restaurant in which we ate breakfast that Saturday morning. My kids were able to meet and visit with a number of Air Force cadets who had just marched in the parade. The cadets were also nice enough to pose for several photographs with the kids and answer all of the kids' questions. Following the parade, we made our way to the stadium where the kids (and the parents) got to spend time with a number of soldiers from Fort Carson who were manning various tanks and armored vehicles that the kids were able to climb in and on prior to kick-off. Many of those soldiers had served overseas "in harm's way" – some of them in multiple deployments. They could not have been more kind and respectful, and I could have spent the balance of the day visiting with them. It was a great way for our kids to celebrate Veterans Day with so many young men and women in uniform.

If you are looking for a way in which to "give back" to a Veteran, then I can enthusiastically recommend the Texas Lawyers for Texas Veterans program. The State Bar of Texas launched this statewide program in 2010 to develop and assist pro bono clinics across Texas for military Veterans who cannot afford or do not have access to legal services that they need. Bill Brian and his contact at the Veteran Justice Outreach office have spearheaded the program locally. Through their efforts, lawyers from our local bar association have assisted Veterans through this program by participating in the local Texas Lawyers for Texas Veterans Wills Clinic program in 2011, 2012, 2015, and, most recently, in September of 2016. While the clinic locally has primarily been focused on estate planning needs, our local Veterans have many other areas of need including family law and landlord-tenant matters. The attorneys who participated in the event this past September include: Bill Brian, Cole Brown, John Brown, Susan Burnette, Chris Jones, Gerald Morgan, Jr., Ginger Nelson, and Amy Shelhamer. Through the local Wills Clinic in 2016, these attorneys were able to assist 12 local Veterans with their estate planning and other needs. These attorneys have earned our profound thanks for their time and efforts. There will be another Wills Clinic in the spring of 2017, and I strongly encourage all of our local attorneys to consider assisting in this event in the future in some capacity. If you are interested in participating, please contact Bill Brian.

Whether you plan to participate in an upcoming Veterans Wills Clinic or not, however, please take time to thank a Veteran (or a member of a Veteran's family) for their service to our country this week. Quite frankly, it's the least we can do.

And, yes, there is that "other" date in November

this year – Election Day. I strongly encourage those of you who have not already voted early to vote in the election. In addition to the race for the White House, there are a number of important issues and a number of candidates (including one of our past presidents, Four Price) on the ballot deserving of your consideration and participation.

## CLE SCHEDULE 2016-2017

**Nov 16-17-18 \$400**

Advanced Civil Trial  
18 CLE HRS 3.75 HRS ETHICS  
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Eagle Center

**Dec 8-9 \$300**

Advanced Oil, Gas & Energy Law  
13.5 CLE HRS 3.0 HRS ETHICS  
Sprouse Shrader Smith

**Jan 18-19-20 \$400**

Advanced Estate Planning & Probate  
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TEXAS HIGH SCHOOL  
MOCK TRIAL COMPETITION

### Amarillo-Area Mock Trial Regional Coordinator Needed

The Texas High School Mock Trial Competition program is looking for an individual (or a group of individuals) in the legal field to help represent the area's high school mock trial program by working in conjunction with the State Coordinator. It is recommended that the Coordinator(s) are organized and have an interest in the well-being of our students.

**Involvement:**

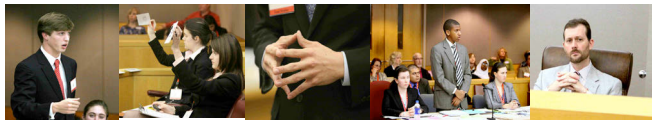
1. Recruit legal volunteers to 'judge' (score) the rounds of competition (approx. 1+ mo. out)
2. Secure courthouse for day of competition (now)
3. Train 'judges' on how to score individuals/teams (day of competition)
4. Tally team scores (day of competition)
5. Point of contact for the State office (on-going)

The competition is very small and only requires one day of competition in January 2017.

This position is voluntary. Please contact the State Coordinator if interested:  
Melissa Garcia  
[mgarcia@dallasbar.org](mailto:mgarcia@dallasbar.org)  
214-220-7484

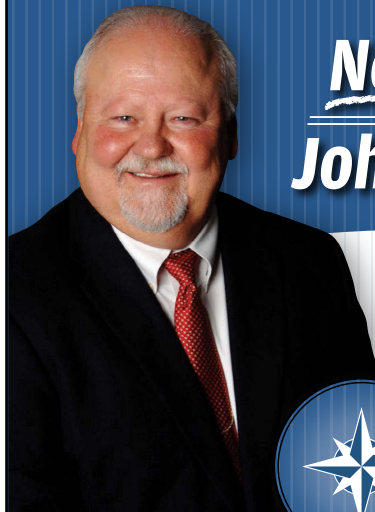
For more information about this great educational program, check out our website here:

<http://www.texashighschoolmocktrial.com/>



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# 7TH COURT OF APPEALS UPDATE

By Chief Justice Brian Quinn

Riddle me this Batman – if an attorney who files an Ander’s brief is supposed to read the entire file to determine if there is an arguable issue, how can he say that there is no arguable issue if he doesn’t have the entire file? We ask this riddle more often than one would think. The last time was in *Helsley v. State*, No. 07-15-00350-CR, 2016 Tex. App. LEXIS 10149 (Tex. App.—Amarillo September 14, 2016). And, the answer is – ya can’t. Make sure you have the entire record before you decide if an Ander’s brief should be filed. If you don’t, then the appeal just may be abated for the appointment of new counsel. And, for those who do no criminal or termination appeals wherein counsel is appointed, an Ander’s brief filed by an appointed counsel wherein he says he read the record, found no arguable issues to appeal, the appeal is meritless, and he wants out.

Remember the cop shows where they make a big deal of reading the Miranda warnings to suspects? Good drama, but that doesn’t always happen in real life; nor does it have to. Only when the person is “in custody” must he be afforded those warnings. In *Okere v. State*, No. 07-16-00043-CR, 2016 Tex. App. LEXIS 7871 (Tex. App.—Amarillo July 25, 2016), the trial court did not err in refusing to suppress a recording of the defendant’s statement while being interviewed at the police station without his attorney. Despite the absence of Miranda warnings, the defendant was always free to leave the facility and actually left when the interview ended. So, he was not in custody, and his statement could be used against him. Book ‘em Danno . . .

Uno mas – and it harkens back to first year contracts class. Remember being taught that the existence of an enforceable contract is dependent upon a meeting of the minds? That was the issue in *Blevins v. Ali*, No. 07-15-00358-CV, 2016 Tex. App. LEXIS 10689 (Tex. App.—Amarillo September 29, 2016). Blevins said the deal involved the sale of over 8 acres of land, but Ali claimed he was selling only 7 acres. In determining whether their minds met, we looked at what the parties actually said and did, not at what they may have subjectively intended or wanted. And, here, the answer was made easy since someone recorded on a cell phone the conversation between the prospective buyer and seller about what was being sold. Yep, it was only 7 acres, so no meeting of the minds occurred, which meant that Blevins had no claim for breach of contract.

Hasta luego!

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images courtesy The Amarillo Public Library

## FEDERAL CRIMINAL DEFENSE

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Former Federal Prosecutor

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# AAYLA UPDATE

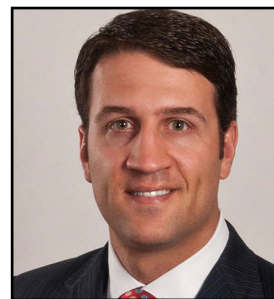
By Shane Brooks

By the time this newsletter hits the press, our New Lawyer Orientation on Wednesday, October 19th will have likely come and gone. In the event you are seeing this in time, please join us for a happy hour afterwards at 4pm at I Don't Know Sports Bar and Grill. If you miss that one, you can make up for it by attending our annual Swearing In Ceremony and happy hour for the newly licensed attorneys likely in the second week of November. More details on that coming soon.

On October 27th we are holding a combined CLE and happy hour sponsored by our friends from ABOTA at the Amarillo National Bank Plaza II 2nd Floor Conference Room. It will be a short 1 hour CLE with 0.5 hour of ethics presented by ABOTA and a chance to learn more about their organization. I've seen the order for the food and drinks at

the happy hour, and ABOTA is treating the young lawyers right! You don't want to miss this one. Contact Courtney White at [courtney.white@sprouselaw.com](mailto:courtney.white@sprouselaw.com) to sign up.

In other news, we recently received a \$500 grant from TYLA to help fund our new perfect attendance bicycle award benefitting a local elementary school. Each student that has perfect attendance for a semester will be entered into a drawing to win a free bicycle and helmet for each grade at the school. We will also distribute TYLA's Bicycle Safety information. If you haven't reviewed TYLA's Bicycle Safety handout, you should. It provides safety tips for cyclists and for motorists when interacting with cyclists. We hope this project will engage students in a positive way. Instead of being punished



for excessive absences, which may in itself perpetuate the problem, we hope that this project will help encourage them to attend school. We also hope that a few lucky students enjoy their new bikes.

Reminder, if you have not yet filled out an AAYLA membership application for this bar year, contact Tyler Topper at (806) 358-8116 or [ttopper@bmwb-law.com](mailto:ttopper@bmwb-law.com), and he will send you what you need. Note there is a discount if you are registered before November 15th! If you have any questions or want to learn more about AAYLA, please contact me anytime at [shane.brooks@sprouselaw.com](mailto:shane.brooks@sprouselaw.com) or 806.349.4717.

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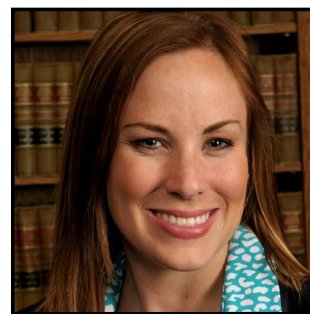
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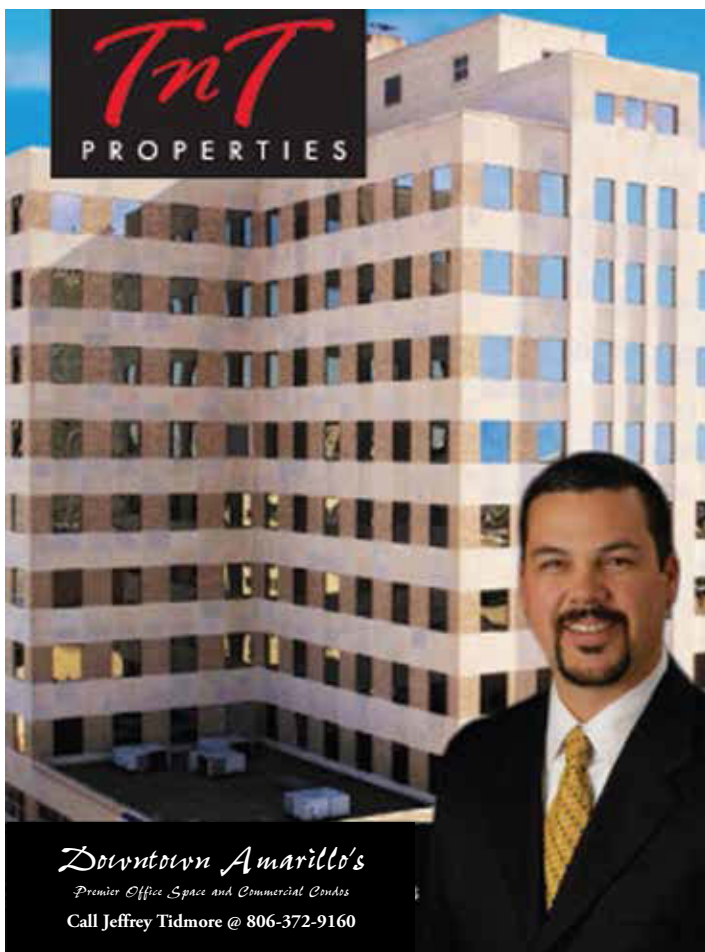
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# YOUNG LAWYER OF THE MONTH: STEPHANIE JAMES



Stephanie James

Stephanie hails from the tiny, little-known town of Bushland, Texas. For high school, she traveled a long five miles into the “big city,” spending her days on the volleyball court and softball field as a Tascosa rebel. After high school, she moved a little farther from home - 120 miles to be exact – to become a Red Raider. During her time in Lubbock, Stephanie could be found on any game day serving up margaritas and dollar beers at Ruby Tequilas across from the stadium. She raced through college in three years (a decision she still questions) and graduated at the top of her class from Texas Tech University with a degree in psychology.



Stephanie wasn't excited about a career in psychology (and didn't have a comfy couch for her office), so she decided to try her hand at law school. So, she moved to Waco, Texas to attend Baylor Law School. At Baylor, Stephanie excelled at not getting called on, and turned out to have a love for public speaking / moot court. Stephanie enjoyed watching Baylor turn its football program around (read: RGIII) – a fact she attributes singlehandedly to her good football mojo.<sup>1</sup> Stephanie survived practice court alongside her best friend, Leslie Lowe, and got out of Waco before the biker wars began (unfortunately without ever meeting Chip and Jo).

In 2013, Stephanie moved back home to the “big city” and joined the Underwood Law Firm, where she had clerked during law school. She spends her days doing Chuck Mallard's grunt work and learning how to become a litigator.

Stephanie is married to a former Palo Duro Don turned Palo Duro football coach – Ty James. She spends her fall nights at Dick Bivins Stadium, hoping her good football mojo rubs off on his team.

---

*<sup>1</sup> Is it a coincidence that Stephanie was a student at Texas Tech (and in attendance at the game) during the infamous Crabtree catch to defeat UT? I think not.*

## POSITION OPEN

for in-house general counsel – requires wide range of legal experience including real estate, probate, trusts, business, contracts, construction, employment, and human resources. Also requires general civil litigation experience. Submit resume by email to [icrawford@kandkinc.com](mailto:icrawford@kandkinc.com).



At the request of some Association members, we will offer an intense 2 day presentation of the Advanced Civil Trial course. The lectures will begin at 8:00, instead of the usual 9:00 schedule, and continue until 5:00 on November 16 and 17. If there is insufficient time for a particular lecture, participants can check out the thumb drive and view it at their leisure.



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 Janet Byars, Executive Director, at 371-7226 or [director@amarillo-bar.org](mailto:director@amarillo-bar.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 Janet Byars, Executive Director, at:

#### Amarillo Area Bar Association

Eagle Center

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e-mail: [director@amarillo-bar.org](mailto:director@amarillo-bar.org)

Phone: 806-371-7226

Also visit our website at [www.amarillo-bar.org](http://www.amarillo-bar.org) for information and links to both

local and state-wide legal resources.



*You are cordially invited to join*  
**The Amarillo Area Bar Association**  
*for the annual*  
**CHRISTMAS RECEPTION**  
**Thursday, December 8, 2016**  
**Heavy Hors d'oeuvres**

**6:00 - 8:00p.m.**

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## AABA History Quiz

### WIN A ROLLING BRIEFCASE!

Be the first to correctly answer the question below and send your answer to [jsterling@bf-law.com](mailto:jsterling@bf-law.com) and you will win a rolling briefcase provided by the State Bar of Texas.

Question: Who was the Young Lawyer of the Month in the January 2008 issue of the AMA-LAW Newsletter?

October answer: Phil Johnson

October winner: LaChiquita McCray



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## ***YOUR BAR EVENTS - NOVEMBER 2016***

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10 AABA Bar Luncheon, Sunburst Room, Amarillo Club	11	12
13	14	15	16	17 CLE, Advanced Civil Trial	18	19
20	21	22	23	24	25	26
27	28	29	30			