

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

Return Service Requested

## **EXECUTIVE COMMITTEE**

Chris Jensen, President **Brad Howard.** President-Elect Joby Mills, Vice President Matt Sherwood, Secretary-Treasurer Mark Logsdon, Immediate Past President

Terms Expire 2018: **Christy Drake** Jennie Knapp **Brian Farabough** 

Terms Expire 2019: **Audrey Mink** Josh Woodburn **Bobby Ramirez** 

Tyler Topper, AAYLA President Janet Byars, Executive Director Erica Beacom, AMA-LAW Editor

# YOUR BAR EVENTS - APRIL 2018

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	AABA Bar 12 Luncheon, Main Dining Room, 31st Floor, Amarillo Club	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					
	Institute on Es	tate Planning				

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



A Publication of the Amarillo Area Bar Association

**f** we are extending a special invitation to all of our attorneys who have been licensed to practice law for 50 years or more to attend our AABA lunch meeting on April 12 at the Amarillo Club. 11 -Page 2

**ff** I was once asked if I would drink treated, recycled effluent. I hope I never have to find out what my answer would be. 55

CONTENTS

**President's Page** 

Young Lawyer of the

**Seventh Court** 

**AAYLA Update** 

of Appeals

Month

-Page 4



attorney in Dallas whose topic crosses all practiceareasandhaspracticalapplication for every attorney. Erika Bright, a Partner in the Dallas office of Wick Phillips, will present the topic: "Show Me The Money: Triggering Insurance Coverage to Protect Your Clients." Whether you represent individuals, corporations, or business entities of any kind, there is a possibility that the behavior they are accused of might trigger insurance coverage, or at least a duty to defend on the part of an

For more than 20 years, Erika Bright has litigated and counseled on complex insurance coverage, indemnity, business and construction disputes throughout all major industries. Recognized as a leading authority on insurance coverage and commercial litigation, Erika has devoted her practice to protecting clients and finding recovery in their time of need. Erika represents corporate policyholders

ERIKA BRIGHT IS OUR APRIL SPEAKER



Erika Bright

Our April speaker is a well-known

Environmental and Energy policies. Additionally, Erika is an accomplished lecturer and author on insurance issues and frequently speaks at industry conferences, events and law schools nationwide. Ms. Bright serves as Faculty Member and lecturer for the Texas Bar CLE's Advanced Insurance Law Course and UT Law CLE's Annual Insurance Law Institute. She has authored and contributed to many leading publications, such as the ABA's Handbook on Additional Insureds and Law 360. Prior to joining Wick Phillips, Erika

in disputes with insurance carriers and

advises clients on all insurance-related

topics, including how to minimize risk,

draft indemnity agreements and obtain

courtroom and has litigated insurance disputes involving virtually all types of coverage, including Directors and Officers (D&O), Errors and Omissions

(E&O), Fiduciary Liability, Commercial

General Liability (CGL), Property, Builder's Risk, Employer's Liability,

Erika has extensive experience in the

optimum insurance coverage.

was a partner at Haynes and Boone, LLP in the firm's insurance coverage and business litigation practice groups.

Erika has received numerous honors and awards, including recognition as one of The Best Lawyers in America (2013-2018) and Texas Super Lawyer in Insurance Coverage, Business Litigation, and Construction Litigation (2012-2016). Erika is a 1997 graduate of the University of Oklahoma College of Law. We look forward to her very informative presentation in April!



# PRESIDENT'S PAGE

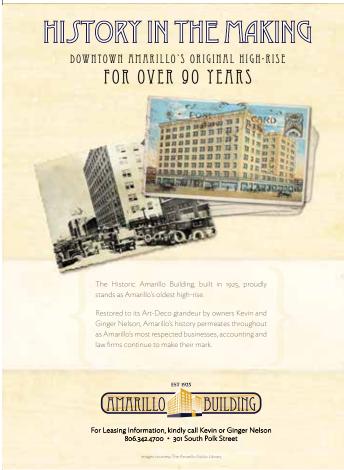
By: Chris Jensen

## In 1968 ....

In 1968, Lyndon Johnson was in the White House, the minimum wage was \$1.60 per hour, a gallon of milk was \$1.15, a loaf of bread was 22 cents, gas was 34 cents a gallon, a movie ticket was \$1.50, the average income per year was \$7,850 and the average cost of a new house was \$14,950. 1968 also had more than its fair share of bad news: Martin Luther King, Jr. and Robert Kennedy were assassinated and North Vietnam and Viet Cong troops launched the Tet offensive. We saw a number of technological advances in 1968: the Boing 747 made its maiden flight, NASA launched Apollo 7, the first ATM was installed, the Emergency 911 service started, and Intel was formed. In the midst of these law prices, world events, and technological advances, the following members of the AABA were practicing law:

Charles Aycock Art Baker Jim Besselman Maston Courtney John T. Boyd **James Doores** Robert Forrester Seldon Hale Don Jackson Billy Jarvis George Jennings Wales Madden Dee Miller Oth Miller **Charles Moss** Tom Morris John Oden Don Patterson Mary Lou Robinson Eddy Scott, Jr. Otis Shearer Carson Smith **Bob Templeton** 

Walter Wolfram



I do not want to miss anyone. If you are aware of any other 50 year lawyers, please let me or Janet Byars know (371.7226). The Bar would like to honor these lawyers. We are extending a special invitation to all of our attorneys who have been licensed to practice law for 50 years or more to attend our AABA lunch meeting on April 12 at the Amarillo Club. Please plan to attend and help us honor our attorneys who have been licensed for 50 years.

from September through May by the Amarillo Area Bar Association.

## **Advertisement Rates**

	Single issu
<b>Business Card</b>	\$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 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

112 West 8th Avenue, Suite 615 Amarillo, Texas 79101

e-mail: director@amarillobar.org

Phone: 806-371-7226

lo-bar.org for information and links to both local and state-wide legal resources.



## AAYLA UPDATE

# Happy Easter



Easter Egg Hunt Courthouse lawn

Friday, March 30th @ 4 pm Contact Tom Knapp or Chelsie Kidd with any questions (tknapp@bf-law.com or ckidd@bf-law.com)



Bunny Hop 5k

Thompson Park Saturday, March 31st @ 9 am.



## **Amarillo Area Bar Association**

Invites you to the 2018 Spring Institute Seminar \* Golf Tournament \* Dinner sponsored in part by the State Bar of Texas

## Friday, May 4, 2018

Spring Institute Seminar: Amarillo College West Campus Lecture Hall, 6222 W. 9th Registration and Breakfast courtesy of Underwood Law Firm

8:30a m Welcome by Joby Mills, Chair of Spring Institute

Mr. Gary Kennedy, Former Senior Vice President & General Counsel of American Airlines, "Twelve Years of Turbulence: The Role of

Lawyers during Times of Crisis"

9:50-10:00a

10:00-11:00a Mr. Jody Holland, "How to Read Anyone in 10 Seconds or Less"

Mr. Dustin Benham, Texas Tech University

## Friday, May 4, 2018

Golf Tournament: Ross Rogers Golf Course, 722 NW 24th Ave. Registration: box lunches and beer: Welcome

Shotgun start with awards ceremony at conclusion of tournament

(Mulligans for sale - 2 for \$20)

## Saturday, May 5, 2018

Spring Institute Dinner: Embassy Suites, 550 S. Buchanan St.

Cocktail Hour

7:00p

Installation of Officers and Directors: AABA, AAYLA, AABF, and 7:45p AABF Scholarship Presentation; presentation of Justice Reynolds Award

8:00p Live music performed by JARS of Sound

For any additional information please call the AABA office 806.371.7226

Page 2 Page 7

# Young Lawyer of the Month: Grant Gibson

(This is my favorite article in all the world, though I have never read it. – Grant Gibson) Most young lawyers of the month write their own article in the third person, but Grant Gibson is not your typical young lawyer.

Hailing from the booming metropolis of Iowa Park, Texas, Grant demonstrated his atypical nature at an early age. His father describes him as a revolutionary. His mother loves his sister and the family dog, so she was unavailable for comment. In high school, Grant excelled at academics, football, basketball, and baseball. But, he could not hide from his true passion: Medieval fairs...because it is not every day you can dress up as the Dread Pirate Roberts and let yourself be free.

After high school, Grant traveled to the flatlands of Lubbock, Texas, to attend Texas Tech University. He was a member of the Texas Tech baseball team for a time, but he decided that the most appropriate place for his talents was the intramural softball fields, where the 200-foot fences were more within reach. Plus, no curve balls. When he wasn't focusing on his professional softball career, Grant obtained a B.B.A. from the Rawls College of Business. When the sponsorships did not arrive from Rawlings, Grant decided that law school was a good back-up plan.

Despite the existence of an excellent law school full of brilliant students in Lubbock, Texas, Grant chose to move to Waco to attend law school. While at this "other" law school, Grant found that his passion was to be a litigator. Or, maybe it was just that this law school made him go to pretend court and required him (and



all other graduates) to talk about pretend court ad nauseam. Regardless of the reason, Grant sought a litigation position out of law school, and accepted a



Grant Gibson

position at Burdett, Morgan, Williamson, & Boykin.

Since joining BWMB, Grant has continued to hone his skills as a litigator, recently being accepted into the partnership at the firm. When not billing hours, Grant gallivants from smoky bar to smoky bar as a member of the esteemed cover band, "Not Them Again." Or, at least that's the unofficial name, based upon what is usually yelled at the band when they begin a set. Grant's favorite passion, however, is running over, around, and through obstacles in Spartan Races, where he desperately tries (and fails) to keep up with Sam Karr. Despite the routine losses to someone nearly twice his age, Grant manages to hold his head (and his participation medals) high.

## AMARILLO AREA ESTATE PLANNING COUNCIL

## TWENTY-SEVENTH ANNUAL INSTITUTE ON ESTATE PLANNING

**APRIL 30 AND MAY 1, 2018** 

**Professor Lee Schwemer** – Recent Developments Affecting Estate Planning

**Donald O. Jansen** – When Business Life Insurance Results in Income or Compensation – Depends on Who Owns the Policy; Oops! The Fifty Most Common Life Insurance Planning Mistakes.

Paul Dostart – Ruling From the Grave: Protecting Donor Charitable Gift Restrictions (aka "Safeguarding a Charity's Endowment")

**G. Murphy Davis** – Advising Clients in the Current Uncertain Markets

**Thomas G. Hineman** – Business Taxes after the Tax Cut and Jobs Act

Alan K. Davis – Estate Planning after the Tax Cut and Jobs Act

Walter T. "Four" Price – Legislative Update & Interim Charges of the 85th Legislative Session

**Deborah J. Tedford** – Practical Considerations for All Wealth Transfer Advisors and Their Clients – Social Security Benefits and Retirement Planning





Page 6 Page 3



# 7TH COURT OF APPEALS UPDATE

By Chief Justice Brian Quinn

I was once asked if I would drink treated, recycled effluent. I hope I never have to find out what my answer would be. However, in Davis v. City of Lubbock, No. 07-16-00080-CV, 2018 Tex. App. LEXIS 1034 (Tex. App. - Amarillo Feb. 6, 2018) (mem.op.), several horses ate hay cut and baled from land owned by Lubbock and watered with treated effluent. Three fell sick and two died. The owner sued and, you guessed it, Lubbock invoked its sovereign immunity. To avoid it. Davis initially contended that the baling and selling of hav was a proprietary, not a governmental, function. We acknowledged, in Davis, that a municipality is not immune from suit when performing proprietary functions. But, disposing of effluent is a governmental function, and doing it in the way Lubbock did was part of a method approved by the Texas Commission on Environmental Quality. So, the City's actions were not proprietary. Furthermore, using machinery to harvest the crop did not place the City's actions within the exception to immunity found in section 101.021(1)(A) of the Civil Practice and Remedies Code relating to injury caused by motor driven equipment. The bacteria growing on the hav caused the injury, not the machinery used to cut it.

How about a reminder? It concerns jury instructions and article 38.23(a) of the Texas Code of Criminal Procedure. A defendant may be entitled to an instruction telling the jury that if it believes evidence was obtained illegally then it must disregard it. But, that entitlement arises when facts underlying the manner in which the evidence was obtained are contradictory. For instance, let's assume the defendant says he was in custody or under arrest because the interrogator held him for 10 hours, denied him food and water, and handcuffed him to the table prior to confessing without having been told his Miranda rights. Let's also assume that the interrogator admitted he did not mirandize

# AABA History Quiz WIN A ROLLING BRIEFCASE!

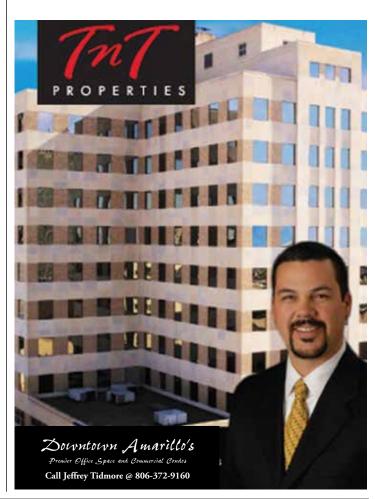
Be the first to correctly answer the question below and send your answer to ebeacom@bf-law.

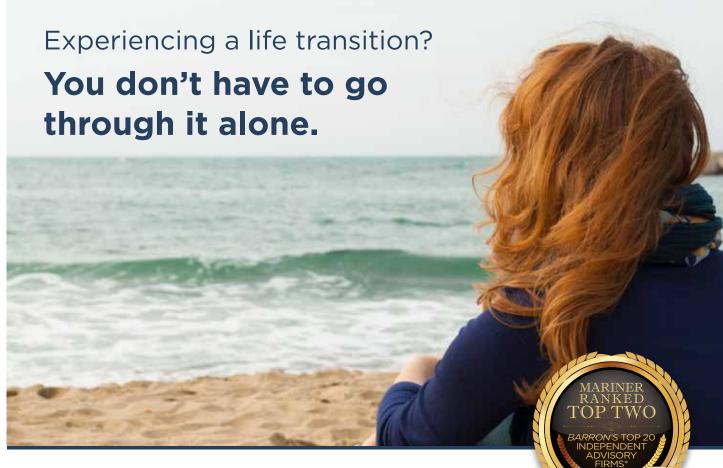
com and you will win a rolling briefcase provided by the State Bar of Texas.

Question: How many accredited law schools exist in Texas?



the defendant but denied everything else the defendant said. The ultimate question is custody and whether the defendant was in custody. That is a question of law. On the other hand, who to believe is not a legal question but one for the jury to decide. So, the article 38.23 instruction is submitted to the jury. On the other hand, if the interrogator agreed with everything the defendant said, then an instruction would be unnecessary since the underlying facts are undisputed. In that situation, it would be up to the court to decide if the scenario equated custody. I know, it all sounds like a big ol' technicality but what fun would there be in the law if there were no technicalities. Read our opinion in *Chappell v. State*, No. 07-17-00151-CR, 2018 Tex. App. LEXIS 882 (Tex. App.—Amarillo Jan. 31, 2018) (mem. op., not designated for publication), where again we discussed the technicality.







Suzanne Wheeler, CFP®, AIF®, CeFT® Partner, Senior Wealth Advisor

A life transition, such as a divorce, the death of a loved one, retirement, an inheritance, etc.,

can have far reaching implications to both your emotional and financial well-being. Consider working with an advocate who understands the challenges you face. Suzanne Wheeler, as the only Certified Financial Transitionist® in Amarillo, is specifically trained to help clients navigate life transitions. With more than two decades of experience serving clients, she can help smooth the way to your new normal, with a focus on achieving your long-term objectives.

Contact Suzanne today to learn more about how she can serve as your partner in navigating your life transition.



806-513-1118

suzanne.wheeler@marinerwealthadvisors.com www.marinerwealthadvisors.com 7971 SW 45th Avenue, Suite 100, Amarillo, TX 79119

\*Barron's awarded the 2017 #2 and the 2016 #1 rankings in the Top 20 Independent Advisory Firms to Mariner Holdings based upon data compiled for Mariner Holdings' registered investment adviser subsidiaries. Barron's publishes these lists based upon a number of criteria and the firms' filings with the SEC were used to cross-check the data provided to Barron's. The listing includes the firms' numbers of clients, employees, advisors, offices and state locations. The award is not indicative of future performance and there is no guarantee of future investment success.

Mariner Wealth Advisors ("MWA") is an SEC registered investment adviser with its principal place of business in the State of Kansas. Registration of an investment adviser does not imply a certain level of skill or training. For additional information about MWA, including fees and services, please contact MWA or refer to the Investment Adviser Public Disclosure website (www.adviserinfo.sec.gov).

Page 4 Page 5