

AMARILLO-LAW

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OCTOBER SPEAKER: MARK WERBNER



Mark Werbner

Mark Werbner will be our speaker at the October 13 luncheon. Mark served as lead counsel in *Terror Victims v. Arab Bank*. For ten years, Mark pursued the Jordan Arab Bank for financing terrorist attacks by Hamas against Israel. Mark represented the families of 100 U.S. residents who were murdered or seriously injured by suicide bombers during the Second Intifada. Mark's firm spent more than \$5,000,000 in expenses and incurred over \$8,000,000 in billable time since filing the suit in 2004. In 2014, Mark helped convince a New York federal jury to issue liability findings against Arab Bank, clearing the way for financial damages at trial. The verdict represented the first time in U.S. history that a foreign bank has been found liable for materially supporting terrorism. This

groundbreaking case on international terrorism has been featured on the Fox News Channel, Court TV, The Wall Street Journal and other national and international media.

Mark was born in San Antonio to a Jewish family that escaped Czarist Russia. He obtained his undergraduate degree from the University of Texas and his law degree from the SMU School of Law. Mark is Board Certified in both civil trial law and criminal law. In 1994, Mark co-founded Sayles Werbner, an eleven-lawyer litigation boutique firm based in Dallas with international reach. One of the nation's most respected trial lawyers, Mark enjoys a diverse practice in high-stakes litigation that includes business litigation, white-collar criminal defense, catastrophic personal injuries and wrongful death cases. With over 150 jury trials throughout Texas and across the United States, Mark has developed a reputation for excellence in the courtroom. Mark has won over a dozen jury verdicts of \$1,000,000 or more and one verdict exceeding \$400,000,000. He received the Dallas Bar Association Trial Lawyer of the Year Award in 2011 and has been listed in *The Best Lawyers in America* from 1999 to 2016. Mark has been recognized as a Texas Super Lawyer from 2003 to 2016 and has been recognized as a Texas Super Lawyer Top 10 four times.

“In the words of my Pa, “if that apple ain’t ripe, don’t eat it.” The apple I’m talking about is the dispute tangled in front of the trial court.”

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“Kelln was a great student, a fabulous lawyer, and above all else, an inspiration to every person she met,” said foundation trustee and childhood friend, Ed Dowdy.”

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PRESIDENT'S PAGE

By: Mark Logsdon

We are off to a great start for the AABA bar year! We have a new Executive Director in Janet Byars, and new officers including Chris Jensen as President-Elect, Brad Howard as Vice President, Joby Mills as Secretary/Treasurer, and Dusty Stockard as Past President. The AABA Directors for this year include Chris Stewart, Rhett Hubbard, Briar Wilcox, Christy Drake, Jennie Knapp, and Brian Farabough. Andrew Evans is the new President of the Amarillo Area Bar Foundation, and Shane Brooks is the President of the Amarillo Area Young Lawyers Association for this year.

We have a number of events planned for this fall including Red Mass on October 11 at St. Mary's Catholic Church and the Christmas Reception on December 8 in the lobby of the Happy State Bank downtown location. As always, we will end our bar year with our annual Spring Institute and golf tournament. Of course, we will have our monthly meetings on the second Thursday of each month at the Amarillo Club during which we will briefly conduct association business and enjoy a seminar from an outstanding line-up of speakers for which CLE credit will be approved.

The AABA also provides several opportunities for attorneys in our area to earn affordable CLE credit covering many different topics. The up-coming CLE schedule and topics provided by the AABA for this bar year are as follows:

- Advanced Personal Injury Law (Oct. 19-21)
- Advanced Family Law (Oct. 26-28)
- Advanced Civil Trial (Nov. 16-18)
- Advanced Oil, Gas, & Energy Law (Dec. 8-9)
- Advanced Estate Planning & Probate (Jan. 18-20)
- Building Blocks of Wills, Estates & Probate (Feb. 24)

In addition to these CLE opportunities, the Amarillo Area Estate Planning Council will host its annual Spring Institute on May 11-12, 2017.

If you haven't done so already, I hope that you will submit your application and membership dues to Janet Byars in the AABA office and join the AABA. I also hope that you will mark your calendars to attend as many of the AABA events as you can.

CLE SCHEDULE 2016-2017	
Oct 19-20-21	\$400
Advanced Personal Injury Law 20.25 CLE HRS 3.0 HRS ETHICS Basement Training Room, Eagle Center	
Oct 26-27-28	\$400
Advanced Family Law 21+ CLE HRS 8.25 HRS ETHICS Basement Training Room, Eagle Center	
Nov 16-17-18	\$400
Advanced Civil Trial 18 CLE HRS 3.75 HRS ETHICS Basement Training Room, 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 21+ CLE HRS 3.25 HRS ETHICS Happy State Bank, Basement Training Room	
Feb 24	\$225
Building Blocks of Wills, Estates & Probate 6.75 CLE HRS 3.0 HRS ETHICS Basement Training Room, Eagle Center	

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NEWS FROM LEGAL AID OF NORTHWEST TEXAS

By Kay L. Pechin, Managing Attorney

For the past four years, October has been designated as the month to honor pro bono service through "National Celebration of Pro Bono," led by the American Bar Association. Join Legal Aid of NorthWest Texas (LANWT) in thanking those who serve by volunteering for a variety of pro bono activities in our community, including accepting pro bono referrals from LANWT, meeting with low-income individuals at civil legal clinics, and helping others by serving on boards and offering guidance to local nonprofit organizations. Attorneys serve in these ways, as well as so many others, and our community reaps the benefits of their generosity.

Legal Aid of NorthWest Texas says a special "thank you" to Shane Brooks, of Sprouse, Shrader & Smith PLLC, and Chair of the AAYLA, for jumping in and recruiting volunteers for our summer clinics. Thank you, Shane.

October is the last month in 2016 for you to volunteer for LANWT's intake clinic. This advice-only clinic will be held on Tuesday, October 18, from 5 pm to 7 pm at the Polk Street Methodist Church. A new year of clinics begins January 2017. Please contact me (806/373-6808, ext. 6502) or Luisa Vigil, Equal Justice Volunteer Program Coordinator, (806/373-6808, ext. 6503), for more information or to volunteer.

You may not have heard that Legal Aid of NorthWest Texas is assisting clients with foreclosure prevention services, including foreclosure prevention advice, loan modification assistance, and representation. Attorneys with real property and/or probate experience are also needed to help with clearing title and estate work to assist low-income homeowners become eligible for tax deferrals and exemptions. Many of our applicants for this project are elderly. If you are interested in helping with this important project, please contact me at the number above for more information. Referrals to our Foreclosure Prevention Team may call for an appointment at 806/373-6808, ext. 6512, or call our toll-free Foreclosure Prevention Hotline at 1-844-894-3975. Applicants need to leave a message with their name and contact phone number and a staff member will call to take an application or schedule an office appointment.

One final bit of news is that the City of Amarillo has opened its waiting list and is accepting applications for housing assistance for the first time in almost two years. All applications are on-line at the City of Amarillo website (<http://comdev.amarillo.gov>).

"Life's most persistent and urgent question is: 'What are you doing for others?'" Martin Luther King Jr.

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7TH COURT OF APPEALS UPDATE

By Chief Justice Brian Quinn

There's nothing like typing something up, hitting the wrong key, and watching it evaporate into the cyber void. Here's my second attempt at this month's submission.

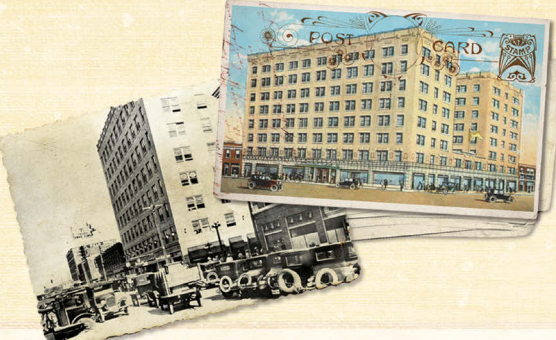
In the words of my Pa, "if that apple ain't ripe, don't eat it." The apple I'm talking about is the dispute tangled in front of the trial court. You know that the court doesn't have the ability to adjudicate everything brought before it. There's this thing we all learned about called subject matter-jurisdiction, and while it has several components, the one implicated in *Harrington v. Lone Star NGL Pipeline LP*, No. 07-15-00272-CV, 2016 Tex. App. LEXIS 8228 (Tex. App.—Amarillo July 29, 2016) was ripeness. Simply said, only a ripe dispute triggers our authority to act, and it's ripe when there exists a real,

substantial controversy involving a genuine conflict of tangible interests, and not merely a theoretical debate. This applies to declaratory actions, too. The piece of fruit tangled in front of the trial court in *Harrington* was a suit by various landowners against NGL Pipeline to obtain a declaration of the parties' respective rights under a pipeline easement. But, NGL had disclaimed its rights under the easement. In effect, there was no real and substantial controversy between the parties, and, therefore, the trial court lacked subject matter jurisdiction to adjudicate the non-argument. Because the apple was not ripe, it couldn't be et ... yeah, I said "et."

As a renowned trial judge once said, the job of an appellate court is "to walk the battlefield once the fight is over and bayonet the wounded." Gotta love John Forbis, may he rest in peace. In walking the battlefield after the war, we survey what was done before we got there. Putting that in the perspective, we do not try cases but review that done in and by the trial court. So, it is the obligation of the appellant to provide us with the record of the battle. And, that record must be sufficient to show that wrong was done, i.e. that reversible error occurred. In *In re CEK*, No. 07-15-00462, 2016 Tex. App. LEXIS 9324 (Tex. App.—Amarillo August 24, 2016), the issue involved the sufficiency of the evidence supporting the trial court's decision to terminate the parental rights of a father. Missing from the record, though, was a report considered by the trial court in making its decision. Satisfying the appellant's obligation described above meant that the father had to provide us with all ... ***I mean all...*** the evidence before the court; otherwise, we had to presume that the missing information supported the decision. And, we did just that. Because part of the battle's record was missing, we could not say that a wrong occurred. A tough result in a tough fight.

As Ferris said: "Life moves pretty fast. If you don't stop and look around once in a while, you could miss it." I think I'm gonna look around now.

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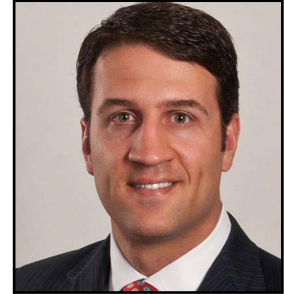
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AMARILLO BUILDING

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images courtesy The Amarillo Public Library

AAYLA UPDATE

By Shane Brooks



AAYLA wants you! If you (i) were 36 years of age or younger as of June 1, 2016, (ii) are the same age or younger than Patrick Weir, or (iii) are newly licensed to practice in Texas during the 60 months preceding such date, you are invited to join AAYLA. If you are new to the area or have not yet filled out a membership application for this bar year, contact Tyler Topper at (806) 358-8116 or ttopper@bmwb-law.com and he will send you what you need. Note there is a discount if you are registered before November 15th!

As for upcoming events, we

are working on a fall kickoff happy hour at a bar near you in the coming weeks and are also planning a combined CLE and happy hour with our friends from ABOTA tentatively scheduled for Thursday, October 27th at 4pm. Be looking for more information on both events soon. Our annual New Lawyer Orientation is scheduled for Wednesday, October 19, 2016, beginning at 1 pm. Our new lawyers will tour the federal and state courthouses and meet with various judges to welcome them to Amarillo. We are hosting a happy hour following the

tour (more details on that to come). If you or someone in your firm is new to the area, please have them contact Bobby Ramirez at Bobby.Ramirez@txcourts.gov to get signed up. We look forward to seeing you at one of these events.

If you have any questions or want to learn more about AAYLA, please contact me anytime at shane.brooks@sprouselaw.com or 806.349.4717.

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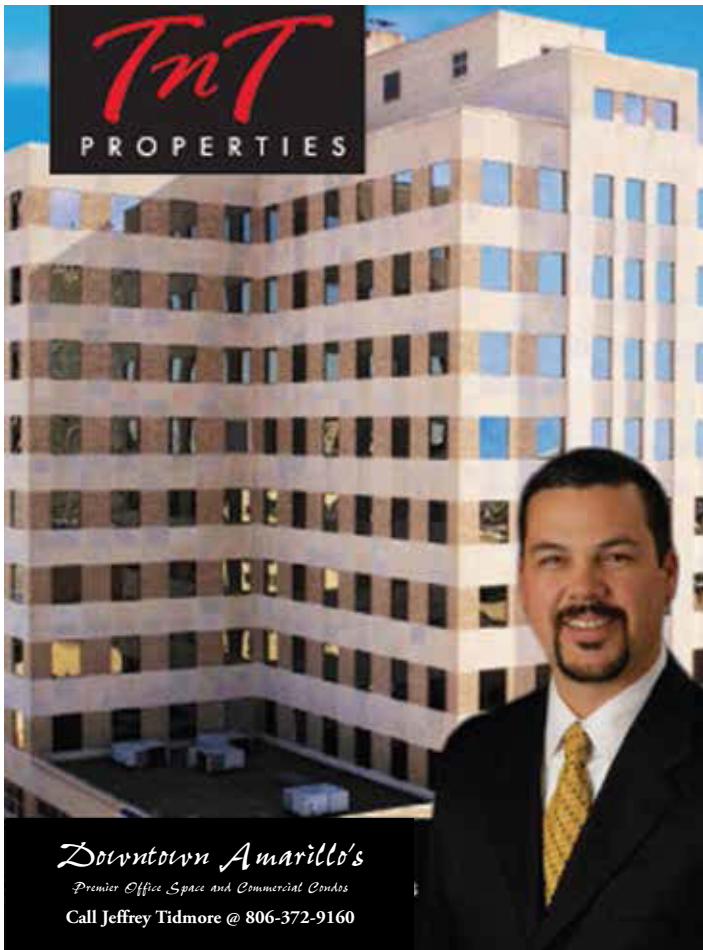
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YOUNG LAWYER OF THE MONTH: JON STERLING



Jon Sterling

Jon Sterling is a study in contrasts. Jon graduated from the University of Texas and then the University Of Oklahoma College of Law. And, believe it or not, he is a big fan of both the Longhorns and the Sooners! Somehow Jon can live in this bizarro world except in early October when he picks sides and pulls for the Longhorns to win. Jon is similarly conflicted on a professional level. At Brown & Fortunato, Jon is a litigator who takes depositions and prepares cases but also enjoys utilizing his business background to work on transactional matters. It's hard to say whether Jon is a litigator who enjoys transactional work or a



transactional attorney who litigates. Whatever you say, Jon enjoys the best of both worlds.

Jon grew up in Spring, Texas, and enjoyed spending weekends at his family's ranch in Central Texas. Jon has one brother, a loving mother, and a proud but concerned father who routinely asks Jon's supervisors, "Is Jon working hard enough for you?" The answer is, "of course!" because Jon is a very hard worker. Whenever Jon misses long commutes or unbearable humidity, it's only a short flight back to Houston to visit his family.

Jon majored in Finance with a concentration in real estate at the University of Texas. When he was not huddled with his friends discussing all things business, Jon enjoyed his involvement in Texas Iron Spikes, a service, spirit and social organization that supports UT baseball. Jon really enjoyed following UT sports until about 2010, when UT tanked in all three major sports. Jon graduated from UT in 2012 and started law school in the fall.

During law school Jon met the love of his life, then known as Caroline Hoffman, and they married in 2015 in Dallas. Caroline is a TCU grad, so Big 12 sports are a staple in the Sterling household. Jon and Caroline enjoy college sports, hiking in the Canyon, and playing with their dogs, Bella and Tex. All of Jon's colleagues at Brown & Fortunato are glad they have decided to make Amarillo home.

FEDERAL CRIMINAL DEFENSE

Christy L. Drake

Attorney at Law

801 S. Fillmore, Suite 710

Amarillo, TX 79101

806.410.2030

Former Federal Prosecutor

chrisdrakelaw@gmail.com

ZIMMER SCHOLARSHIP FOUNDATION APPLICATION PERIOD OPEN

The trustees of the Kelln Zimmer Memorial Scholarship Foundation have announced the opening of a new application period. Scholarships are available to full-time students of Texas Tech University School of Law who are from the Amarillo area or who attended Amarillo College or West Texas A&M University.

The Kelln Zimmer Memorial Scholarship honors the legacy of Kelln Zimmer, a Texas Tech Law School graduate and Amarillo native who died in 2010 following a seven year battle

with breast cancer. She was an associate with the Underwood Law Firm at the time of her passing.

"Kelln was a great student, a fabulous lawyer, and above all else, an inspiration to every person she met," said foundation trustee and childhood friend, Ed Dowdy.

Ms. Zimmer served as managing editor of the Texas Tech Law Review. Before law school, she was a travelling consultant for Kappa Kappa Gamma sorority, for which she also served as chapter president at Texas A&M – College Station.

Scholarship grants are made to recipients who attended high school in Amarillo, Canyon, or the Texas Panhandle, or alternatively, persons who

attended Amarillo College, or West Texas A&M before law school.

Recent Zimmer scholarship recipients include Emily Shanks and Audrey Sirmon, both of Amarillo.

The application period for the fall semester closes October 15, 2016. Qualified candidates may apply by mail at P. O. Box 1750, Amarillo, Texas 79105, or by email submission at scholarship@kazfoundation.org. Applications are available through the Texas Tech University School of Law Financial Aid Office or by contacting the above email address.

Contacts:

Roger Cox (806) 242-9651

Ed Dowdy (806) 367-0076



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

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Full Page	\$300

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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

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Amarillo, Texas 79101
e-mail: director@amarillo-bar.org
Phone: 806-371-7226

Also visit our website at www.amarillo-bar.org for information and links to both local and state-wide legal resources.



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- Understand acceptable and unacceptable cultural body language.
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- Identify power plays for successful self-selling.

Celebrate Texas Panhandle Paralegal Association's 30th Year Anniversary Annual Attorney-Paralegal Gala on October 20, 2016, at 7:00 PM; Reception at 6:00-7:00; Wyndham Garden Ballroom- Amarillo . Get your tickets now - \$45 each. Tickets may be purchased from: [Charlotte Martin](mailto:bcharlirose@aol.com) (bcharlirose@aol.com), [Yicki Lorenzen](mailto:vlorenzen@bf-law.com) (vlorenzen@bf-law.com), [Arianna Neal](mailto:Arianna.Neal@uwlaw.com) (Arianna.Neal@uwlaw.com) or [Bailey Higgins](mailto:bhiggins@bf-law.com) (bhiggins@bf-law.com).

AABA History Quiz

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Question: Which Chief Justice to the Seventh Court of Appeals did Brian Quinn replace?

September answer: Nancy Tanner

September winner: Jamie Kroon



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YOUR BAR EVENTS - OCTOBER 2016

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11 Red Mass, St. Mary's Catholic Church	12	13 AABA Bar Luncheon, Sunburst Room, Amarillo Club	14	15
16	17	18	19	20	21	22
			CLE, Advanced Personal Injury Law			
23	24	25	26	27	28	29
30	31		CLE, Advanced Family Law			