

AMARILLO-LAW

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FEBRUARY SPEAKER: MARTY JONES



Marty Jones

At our February meeting, Marty Jones will present: “Oil and Groundwater Do Mix: Coyote Lake and the Impact on Water Districts.” Marty successfully argued for the extension of the accommodation doctrine to groundwater. In *Coyote Lake Ranch, LLC v City of Lubbock*, the Texas Supreme Court held the accommodation doctrine, typically applicable to oil and gas development, also applies between a landowner and the owner of an interest in groundwater. 498 S.W.3d 53 (Tex. 2016). Marty will discuss how the extension of the accommodation doctrine will impact surface owners, water districts and the development of groundwater law generally.

In the 1950s, Coyote Lake Ranch's predecessor conveyed to the City of Lubbock groundwater rights in 26,600 acres of land located in Bailey County. In 2012, the City proposed a well field plan. Marty represented Coyote Lake in filing suit against the City. Coyote Lake obtained a temporary

injunction enjoining the City from taking certain actions in furtherance of the proposed well plan. The City appealed. The Amarillo Court of Appeals found no case in which a Texas court has applied the accommodation doctrine to the groundwater context. In reversing the temporary injunction, the Amarillo Court said it respectfully defers to the Texas Supreme Court to recognize and pronounce such an extension. On appeal, the Texas Supreme Court agreed with Coyote Lake saying the “similarities between mineral and groundwater estates, as well as in their conflicts with surface estates, persuade us to extend the accommodation doctrine to groundwater interests.” *Id.* at 63.

Marty was born and raised in Spearman. He received his undergraduate degree from Baylor. He also received his law degree from Baylor, where he served as Editor-in-Chief of the *Baylor Law Review*. Upon graduation, he moved to Amarillo where he has been practicing law since 1977. He has been a member of Sprouse Shrader Smith PLLC since 2003.

Marty has written papers and spoken at seminars across Texas regarding water law, water rights, and groundwater districts. Marty has represented clients before groundwater districts, the Texas Water Development Board and the Texas Commission on Environmental Quality. Marty also represents clients in a wide range of areas including products liability, oil and gas, and commercial litigation. He is Board Certified in Civil Trial Law, a member of the American Board of Trial Advocates, and a Fellow in the American College of Trial Law.

Please plan to attend the February meeting to understand the impact of the Coyote Lake case on the development of ground water.



PRESIDENT'S PAGE

By: Mark Logsdon

I don't know about you, but I sometimes grow weary of reading about the latest exploits of some Dallas or Houston "Lion" attorney in many of those marketing-type emails I seem to receive with more and more regularity. I firmly believe that the legal community in the Texas Panhandle is second to none. Perhaps that is why it was such a pleasure to read the Amarillo Globe News on New Year's Day about the lady chosen as the Woman of the Year for 2016 – Judge Mary Lou Robinson.

If you haven't read Jon Mark Beilue's New Year's Day Amarillo Globe News article about Judge Robinson, I hope that you will look it up. It is a very good article. Although I am generally familiar with Judge Robinson's career, there were a few details mentioned in Mr. Beilue's article that I did not know. For instance, I did not know that Tom Morris taught a torts class at the University of Texas School of Law to both Judge Robinson and her husband in the late 1940's. And, I did not know that women could not serve on juries in 1955 when Judge Robinson first became a judge for the Potter County Court at Law – 19 years before the Amarillo Globe News recognized its first "Woman of the Year" in 1974. I also did not know that Judge Robinson was the first female appellate judge in Texas when she was appointed to the Seventh Court of Appeals in 1973 and only the second woman to serve as a U.S. District Court Judge in Texas when she was appointed to the federal bench by President Carter in 1979.

One vital influence that Judge Robinson has had in the legal community, not only in the Texas Panhandle but across the state, can be found in her former law clerks. I don't know who many of Judge Robinson's law clerks were over the years, but I do know some of them. And, I know

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that one of them represents us in the Texas Legislature, while at least one other former clerk serves our area in his own courtroom. I also know that many of the law firms in the area (and, I am sure, across the state and elsewhere) have benefitted greatly by employing Judge Robinson's law clerks after their time in her Court. While I did not have the opportunity to clerk for Judge Robinson, I have no doubt that Judge Robinson had a profound effect on the lives and legal careers of those who were fortunate enough to have worked under her.

By the time this article goes out, the January 25 luncheon honoring Judge Robinson as the Woman of the Year for 2016 will have passed, but I do hope that there was a large turnout from the legal community at the event. Whether or not you were able to attend the luncheon, please join me in congratulating Judge Robinson for being named by the Amarillo Globe News as the Woman of the Year for 2016!

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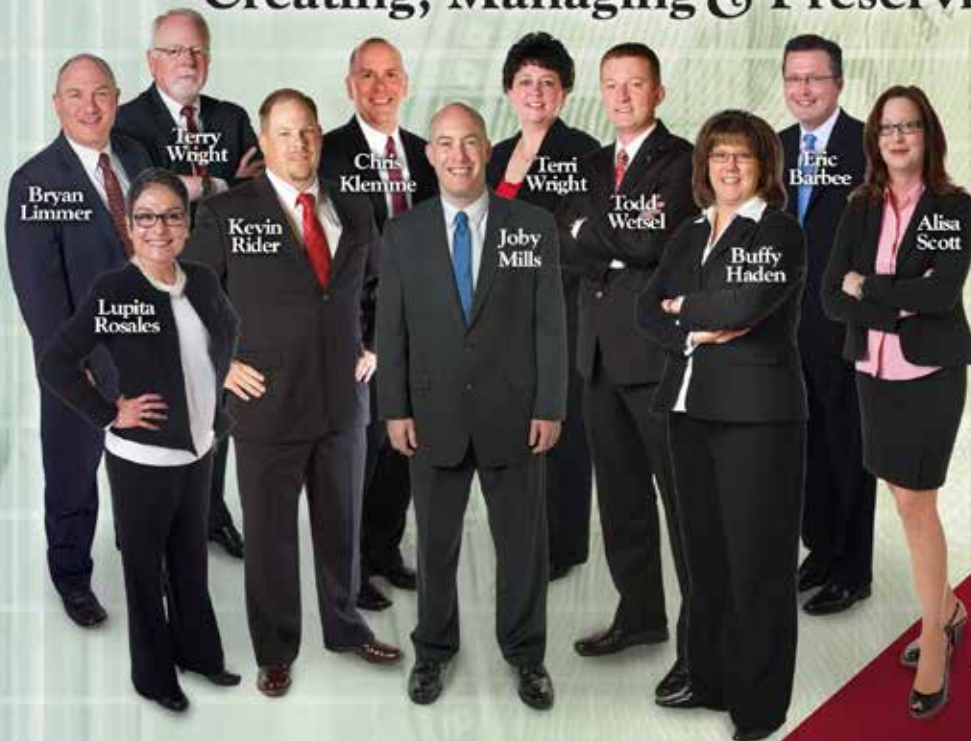
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7TH COURT OF APPEALS UPDATE

By Chief Justice Brian Quinn

Texting, twitter, snapchat . . . etc . . . electronic communication is here and affecting legal relationships. How about email? Can it be used to create contracts and avoid defenses such as the Statute of Frauds? That was the issue in *Burton Creek Dev., Ltd. v. Cottrell*, No. 07-15-00014-CV, 2016 Tex. App. LEXIS 13280 (Tex. App.—Amarillo December 14, 2016). Cottrell wanted to get his commission for helping Burton Creek sell a commercial lot. The two had discussed the matter via email exchanges, and based on those exchanges, Cottrell placed Burton Creek in contact with the eventual buyer. In refusing to pay a commission, Burton Creek argued that a writing was needed to avoid the Statute of Frauds and the emails did not satisfy the requirement. Cottrell believed that the emails were enough to at least

show partial performance and, thus, avoid the Statute. We agreed with him. The email chain met all the elements needed for an effective writing except that pertaining to a description of the property. That did not stop him from recovering, though, since he found a buyer, Burton Creek sold the lot to that buyer, and the emails referred to the amount of commission he would receive. Payday is always nice!


You ever hear of the doctrine of judicial non-intervention? No, it is not where you think the court should have minded its own business since it messed up your recovery. It actually says that the judiciary should avoid meddling in the internal affairs of a voluntary, non-profit corporation. Admittedly, its scope has not been well defined, even though the theory has been around for years. The courts also have been inconsistent in its application and effect, as we acknowledged in *Haedge v. Central Texas Cattlemen's Assoc.*, 07-15-00368-CV, 2016 Tex. App. LEXIS 11092 (Tex. App.—Amarillo October 11, 2016). Whatever it is, though, it barred the trial court from relitigating the decision of the Cattlemen's Association to expel some of its members who were caught trying to improperly graze cattle on restricted property on the Fort Hood military reservation. Since the Association afforded the expelled members basic due process, it was okay for the judiciary to stay out of the dispute. I wonder if we can invoke the doctrine on our own to avoid the "problem" cases ?????

Here's another example of how the electronic age is hitting us all. We just had our first live video submission. One attorney sat three floors above us in the Potter County D.A.'s office. The other one was steps from the sandy beach in Baja California. It worked, despite a few bugs that need to be addressed. In fact, the audio from Baja was clearer than from the Potter County Courthouse. I admit that some trial courts have been doing stuff like this for years, but us old dogs on the Seventh are trying to learn new tricks. We can see how this will help . . . you won't be able to escape us. More importantly, it gives us a chance to hear cases somewhere else . . . like Hawaii.

Happy Valentine's Day!!

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images courtesy The Amarillo Public Library

Arrangements for the appearance of Jeffrey Toobin made through Greater Talent Network, Inc., New York, NY.



**We invite you to join us for the
Texas Tech School of Law Annual Scholarship Gala on
Saturday, March 4.**

We will honor our 2016 Distinguished Alumni and Distinguished Service Awardees who have contributed significantly to the legal profession and law school. This year's honorees are Rankin Gasaway ('88), Senior Vice President, General Counsel and Secretary for 7-Eleven; Bill Mateja ('86), Shareholder at Polsinelli; Chester Grudzinski ('81), Partner at Kelly Hart & Hallman; and The Honorable Mackey Hancock ('74), Justice on the Seventh Court of Appeals.

We are also pleased to feature Jeffrey Toobin as the evenings' keynote speaker. Toobin is a staff writer at *The New Yorker*, senior legal analyst at CNN, and the bestselling author of *The Nine*; *The Run of His Life*; and *American Heiress*. As an unbiased, deeply analytic (and often very funny) expert on matters of American law, Toobin will provide a unique look into the Supreme Court and its influence.

Tables are currently on sale. Single tickets will be available soon. To purchase online visit <http://eventregistration.law.ttu.edu/events/2017/gala>. For more information, contact Ashley Langdon, Director of Alumni Relations, at 806-834-7533 or ashley.langdon@ttu.edu.

YOUNG LAWYER OF THE MONTH: JOSHUA FRAUSTO



Joshua Frausto

Joshua Frausto was born and raised in Amarillo, Texas, and is the youngest of three children. He was the only one from his immediate family to graduate high school or attend college. He credits his mother for instilling in him a hard work ethic.

After graduating from Caprock High School in 2003, Joshua attended Texas Tech University where he majored in Political Science. His first year at Texas Tech was one of the toughest times in his life as he worked full-time at nights at Albertson's. Although Joshua always wanted to be a pediatrician, he couldn't imagine going to school that long so he went for the next best thing.



Joshua attended Texas Tech University School of Law in 2007 where he met his gorgeous wife, Titiana Frausto. He convinced her how great Amarillo was and lured her away from thoughts of returning back to the swamp in Louisiana. He also convinced her that Amarillo gets "some" snow but nothing out of the ordinary; however, he was proven wrong when a blizzard hit the first year back in Amarillo!

After law school Joshua started his career at the Potter County Attorney's office. Joshua's plan was to be a prosecutor for a few years and then open his own practice, but he quickly learned that his passion was to be a prosecutor. In 2012 he joined the Randall County District Attorney's office where he was given an opportunity to become a felony prosecutor soon after. He learned invaluable skills from a number of seasoned trial attorneys along the way. Joshua quickly realized that there was no better place to work and serve the community he grew up in. He didn't think he would ever leave Randall County but he was blessed with the opportunity to become an Assistant United States Attorney in July 2014. Although Joshua loves being in the courtroom trying cases, he prides himself on being a fair prosecutor to make sure that justice is served.

Joshua is a man of faith and is truly blessed! Joshua and Titiana have two children, Joslyn, age 5, and Jason, who will be 2 years old in February. Joslyn definitely has her dad wrapped with her little finger. After claiming for the past 2 years of being "allergic" to cats, he helped Santa find a kitten for Joslyn this year. Joshua enjoys spending time with family, golfing, and watching the Cowboys! If you know Joshua, you know that he is the biggest Cowboys fan, which means his kids will need a scholarship for college if the Cowboys go to the Super Bowl!

AAYLA UPDATE

By Shane Brooks



Not Quite Vegas CLE!! That is what we have in store for March 2nd! We are working on a star-studded lineup of local experts on a variety of topics that will span multiple practice areas. We will be starting at

3:00 p.m. at IDK Sports Bar and will include 2 hours of CLE followed by one of our world renowned happy hours. This is definitely the place to be on March 2nd, and you don't want to be left out. Be looking for a blast email with signup info coming your way soon.

Also, we have set the date for our Annual Bunny Hop 5K on April 15th at Thompson Park. This year's race will benefit our local Legal Aid. Take a break from calculating your looming tax payment, come burn off some pre-Easter calories and help us raise some money. You'll receive a complementary set of bunny ears that are sure to take away any Tax Day blues. It is a fun event for the entire family so bring

your whole crew. We will also hold our Annual Egg Hunt at the Potter County Courthouse that same weekend. Don't forget about the Bunny Contest benefitting AAYLA in conjunction with the hunt where you can donate funds to see your favorite lawyer come dressed as the bunny for that event. More info to come on that next month, but make plans now to attend.

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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For more information about your local area bar association or for address changes, contact Janet Byars, Executive Director, at:

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AABA History Quiz

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Question: What was the date and year that Mary Lou Robinson was nominated by President Jimmy Carter to serve as federal judge for the United States District Court for the Northern District of Texas?

January Answer: Maston C. Courtney
January Winner: N/A



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YOUR BAR EVENTS - FEBRUARY 2017

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	AABA Bar Luncheon, Sunburst Room, Amarillo Club 9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	CLE, Building Blocks of Wills, Estates and Probate 24	25
26	27	28				



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FOR IMMEDIATE RELEASE

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Legal Aid of NorthWest Texas Board Names Maria Thomas-Jones as CEO

FORT WORTH, Texas — After a thorough national search, the Board of Directors of Legal Aid of NorthWest Texas (LANWT) named Maria Thomas-Jones as the new Chief Executive Officer, effective immediately. The Board met last month for its quarterly meeting, during which Board members unanimously voted to select Ms. Thomas-Jones, who has served as Interim CEO since February 2016.

“On behalf of the Board of Directors, I am pleased to officially welcome Maria Thomas-Jones as the new CEO of Legal Aid of NorthWest Texas,” says Jan Langbein, Board Chair. “Maria has served LANWT effectively in many different capacities during her 17-year tenure with the firm.”

In noting Ms. Thomas-Jones’ role as Interim CEO, Ms. Langbein says that Maria impressed the Board with her commitment and leadership. “Maria has demonstrated a style of leadership that is transparent and inclusive,” says Ms. Langbein. “She is strategic and has a solid vision for the future of LANWT. We believe she will bring the firm to even higher levels of achievement in providing legal services to low-income Texans.”

LANWT’s Board of Directors began its search for its next CEO earlier this year with a singular goal: select the best CEO to support what it considers to be the very best Legal Aid staff. A Search Committee was assembled comprising representatives from LANWT’s staff, executives, and union, as well as the Board. Throughout the process, the Board worked to ensure that its staff had an active role in the selection process by participating through surveys and a town-hall candidate forum. Ultimately, the Search Committee recommended Ms. Thomas-Jones as its top candidate.

“I am honored to have been selected from the broad field of candidates who applied to lead Legal Aid of NorthWest Texas,” says Ms. Thomas-Jones. “I look forward to continuing to work with our entire staff as we move our organization forward and meet our ongoing mission to deliver quality civil legal services to those in need in ever more innovative and effective ways, as our law firm has done for more than 65 years.”

Ms. Thomas-Jones, who joined LANWT in 1999, is a graduate of Case Western Reserve University School of Law. During her tenure with LANWT, she has served as a staff attorney, the Supervising Attorney of Family Law Unit in Dallas, Deputy Director, and Interim CEO.

-30-

Legal Aid of NorthWest Texas (LANWT) is a nonprofit organization that strives to meet the legal needs of more than 1.5 million eligible clients in its 114-county service area. The fifth-largest Legal Aid program in the United States, LANWT provides a wide variety of broad-based legal services to low-income and disadvantaged clients including family law, wills and estates, landlord/tenant cases, public benefits, real property, foreclosure prevention, and community revitalization matters.

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Auttum Flores has substantial experience in a variety of complex civil litigation matters with a particular emphasis on labor and employment, commercial litigation, regulatory, antitrust, and securities matters. Ms. Flores also frequently consults with employers in relation to a wide range of employment-related questions and issues, including wage and hour, discrimination and harassment, medical and other personal leave, terminations and layoffs, employee training, unfair competition and trade secrets, whistleblowing and retaliation, workplace safety, privacy and data security, workers' compensation and non-subscriber laws, and employee handbooks and policies.

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