



AMARILLO-LAW

amarillobar.org

Volume 32
January 2018
No. 5

A PUBLICATION OF THE AMARILLO AREA BAR ASSOCIATION

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PROMINENT AUSTIN ATTORNEY PRESENTS, “THE HIJACKING OF HOWARD HUGHES—A TEXAS TALE OF BIG MONEY AND LEGAL INTRIGUE”



Rick Harrison

Our first speaker in 2018 is Rick Harrison, an Austin trial attorney with a real tale to tell. The billion dollar question was, “Where did Howard Hughes live?” Upon his death, the state that could successfully claim Hughes as its own stood to gain a fortune in estate taxes. Texas, California, and Nevada were all in play, and the Federal Government had a real interest, too. Harrison spent eight years representing the State of Texas in seeking to collect inheritance tax from the Howard Hughes Estate, including a three month jury trial in Houston, two appearances before the United States Supreme Court (one by Attorney General John Hill and one by Harrison), and an Original Action in the Supreme Court between the State of California and the State of Texas. This presentation walks the audience through this legal saga and includes a hefty dose of legal ethics and fiduciary issues that this attor-

ney audience will sincerely appreciate. If only all of our cases were this interesting!

Rick Harrison has more than 40 years of experience in representing clients in complex commercial litigation at trial and on appeal in a broad range of areas, including business litigation, technology, intellectual property, employment and product liability. Rick's commercial litigation experience includes the successful defense of an international corporation in a \$40 million breach of contract/fraud claim before an AAA arbitration panel and the successful prosecution of a Lanham Act false advertising case that stopped the publication of false statements about an international company. He also successfully defended a \$35 million trade secret and patent infringement case while recovering \$1 million in punitive damages on a defamation counterclaim. Financial institutions frequently rely on Rick to defend against allegations of misconduct or breach of fiduciary duties. Additionally, Rick has more than 30 years of experience defending automakers and other manufacturers in product liability cases.

Before joining Waller Lansden Dortch & Davis, LLP, Rick was a partner with Taube Summers Harrison Taylor Meinzer Brown, LLP, a preeminent bankruptcy and civil litigation boutique firm in Austin, Texas. Rick is a 1966 graduate of the University of Texas and a 1968 graduate of the University of Texas School of Law.



PRESIDENT'S PAGE

By: Chris Jensen

Why Am I Getting Emails From Lawyers Who Want to be State Bar President?

By Tom Riney

I received the following article from Tom Riney and believe that it provides valuable and important information about the State Bar for AABA members. Rather than try to summarize Mr. Riney, I felt it is best to include his entire article below.

You have probably received several emails over the last several months from two lawyers asking for your support of their candidacy for President-elect of the State Bar as "petition candidates." If you have not seen these emails, there is a good chance they went to your junk mail folder. Several lawyers have commented the race for State Bar President has changed over the last few years and they wonder why. Hopefully, this column will answer some of the questions.

Traditionally, the Nomination and Election Subcommittee of the State Bar Board of Directors nominated two candidates for President-elect. Those nominees were generally approved by the board at a meeting in late January. The election is generally held in April-May and the candidates have significant restrictions on their campaign. Specifically, there could be no campaigning until a date certain after the nomination in late January.

The State Bar rules have always allowed lawyers to seek nomination by a significant number of signatures from Texas lawyers. In 2013, Steve Fischer obtained sufficient signatures to get on the ballot. Mr. Fischer received enough votes to get in a run-off with one of the board-nominated candidates. In 2017, Joe Longley got onto the ballot by petition and won a run-off. Several months ago, Randy Sorrells and Lisa Blue undertook efforts to obtain signatures to get on the ballot. The Nomination and Election Subcommittee has now nominated them as the candidates and the Board of Directors will vote on those nominations at its January 26, 2018 meeting.

As these matters developed, it became apparent the restrictions on campaigning give a petition candidate an advantage over those who were nominated through the traditional nominating process. Specifically, petition candidates can begin campaigning whenever they want and have a "head start" on traditionally nominated candidates. The signature

gathering process itself gives the petition candidate a significant advantage. Accordingly, the Board is in the process of revising the rules to level the playing field. From my experience on the Board I am confident the Board members will develop fair rules for this new environment. Other Bar leaders from our area agree.

The selection of the State Bar President is very important to our district. At least one petition candidate in the past favored consolidating our bar district with the Lubbock bar district and perhaps others. This would dilute our representation significantly. Not only does the State Bar provide many benefits to us (including outstanding CLE), it also impacts things such as our grievance committees. I encourage you to be an "informed voter" in the upcoming election.

The 15th Biennial AAYLA Las Vegas CLE will be held at The Venetian!

We will have a happy hour on Friday, February 23rd and CLE on Saturday, February 24th. Rooms are \$129.00 per night plus a \$39.00 resort fee per night and applicable taxes. Rooms at this special rate are limited and must be booked by Thursday, February 1, 2018. To make a reservation go to: <https://aws.passkey.com/go/AMARYL> or call The Venetian at (866) 659-9659 and mention group code RAMAR.

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7TH COURT OF APPEALS UPDATE

By Chief Justice Brian Quinn

Happy New Year and another new beginning.

It is not often we talk about findings of fact and conclusions of law, though they are often requested. But simply requesting them does not necessarily obligate the trial court to give them to you. For instance, in *Cogsdil v. Jimmy Fincher Body Shop, LLC*, 07-16-00303-CV, 2017 Tex. App. LEXIS 10166 (Tex. App.—Amarillo Oct. 30, 2017, n. pet. h.) (mem. op.), Cogsdil asked for findings of fact and conclusions of law after the trial court denied his motion to recuse. The trial court denied the request. We affirmed the decision given the focus of Texas Rule of Civil Procedure 296 (the rule that regulates when findings and conclusion must be issued). The Rule encompassed conventional trials conducted on the merits. An evidentiary hearing on a motion to recuse was not such a trial. So, while findings and conclusions may have been helpful, the trial court was not required to issue them.

Next . . . let's talk about deadly weapons or at least when a deadly weapon finding is appropriate in a criminal proceeding. Those proceedings usually involve settings where the defendant used or exhibited a deadly weapon (like a gun) during the commission of the crime. But the trick comes in deciding what "during" means. In *Mayes v. State*, No. 07-16-00290-CR, 2017 Tex. App. LEXIS 11032 (Tex. App.—Amarillo Nov. 28, 2017), the defendant showed his victim a handgun, put it away, watched one movie and portions of two others with the victim, and then sexually assaulted the victim. We concluded that simply showing the handgun some time before the assault was not enough to warrant a deadly weapon finding. Though we did not come up with any bright line, we had to conclude that the exhibition of the gun and subsequent assault were too attenuated in time and place. So, the deadly weapon finding was not appropriate here. I guess it really is dependent on the facts of each case.

Let's end this one with a bit on guardianship law. The authority to compromise claims and settle litigation is included in the statutory list of powers granted a guardian. And, if some order issued by the probate court says nothing about limiting that authority,

it seems that you may can presume that the guardian has the authority. We did just that in *Estate of Riefler*, No. 07-16-00375-CV, 2017 Tex. App. LEXIS 11033 (Tex. App.—Amarillo Nov. 28, 2017). There, the order issued by the court allowed the guardian "to act on behalf of [the ward] in all those legal proceedings currently pending in Cooke County involving the Estate of . . . Riefler, Jr." We found no limitation in that wording when it came to settling claims against the Riefler estate; so, the guardian was bound by the Rule 11 agreement he executed even though he later came to dislike the settlement.

Take care and make a difference this year.

TnT
PROPERTIES

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FOR JUDGE ■ RANDALL COUNTY COURT AT LAW NO. 2

VOTE FOR EXPERIENCE

Throughout my 37-year legal career, my spirit has been one of caring for each client, providing excellent service, and working hard on each case. I will bring that same work ethic and spirit of service to the Randall County Court at Law #2.

Randall County residents deserve a fair and conservative Judge, who will interpret and apply our laws properly, and who will effectively and promptly perform the duties of the Court. I will also draw on my numerous years of experience in managing a successful law practice to promote financial efficiency and cost saving measures in the Court.

I will work hard as your new Judge of the Randall County Court at Law #2 and respectfully ask for your vote in the March 6, 2018 Republican Primary (Early Voting February 20 – March 2, 2018). I encourage you to call with any questions or comments.



Experience

- Juris Doctor degree – University of Oklahoma School of Law (graduated in the top 5% of his class, Order of the Coif, Oklahoma Law Review Articles and Note Editor)
- BBA – Management degree – Texas Tech University
- Licensed to practice law in the States of Texas and Oklahoma, and in the United States Federal District Court for the Northern District of Texas
- Mediation Certification in civil litigation and family law
- Collaborative Law Certification
- Member of the State Bar of Texas (Section Memberships in Litigation and Family Law)
- Member of the State Bar of Oklahoma
- Member of the Amarillo Area Bar Association
- Member (and former president) of the Panhandle Family Law Association
- Leadership Amarillo alumnus and previous service on the boards of Court Appointed Special Advocates (CASA) and Family Support Services

StewartWernerForJudge.com



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YOUNG LAWYER OF THE MONTH: COLE BROWN



Cole Brown

Cole grew up ranching and playing six-man football in the small town of Turkey, Texas. After graduating as Valedictorian of his class from Valley High School in 2008, Cole attended Texas Tech University, where he graduated summa cum laude with a degree in Agricultural and Applied Economics in 2011. He then went on to attend law school at the Texas Tech University School of Law. Cole graduated summa cum laude from law school in May of 2015, and his beautiful wife, Lucy, gave birth to their first child

the following week. Thankfully, Cole still managed to pass the Texas bar exam on his first attempt and joined the Underwood Law Firm as an associate attorney in the Fall of 2015. His practice areas include estate planning, probate, real estate, agriculture, renewable energy, and public education law. Cole and Lucy have been blessed with two wonderful children, Brooks and Libby. Cole enjoys spending time with his family on the ranch. He is an avid hunter and fisherman and strives to spend as much time outdoors as he can.

Have a Merry Christmas!

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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 abell@bf-law.com and you will win a rolling briefcase provided by the State Bar of Texas.

Question: How many accredited law schools are located in Texas?



STATE BAR of TEXAS

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AAYLA UPDATE

By Tyler Topper

Happy New Year! I hope you've all had nice Christmas and New Year's holidays and are ready and energized to hit the ground running in 2018. There's still time to make a few new resolutions (or to start over on those resolutions you've already broken), so make the most of the opportunity for a fresh start in 2018!

One resolution that I hope you'll make (and keep) is to attend AAYLA's Las Vegas CLE on February 23rd

and 24th at The Venetian. Our CLE committee is lining-up a great slate of speakers, so book your room early for the best deal. If you have questions about the CLE, please contact Thomas McMillian at tlmcmillian@gmail.com.

In addition to our Vegas CLE, AAYLA will be hosting more happy hours and other events in the coming weeks. Be on the lookout for these opportunities to connect with



other area lawyers and to serve our community.

As always, if you have any questions or would like to learn more about the AAYLA, please contact me anytime at ttopper@bmwb-law.com or 806.358.8116.

Bar to Gather for Wine Dinner

Fine wines and a mouthwatering meal will once again be the stars of the Amarillo Area Bar Foundation's Wine Dinner on Friday night, January 26, at the Amarillo Country Club. The party is the AABF's major fundraiser for the scholarships that are awarded each May to four Panhandle students attending law school.

The evening will feature a live and a silent auction of premiere wines, travel, gift certificates, and other items. Assiter Auctioneers has agreed to serve as the auctioneers and Mark White will emcee the event.

The meal features wine pairings with each course. The courses include mini crab cakes, walnut brie phyllo cups, heritage baby greens salad, Black Angus beef tenderloin with a bordelaise sauce, and a white chocolate apple pie profiterole. There will also be a cash bar available.

Guests will have an opportunity to pay for a "wine pull", where the guest can choose between numerous mystery wines, with the chance to score a fine vintage bottle.

Each attendee is requested to bring a first-rate bottle of wine and/or a wine accessory to be included in the auction.

The party is not just open to lawyers, so encourage your clients and friends to attend this fun evening.

Amarillo Area Bar members were tremendously charitable in the recent collection drive for local children's agencies (The Bridge, Catholic Youth Shelter, and Child Protective Services). Boxes and bags of toiletries, wrapped snacks, and small toys were delivered on Dec. 18 to each agency. They were thrilled by the generosity of Amarillo area attorneys. On behalf of those agencies and the officers of the Bar Association and Foundation, a warm thanks is extended to all.

Firms may purchase a table for eight people for \$1,250.00. Individual tickets are \$125.00 per person. Reservations must be made in advance to Janet Byers, Executive Director of Amarillo Area Bar Association and Amarillo Area Bar Foundation, director@amarillobar.org, (806)371-7226.

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YOUR BAR EVENTS - JANUARY 2018

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14	15	16	17	18	19	20
21	22	23	24	25	AABF Wine Dinner, Amarillo Country Club26	27
28	29	30	31			