

AMARILLO-LAW

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-Page 2

“His individualized general fear of the police due to the newscasts, though, did not prevent the jury from convicting him or us from finding sufficient evidence showing that he intentionally fled the officer.”

-Page 4

CONTENTS

President’s Page	2
Seventh Court of Appeals	4
Young Lawyer of the Month	6
AAYLA Update	7

“MAXIMIZING THE VALUE OF MEDIATION”

Co-Sponsored by the Amarillo Area Bar Association and the State Bar of Texas as ADR Section

We are very pleased to welcome as our October featured speakers, three very experienced mediators: Paul D. Clote, David Russell, and Kirk Crutcher. This panel of mediators will focus their presentation on assisting practicing litigators by presenting insights to effective mediation skills and strategy. In addition to obtaining key tips to a successful mediation, this panel discussion will also include a question and answer session with the mediators.

Paul D. Clote relies upon his forty years of trial and appellate experience to



Paul D. Clote

help litigants understand their risks, costs and alternatives to a negotiated settlement. Trying lawsuits to jury verdicts and arguing appellate cases in state and federal courts supplies Clote with a vast amount of real time experience and has provided him an opportunity to specialize in complex commercial cases. In 2007, Paul Clote was recognized as a Texas Super Lawyer (Business Litigation and ADR).

David Russell has been trying lawsuits in the Panhandle for thirty-one years. He has handled personal injury

and commercial cases from both the plaintiff and defendant’s side of the docket. He has also served as a mediator since 2000, assisting in the settlement of several hundred cases. David’s “mediator motto” is “Never Give Up.” In his opinion, there is almost always a way to find a resolution to a dispute that will benefit all parties.



David Russell

Kirk Crutcher has over twenty-five years of litigation experience and is currently a full-time mediator throughout West Texas. He serves on the board of the Texas Attorney Mediators Coalition and reviews all



Kirk Crutcher

proposed mediation legislation. He frequently guest lectures for the Texas Tech School of Law ADR classes. Kirk holds three mediation certificates and has been rated “AV Preeminent” by Martindale-Hub- ble for ADR.

Please join us on October 11, 2018, for what promises to be an insightful and entertaining presentation.



PRESIDENT'S PAGE

By: Brad Howard

“A Golden Opportunity to Help Others”

With its cooling temperatures, great college football matchups, changing leaves, and the golden colors of fall, October has always been my favorite month. Recently, I was invited by Judge Schaap and local representatives of Legal Aid of NorthWest Texas to discuss the many ways local attorneys can assist those in need. During this extremely informative lunch meeting, I learned that October is the month to commemorate and celebrate pro bono legal work, as October is the national Pro Bono Month. This gives me an additional reason to love October! You see, if you spend any time at all in the local Legal Aid office with the dedicated attorneys and staff serving local residents in need, it becomes obvious that in their very modest office at 203 West 8th, the Legal Aid attorneys and legal professionals are working diligently to help local people in need in numerous imperative ways. Their assistance comes in many forms, including but not limited to: assisting local residents to obtain housing, helping residents secure drivers' licenses, resolving family disputes involving children, and assisting the elderly with guardianship matters. It was heartwarming to learn the many ways that Kay Pechin, Managing Attorney at the local Legal Aid office, and her staff serve many local residents in Amarillo and throughout the Panhandle who need help.

Yet Legal Aid cannot do it all by themselves; in fact, due to a lack of resources and a shortage of supporting attorneys, Legal Aid is forced to turn down many people with legitimate needs for legal services. Back in the old days, my first boss in my big firm referred to non-paying corporate clients as “pro bono work,” but boy was he wrong. While pro bono work is an investment of some—though not much—time, it allows attorneys to help individuals and families with real legal problems. Pro bono work is every lawyer's opportunity to turn the desire to help others into tangible results that change lives.

There are many organizations supporting Panhandle residents in need, and Legal Aid of NorthWest Texas is just one of them. However, their operations are well-gearred to incorporate local Panhandle attorneys located in Amarillo, Hereford, Perryton, Dumas, and Borger, among other communities, who want to help others but do not know exactly how. Legal Aid of NorthWest Texas will train you, support your efforts, and ensure that you know what you are doing to help others. This isn't a full-time or even a part-time job. Instead, it is merely a commitment to spend a few hours here and there in

an effort to make a difference. Sure, you may need to attend a clinic and study a little to become familiar with an area of law that looks different than your own, but with a little effort on your part, Legal Aid can plug you into the system. Once in the system you become a part of a small—but hopefully growing—network of local attorneys whose most important clients include persons in need. Volunteer pro bono attorneys can solely work in clinics, independently take on cases, or both. Legal Aid will put you to work in a way that suits your schedule, and in return, your efforts will be greatly appreciated. If you want to help, please call Kay Pechin at (806) 373-6808, ext. 6502, or email her at pechink@lanwt.org. Kay will be in attendance at the October 11th AABA Luncheon to pass out materials and to answer your questions after the meeting.



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Young and Newsom, PC is looking to hire an associate attorney to support its diverse civil litigation practice handling employment, commercial, tort, and estate/trust disputes. The opportunity exists for substantial client interaction, court appearances, and assumption of significant responsibilities. Superior legal research/writing and at **least three years litigation experience are required.**

**Contact Jeremi K. Young
at 806.331.1800**

The background of the flyer is orange with various Halloween-themed illustrations including a jack-o'-lantern, stars, candy, and a ghost.

*Texas Panhandle Paralegal Association's
Annual Attorney/Paralegal Luncheon*

SAVE THE DATE

"Ethics - Don't Let it Haunt You"

Date: October 18, 2018

Time: 12:00 p.m. - 1:00 p.m.

Place: Amarillo Club, 30th Floor

Price: \$30 per person

Speaker: Javan Johnson, ACP, TBLS

Board Certified Paralegal - Civil Trial Law

RSVP by 10/11/2018 -



7TH COURT OF APPEALS UPDATE

By Chief Justice Brian Quinn

Watching television leaves its effects. I am a comedy man myself because some of the dramas leave me awake at night. Well, it may have also affected the defendant in *Delaney v. State*, No. 07-17-00027-CR, 2018 Tex. App. LEXIS 6564 (Tex. App.—Amarillo Aug. 20, 2018). The State tried and convicted him of evading arrest. A police officer attempted to stop him for driving with only one working headlight. Despite being aware of the officer's efforts, Delaney continued until he arrived at his father's house. The reason he did so allegedly related to having seen television news reports about police shooting black men during traffic stops. Delaney wanted someone, like his Dad, to witness the stop. His individualized general fear of the police due to the newscasts, though, did not prevent the jury from convicting him or us from finding sufficient evidence showing that he intentionally fled the officer. Television can be fun and informative. It can be spook, too. But, whatever it is, we must remember to avoid letting it control us.

Plaintiffs have the burden to prove their case at trial. Defendant's have the burden to prove their affirmative defenses. And, appellants have their own burden on appeal. It involves the task of getting us a record sufficient to establish reversible error. In *In re E.R.S.*, 07-17-00255-CV, 2018 Tex. App. LEXIS 3762 (Tex. App.—Amarillo May 24, 2018), the appellant was the victim of a default judgment. She moved for a new trial, and the trial court convened an evidentiary hearing on and eventually denied her motion. So, she appealed. Missing from the appellate record, though, was the reporter's transcript of the new trial hearing. She did not file it. That left us with having to affirm the trial court. Without a record of what evidence it heard at the hearing, we could not assess whether the trial court abused

its discretion. So, again, like a plaintiff at trial, an appellant also has to prove his or her entitlement to relief and provide a record illustrating that.

Mailing a notice through certified mail, return receipt requested, may give rise to a presumption of receipt by the person to whom the notice was addressed. But, be cautious. If the notice comes back as undelivered and the sender has no evidence that the intended recipient refused to accept or otherwise avoided delivery, that presumption evaporates. That's what we said in *Schor v. U.S. Bank, N.A.*, 07-17-00397-CV, 2018 Tex. App. LEXIS 6312 (Tex. App.—Amarillo Aug. 9, 2018). The saving grace in *Schor*, though, was that the alternate notice sent by regular mail did not come back. That gave rise to the presumption of receipt. Pretty tricky, eh?

Remember, you don't have to be a kid to play dress-up -- Happy Halloween!



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: In April 1832, Sam Houston was arrested for beating Congressman William Stanbery with a hickory cane. Who did Houston hire as his attorney?



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*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.

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YOUNG LAWYER OF THE MONTH: MATTHEW MERRIOTT



Matthew grew up just down the interstate in Lubbock, Texas. Both of his parents have their own businesses and growing up in such an entrepreneurial environment prompted Matthew to go to business school with the notion that he might be able to help other small businesses succeed. He graduated with a degree in finance from Texas Tech and remained there for law school, where he continued following the same interests and completed the Business Law Concentration Program. Matthew graduated summa cum laude from Texas Tech in 2017 and was elected to the school's chapter of the Order of the Coif.

Matthew and his wife, Deirdre, moved to Amarillo in the summer of 2017 for Matthew to take a position as an associate attorney with Lovell, Lovell, Isern & Farabough. At the Lovell Firm, Matthew practices broadly in commercial and civil litigation, working on

everything from personal injury and property damage to contract and oil and gas disputes. He joined the AAYLA Board this year and looks forward to being more involved in the legal community. Deirdre is now teaching English at Travis Middle School in Amarillo.

Outside of work, Matthew bounces between numerous hobbies and activities, normally dragging Deirdre along for the ride. Together, they enjoy hiking and backpacking, participating in renaissance festivals, and trying new foods and experiences. Matthew competes with the Amarillo Competitive Fencing Association, enjoys leatherworking, blacksmithing, gardening, cooking, and homebrewing, and is currently working on setting up a new aquarium. Matthew and Deirdre have two wonderful dogs, an acceptable cat, and will likely be adding more pets in the future.

AMARILLO TO OBSERVE EIGHTH ANNUAL RED MASS

All judges of the Texas Panhandle will be the guests of honor at the Eighth Annual Red Mass Ceremony on Tuesday, October 2, 2018, at 6:30 p.m. at St. Mary's Cathedral, 1200 S. Washington in Amarillo. We invite, and encourage, all attorneys to attend. Sponsored by the Roman Catholic Diocese of Amarillo, the Red Mass is a centuries-old tradition that marks the official opening of the judicial year. The service promotes the unity of the judiciary and the legal profession and invokes the blessing of the Holy Spirit upon the judicial system, the judiciary, and those whose duty it is to judge, teach, and resolve legal matters in the pursuit of justice. Because the color red is traditionally symbolic of the Holy Spirit, the liturgy has become known as "the Red Mass".

A Red Mass is held each October in Washington, D.C., to mark the opening of the term of the United States Supreme Court. Many dioceses in the country, therefore, celebrate their Red Mass in October as well. The Red Mass is open to all judges, lawyers, public officials, law enforcement and any members of the community with a concern for justice, regardless of religious background. We welcome everyone to St Mary's for this very special celebration.

Bishop Patrick J. Zurek of Amarillo will serve as principal celebrant, and the Mass will be followed by a keynote address from William "Bill" Piatt, who is a Professor of Law at St. Mary's University School of Law in San Antonio, Texas and previously served as Dean from 1998 to 2007. Bill has taught, published, and lectured extensively regarding the law and Catholic issues. His most recent book, *Catholic Legal Perspectives*, 3rd edition (Carolina Academic Press, 2018) summarizes legal concerns and Catholic doctrine in number of contemporary areas of concern including family law issues (marriage, divorce, custody, and adoption), life and death issues (abortion, death penalty, assisted suicide, cloning), immigration, and others. Bill uses this book as the educational materials in teaching a course he created at St. Mary's University: *Catholic Legal Perspectives*.

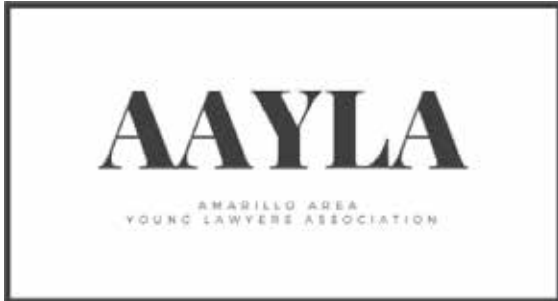
A reception with heavy hors d'oeuvres, beer and wine will follow the Mass and keynote address. Dress attire is business attire, and everyone is encouraged to wear red accents.

A committee of members from the Amarillo Area Bar Association has been working with Bishop Zurek to plan this event. For additional information, please contact Brad Howard at 345-6310 or bhoward@bf-law.com.

AAYLA UPDATE

By Courtney White

AAYLA has a new look! I'm happy to announce that our Board of Directors has selected the following logo:



We are so excited to use this logo to market the work we do for (and at!) the bar, and for the community.

AAYLA will be hosting its annual New Lawyer Orientation on Thursday, October 11, immediately following the October Bar Luncheon. All new lawyers (newly licensed or new to town) are invited to meet our local judges, tour the courthouses, and network other new lawyers in town. If you have any new



lawyers to attend this event, please email those names to Joe Hinton at jhinton@bmwb-law.com.

The Orientation will end with a Happy Hour at 5:30 PM at Happy State Bank (downtown branch lobby). Happy is generously providing refreshments and hosting us for a cornhole tournament—LAWYERS VS. BANKERS! Everyone is invited to help us welcome our new lawyers (and defeat the bankers at their own game). Thank you, Happy State Bank!

We hope you received a membership application in the September issue of AMA-LAW. If you have not done so already, PLEASE renew your membership or become a new member! If you need a copy of the application, or if you have any questions, please email me at courtney.white@amarillo.gov.

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YOUR BAR EVENTS - OCTOBER 2018

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	AABA Bar Luncheon, Emassy Suites 11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			