

# AABA-LAW

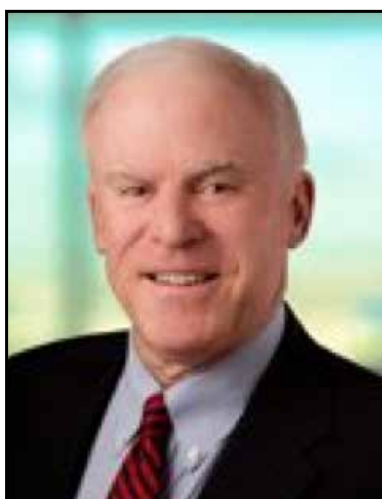
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No. 4

A PUBLICATION OF THE AMARILLO AREA BAR ASSOCIATION

## CRASH COURSE – DANGEROUS (OR EXCITING) INTERSECTIONS BETWEEN STATE LAW AND BANKRUPTCY LAW

Our speaker for the December AABA luncheon on Thursday, December 13th, is Roger Cox. Roger's presentation will highlight the major "intersections" between bankruptcy and state law as well as the instances where the topics collide. He will even share with our group some "buzzwords" unique to bankruptcy practice.



**Roger Cox**

Roger is a Shareholder in the Underwood Law Firm in Amarillo. Before starting the practice of law in 1983, Roger graduated from Texas State University and also St. Mary's University School of Law, where he served as the Senior Associate Editor of the St. Mary's Law Journal. He is Board Certified in Commercial Real Estate Law, Farm & Ranch Real Estate Law, and Business Bankruptcy Law by the Texas Board of Legal Specialization. His practice focuses on bankruptcy, real estate and finance, agribusiness, and motor vehicle dealerships. He also serves as a mediator in matters involving these practice areas.

"This may seem like an odd practice combination," said Cox, "but so many substantive property issues are addressed in bankruptcy and work-out situations, and now we even have some motor vehicle dealership bankruptcies in the area." Cox added, "Maybe we can all make some sense about what happens when these practice areas all plow into each other."

Roger is the author of "Cox's Texas Creditors' Rights Law Annotated" (Thomson Reuters / West 2018). In addition to this feat, he regularly authors professional articles on a myriad of topics and regularly presents at a variety of CLE events throughout the state. From 2012 to 2016, he served as a guest lecturer in the Oklahoma State University Spears School of Business "Negotiation Essentials" course. Roger has an AV rating from Martindale-Hubbell and has been included in the "Best Lawyers" listing. Please join us on December 13, 2018, for what promises to be an insightful presentation.

*"Move on, Counselor!" And so I will.....but not before I speak for our bar in expressing heartfelt admiration and respect for Judge Mary Lou Robinson "*

*-Page 2*

*"A factual sufficiency claim is preserved through a motion for new trial. More appellants have been forgetting this lately, especially in appeals involving termination of parental rights. "*

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# PRESIDENT'S PAGE

By: Brad Howard

## “A Fitting Ceremony”

“Counselor, return to the podium!” Immediately realizing my error, I responded: “Yes, Your Honor, my apologies. May I retrieve an exhibit from counsel table?” She responded with an uptick in her voice, “Hurry Counselor...and then proceed with your questioning.” This was how I started my first cross-examination in Judge Robinson’s Court, but it was all smooth sailing after that, once I understood the unwritten rules of the podium boundary, as well as courtesy to everyone (even an adverse witness), preparation at all times, speed (or at least not delay), and last but not least, never suggest to the Court at 4:55 p.m. that now might be a good time to end the day. Thankfully I never did that, but a lawyer from out of town did, and mercifully the Court recognized his next witness was not there, and we recessed a few minutes early. She always smiled wryly when the Pretrial Conference began in chambers (once lawyers scrambled to carry conference table chairs over to her desk), and after that it was all business for a week or two or however long you said you needed to try your case (less a full day)—because you can’t really need that much time.

Dozens of lawyers in our area have their own stories of trying cases in Judge Robinson’s courtroom, and thankfully most of us recall very fondly exactly ten minutes of voir dire, tiny water cups, ELMO’s five minute warm up when you need it right now, surprisingly long lunch breaks, efficient but very fair trials, the opportunities we all had to dismantle witnesses provided that we were courteous and expeditious, and the familiar, disapproving look we received when opposing counsel dared us to beat a dead horse. “Move on, Counselor!” And so I will.....but not before I speak for our bar in expressing heartfelt admiration and respect for Judge Mary Lou Robinson, a Panhandle pioneer who for decades ensured that our clients had their day in Court and, win or lose, walked away knowing that they were treated with respect and the utmost fairness.

J. Marvin Jones was also a pioneer who served his country for half a century, and on November 7, 2018, he made room for Judge Robinson to join him in our newly-renamed J. Marvin Jones Federal Building and Mary Lou Robinson United States Courthouse. In a wonderfully fitting ceremony, local lawyers and area judges eloquently justified this exceedingly rare re-naming of a federal courthouse in the lifetime of an esteemed federal judge. Chuck Alexander belted the National Anthem like he was at Game One of the World Series, and then we had the joy of listening to a plethora of heartfelt tributes from Chief Judge Barbara Lynn, Tom Riney, Judge Averitte, Judge Fitzwater, Bobby Babcock, Congressman Mac Thornberry, and finally Judge Robinson’s daughter, Diana Robinson. All of us were moved by a ceremony that aptly highlighted the rare opportunity Amarillo lawyers have been afforded in practicing before a legal legend. Judge Mary Lou Robinson will live on

in infamy, with a building bearing her name for an immeasurable amount of time, and in the minds of every fortunate lawyer that practiced our trade in her second floor courtroom, and now her United States Courthouse.

Hopefully I speak for many others, including local legends like Tom Morris, Bob Templeton, Bob Smith, Wayne Sturdivant, and Tom Riney, as well as countless Assistant United States Attorneys, appointed defense counsel, local attorneys and out of town guests, who owe Judge Robinson a great debt for the opportunities she afforded us to try our cases in her very familiar courtroom with Chuck, Melba, Delynda, Sharon, Stacy, annual law clerks who came and left, and courtroom security officers who knew how the case would turn out long before we did. God Bless the Honorable Mary Lou Robinson, and a big “Thank You” to our bar and the Northern District for recognizing her in this beautiful and moving ceremony. I will never forget that on this cold and murky day, I was a witness to history in this warm and strangely comfortable second floor courtroom and, like many of you, I will miss her dearly.

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# 7TH COURT OF APPEALS UPDATE

By Chief Justice Brian Quinn

Can you believe Santa Claus will be blocking your chimney in about two weeks? He needs to leave me one of those Wayback Machines Mr. Peabody used to travel with Sherman through history. I need to go back to yesterday and find out where it went.

Speaking of finding out where it went, how about that legal and factual insufficiency complaint you want to use to attack the evidence underlying the verdict rendered against your client. It also vanishes in a blink, unless you preserve it. We explained how to do that in *Jem Int'l, Inc. v. Warner Props., L.P.*, No. 07-17-00042-CV, 2018 Tex. App. LEXIS 7764 (Tex. App.—Amarillo Sept. 24, 2018). You preserve a legal sufficiency complaint by timely 1) moving for a directed verdict, judgment non obstante veredicto (I feel so smart when using archaic Latin words), or a new trial, 2) asking the court to disregard a jury finding, or 3) objecting to the submission of an issue to the jury. A factual sufficiency claim is preserved through a motion for new trial. More appellants have been forgetting this lately, especially in appeals involving termination of parental rights. Don't let it slip away. However, we note preservation of legal and factual sufficiency issues does not apply in criminal cases.

Have the feeling that the government gets away with everything . . . well maybe it's because of the doctrine of sovereign immunity. It's the first hurdle you encounter when suing governmental agencies or the State. And, as we said in *Jessep v. Ottoson*, No. 07-16-00270-CV, 2018 Tex. App. LEXIS 5620 (Tex.

App.—Amarillo July 24, 2018), it is also available to government employees if sued in their official capacity. Such a suit is actually one against their employer. That means they can raise the same defenses that their employer can, even sovereign immunity. So, if you plan to go after a government worker in his official capacity, make sure your claims fall within a statute that waives immunity, like the Texas Tort Claims Act. Those of Jessup for defamation arising from Ottoson's supposed use of the wrong sex offender screening tool and assignment of a wrong risk level did not.

People never disobey a court order . . . okay, mostly never. When they do, they may end up in jail for contempt. But, a written judgment of contempt and an order of commitment usually are needed to do it. The person can be temporarily jailed through an oral directive while those documents are being drafted and executed, though. We had the chance to determine if the written "bench order" executed in *In re Cook*, No. 07-18-00348-CV, 2018 Tex. App. LEXIS 8873 (Tex. App.—Amarillo Oct. 30, 2018, orig. proceeding) (per curiam) was enough. It was not. The document failed to clearly state how Cook violated the previous order to deposit \$27k in the court's registry, how she could purge herself of contempt, and what the sheriff was supposed to do with her. Those were prerequisites of a valid contempt judgment and order of commitment. So, even though this gave Cook a "get out of jail free" card, maybe, the court got her attention.

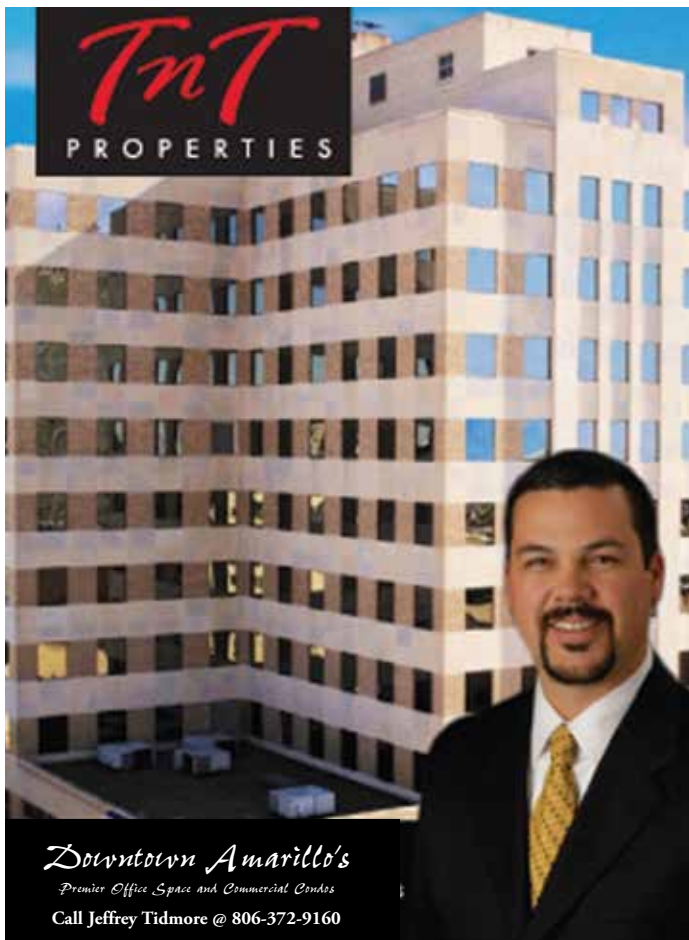
Until next time . . . Ho ho ho and a Merry Christmas !!!! "Sherman, get ready, tomorrow we may be going back to yesterday."

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## AABA History Quiz WIN A ROLLING BRIEFCASE!

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November 2018  
Answer: Baylor Law School  
December 2018

Question: Where did Judge Mary Lou Robinson attend law school?



STATE BAR of TEXAS

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inspire  
enhance  
promote

NALS of Amarillo, P.O. Box 1044,  
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### 2019 Red Book Legal Directory is Underway!

If you are an attorney in our area, you will want to be included in the **2019 Red Book Legal Directory**, which will be published in mid Spring, 2019. You may update your current listing or add a new listing by visiting our website at [www.nalsamarillo.com](http://www.nalsamarillo.com) or emailing us at the address below. Please make sure your listing is accurate. As always, listings are free.

NALS of Amarillo is the local chapter affiliated with NALS – the association for legal professionals. Members include legal secretaries, legal assistants and paralegals. Membership is open to all person engaged in work of a legal nature and who agree to comply with the NALS Code of Ethics and Professional Responsibility. For membership information, please contact Becky Braden at [nalsofamarillotexas@gmail.com](mailto:nalsofamarillotexas@gmail.com).

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*You* are cordially invited to join  
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for the annual

## CHRISTMAS RECEPTION

Thursday, December 13, 2018  
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(Beer, Wine, Water and Soda)

6:00 - 8:00p.m.

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*If you would like Colorful Closets to do the shopping for you, financial donations are always appreciated!*



*\*The Amarillo Area Bar Foundation will also be accepting year-end, tax deductible contributions, so don't forget your checkbook!*

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# YOUNG LAWYER OF THE MONTH: PAIGE MICHELE HAVINS (WELLS)



Paige Michelle Havins (Wells), is originally from good ole East Texas, specifically Tyler, Texas, the Rose Capital of the US. After graduating high school with a whopping 33 people, Paige attended Texas Tech University where she obtained her Bachelor of Arts in Psychology. She must have enjoyed her time out west and at Tech, because she decided to stick around for law school. Paige earned her JD at Texas Tech School of Law in May of 2015.

After finishing law school, Paige worked for a Sports Marketing group in Dallas while studying for the bar. Paige then worked in minor league baseball, and is very excited to watch the Sod Poodles next season here in Amarillo. She then furthered her education in sports by attending Ohio University's number one ranked Master of Sports Administration program, obtaining this degree in 2017.

A little over a year ago, Paige and her husband moved to Amarillo after she was offered employment as Associate In-House Counsel at the Fairly Group in the sports department. While in an unexpected city, working at the Fairly Group has allowed Paige to utilize all her experience and education in the law and sports.

Outside of her career, Paige enjoys running, attending concerts,

cooking, and going on adventures with her husband, but not ever re-

membering to take enough pictures!



Joby  
Mills



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Scott



Scott  
Richardson



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Wetsel



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Haden



Terri  
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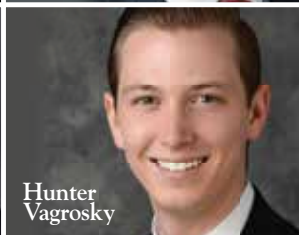
Kevin  
Rider



Shannon  
Van Campen



Chris  
Klemme



Hunter  
Vagrosky



Terry  
Wright



Jason  
Carter



# AAYLA UPDATE

By Courtney White

## Congratulations to our New (Barred) Attorneys!



From left to right:

- Mackenzie Nicole Wortley
- Andrew Caleb Smith
- Morgan Anne Tilley
- Johanly Nazario Montalvo
- Jessica Mara Lilierose
- Saige Lee
- Nathan Read Surprise
- Jonathan Joseph Jones
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**Janet Byars**, Executive Director  
**Erica Beacom**, AMA-LAW Editor

## YOUR BAR EVENTS - DECEMBER 2018

S	M	T	W	T	F	S
						1
2	3	4	5	6 Advanced Oil, Gas & Energy Law, Sprouse Shrader Smith	7	8
9	10	11	12	13 AABA Bar Luncheon, Embassy Suites Christmas Reception 6:00-8:00pm Happy State Bank 701 S. Tyler	14	15
16	17	18	19	20	21	22
23	24	25 Merry Christmas	26	27	28	29
30	31					