

# AABA-LAW

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## A TRIBUTE: JUDGE MARY LOU ROBINSON



*"Judge Robinson is a legal pioneer who is unequivocally respected and admired. She has always set high standards for herself and others, and our system of justice has benefited . . . Having her name join that of Judge Marvin Jones will be a perpetual reminder of those standards and of her legacy."* – Congressman Mac Thornberry

In May 2018, Congressman Mac Thornberry introduced legislation—H.R. 5772—to designate Amarillo's federal building and courthouse as the "J. Marvin Jones Federal Building and Mary Lou Robinson United States Courthouse" in honor of Judge Mary Lou Robinson. Thornberry quickly shepherded his bill through the House of Representatives. Senator John Cornyn demonstrated his strong support by introducing an identical bill in the Senate in July, and he and Senator Ted Cruz, who co-sponsored the bill, achieved passage of the Senate bill in early September. President Donald J. Trump signed H.R. 5772 into law on September 18, 2018, making Judge Mary Lou Robinson the fifth woman in the entire United States to have a federal courthouse named in her honor. The bi-partisan support for this effort and the speed with which it moved through the political process demonstrate that Judge Mary Lou Robinson is truly a legal legend.

Born in Dodge City, Kansas in 1926, Judge Mary Lou Robinson has served the Amarillo community for close to 70 years. As early as seventh grade, she knew she wanted to be a lawyer. She has commented that "the law seemed to be very significant to me and very important in the lives of people and that's just what I wanted to do." A graduate of the University of Texas School of Law and one of only six women in her class, she established a private practice in Amarillo. She exited private practice when she was appointed judge

of the newly-created Potter County Court at Law. She was subsequently elected judge of the 108th District Court in Amarillo from 1961-1972. The 1944 Amarillo High graduate was then appointed to Amarillo's Seventh Court of Appeals in 1973, becoming the first female appellate judge in Texas. In 1977, she was appointed Chief Justice of the Seventh Court of Appeals and continued to serve in that role until President Jimmy Carter appointed her to the federal bench in 1979. When Judge Robinson assumed senior status in 2016, she had the longest record of service of any active district judge in the Fifth Circuit.

Judge Mary Lou Robinson has received many awards and honors throughout her distinguished career. Some of these awards include: the Sandra Day O'Connor Award for Professional Excellence from the Texas Center of Legal Ethics (2005), the AABA's Chief Justice Charles Reynolds' Lifetime Achievement Award (2006), the State Bar's Samuel Pessara Outstanding Jurist Award (2006), and the Jurist of the Year by the Texas chapter of the American Board of Trial Advocates (2016). Additionally, in 2015 Judge Mary Lou Robinson was inducted as a Texas Legal Legend by the Texas State Bar.

A ceremony to honor Judge Mary Lou Robinson on this occasion will be held on November 7, 2018 at 10:00 a.m. in the 2nd floor courtroom, located at 205 S.E. 5th Avenue. All area attorneys and members of the legal profession are invited to attend. Reception to follow.

The speaker for the AABA's November luncheon is U.S. Magistrate Judge Lee Ann Reno. She will provide an update on federal practice in the Amarillo Division, as well as her perspectives following her first year on the bench. Please join us on November 8, 2018, for what promises to be an insightful presentation.

*"It was a refreshing departure from the very uncivil discourse highlighted on the most popular cable news outlets."*

Page 2

*"My fear now would be not so much the fury of a woman scorned but rather the fury of the IRS."*

-Page 4

## CONTENTS

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



# PRESIDENT'S PAGE

By: Brad Howard

## "Let's Get Together"

Justice Kavanaugh's recent confirmation hearing was an ugly affair that divided our country, and from the perspective of many people, reflected very poorly on a Supreme Court confirmation process mired in politics, name calling, and ultimately partisan power. And yet the lawyers I have spoken with about the nominee and the process have almost uniformly approached the question of his confirmation with civility and professionalism no matter their opinions on this matter of great significance to the legal profession. After the recent Red Mass celebration at St. Mary's Cathedral on October 2, many judges, attorneys, and legal staff of all religious affiliations gathered for a reception including great food, beer and wine, and I could not have been more impressed with the ways our colleagues discussed some very different viewpoints on the confirmation process. There were some definite disagreements, and yet there was no yelling, raised voices or even disrespect in the circles I traveled among. It was a refreshing departure from the very uncivil discourse highlighted on the most popular cable news outlets.

There are multiple opportunities this year for Amarillo area attorneys to catch up with each other and discuss significant issues affecting our legal system. The Red Mass Celebration, now an eight-year tradition in Amarillo, brings together judges, attorneys, and others in the legal profession. On December 13th, the local bar will celebrate the holiday season with its annual AABA Christmas Party. This holiday event is in the lobby of Happy State Bank, our generous sponsor, and includes food,

wine and fellowship with other lawyers. As in years past, we will take donations to assist local children in need. Come out and join us for a celebration of the holiday season with your friends and colleagues. Between now and then, the Amarillo Area Women's Bar Association, the Amarillo Area Young Lawyers Association, and specialty bar groups for criminal lawyers, estate planning lawyers, family lawyers, trial lawyers, and bankruptcy lawyers will gather for lunch, drinks and/or CLE. There are multiple opportunities to get out there and interact with the local bar.

Finally, the AABA continues its tradition of monthly luncheons in the exciting new venue at Embassy Suites. We are still working out a few kinks, but the attendance has been spectacular, and the feedback about the new location was nice, too. As in years past, members often linger after lunch, and now you have more time than ever because there are no long elevator lines. Take a few extra minutes to hang around and engage other lawyers in satisfying and civil discourse about significant events impacting our profession.

## 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](mailto:ebeacom@bf-law.com) and you will win a rolling briefcase provided by the State Bar of Texas.

October 2018 Answer: Francis Scott Key

Question: What Texas law school offers the program described as "arguably the best training ground in the nation for practical lawyering" and "the Marine Corps Boot Camp of Law Schools"?

Hint: the Young Lawyer featured in this edition attended this law school



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We are a small firm with an eye to the future as we seek to bring in more attorneys to expand our current practice. Inquiries will be kept confidential.

Call or email Kerry McLain at 806.374.3765 or [kerry@sgmtexaslaw.com](mailto:kerry@sgmtexaslaw.com).







# 7TH COURT OF APPEALS UPDATE

By Chief Justice Brian Quinn

In this month to be thankful, I am thankful my wife said “yes” when the priest asked if she really wanted to marry me. She may now wonder why, but we’ve stayed together. That was not the case in *Pedone v. Harvey*, No. 07-17-00394-CV, 2018 Tex. App. LEXIS 6051 (Tex. App.—Amarillo Aug. 2, 2018) (mem. op.). There was no priest or even a formal ceremony. But Pedone thought she said yes to being married to Harvey. In fact, the two even told the IRS they were married. So, were they married . . . not according to the factfinder who happened to be the trial court. Texas is one of a few states that still recognizes common law or “informal” marriages. And, there are several hoops you need to jump through, like either executing a written declaration of marriage or living together and telling people you are married. But, because the record had evidence indicating that these prerequisites were both satisfied and unsatisfied, the trial court was free to decide who to believe, despite what both told the IRS. This shows the power a factfinder actually has in resolving evidentiary conflicts; you can’t take that power for granted. And because some evidence supported the finding, we had to go with it. My fear now would be not so much the fury of a woman scorned but rather the fury of the IRS.

“I plead the Fifth.” Hopefully, that will never be something I’ll have occasion to say, at least in court. But how about in a deposition in a civil case . . . could I do it if needed to? Yep . . . sure can. The Fifth is available in civil cases and can be invoked during a depo, as we reiterated in *In re Becker*, No. 07-18-00230-CV, 2018 Tex. App. LEXIS 5273 (Tex. App.—Amarillo July 11, 2018, orig. proceeding) (mem. op.). But, unlike criminal cases, pleading

the Fifth can be used against you at trial. If that gets before the factfinder, the court or jury may engage in negative inferences against you. So, doing it outside a criminal setting may not give you as much protection as you think.

Our opinion in *In the Interest of T.A.L.*, No. 07-17-00274-CV, 2018 Tex. App. LEXIS 6365 (Tex. App.—Amarillo Aug. 14, 2018) provides an interesting reminder. Not every error merits reversal. Harm must also arise from the mistake. Even though the trial court may have erred by failing to heed the statute requiring it to interview the teenager about his or her wishes regarding conservatorship, we had to view, in *T.A.L.*, the possible error as harmless since there was no offer of proof about what the teenager would have said in the interview. Without that, we couldn’t assess what effect, if any, the omission had on the outcome. Remember . . . a successful appeal starts in the trial court. So, start thinking about error, preserving it, and proving its harm long before you get here.

I close with another thing to be thankful for in November . . . the new crop of law graduates who find out they passed the bar exam. We need them to replenish our ranks and assure the freedoms available in this nation. So, to them, I say thanks and keep fighting. To everyone . . . I say Happy Thanksgiving.

## ZIMMER SCHOLARSHIP FOUNDATION APPLICATION PERIOD OPEN

The trustees of the Kelln Zimmer Memorial Scholarship Foundation have announced the opening of a new application period. Scholarships are available to full-time students of Texas Tech University School of Law who are from the Amarillo area or who attended Amarillo College or West Texas A&M University.



The Kelln Zimmer Memorial Scholarship honors Kelln Zimmer, a Texas Tech Law School graduate and Amarillo native who died in 2010 following a seven-year battle with breast cancer. She was an associate with the Underwood Law Firm at the time of her passing.

Recent Zimmer scholarship recipients include Sam Allen of Dalhart, Emily Shanks, Dalton Brooks, and Cole Brown, of Amarillo, and Abbey Coufal, a native of Vernon. The Kelln Zimmer Scholarship Foundation has awarded over \$12,000 in scholarship grants to areal law students.

The application period for the fall semester closes November 8, 2018. Qualified candidates may apply by mail at P. O. Box 1750, Amarillo, Texas 79105 or by email submission at [roger.cox@uwlaw.com](mailto:roger.cox@uwlaw.com). Applications are available through the Texas Tech University School of Law Financial Aid Office or by contacting:

Roger Cox at [roger.cox@uwlaw.com](mailto:roger.cox@uwlaw.com)

Ed Dowdy at [edowdy@americanlandtexas.com](mailto:edowdy@americanlandtexas.com).

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# YOUNG LAWYER OF THE MONTH: CAITLIN J. MONTGOMERY



Caitlin J. Montgomery grew up in the booming metropolis of De Kalb, Texas, population 1,699. For those who are not familiar with De Kalb, it sits in Bowie County, Texas (of which Bowie, Texas is interestingly not a part), about thirty miles west of Texarkana.

After graduating as valedictorian from her high school class in 2010, Cait moved to College Station, Texas, where she earned a Bachelor of Business Administration in Business Management from Texas A&M University in 2014.

In 2014, Cait began her legal education at Baylor Law School, where she excelled immediately. Cait served on Baylor Law Review in various roles, including Associate Editor, Articles Editor, and Notes and Comments Editor. For many of the readers' sakes, the (in)famous Baylor Law School Practice Court is intentionally ignored here, except to say that Cait survived and obtained a doctor of jurisprudence from Baylor Law School in 2017.

In August of 2017, Cait moved to Amarillo to take a civil litigation position with the Underwood Law Firm. However, Cait recently accepted an offer she was honored to receive, clerking for the Honorable Lee Ann Reno in the Northern District of Amarillo.

When Cait is not too preoccupied by the law, Cait enjoys spoiling her puppy, whose name, depending on the day, may be anything from Floof to Bub to Buddy to his actual name, Oliver. Cait also enjoys spend-ing time with her family back in De Kalb (where there are actually large trees!), going to T-Swift

(and other) concerts, a good Netflix binge, and, lately, curling up by the

fire with a Pumpkin Spice Latte and reading a good murder mystery.



Joby Mills



Alisa Scott



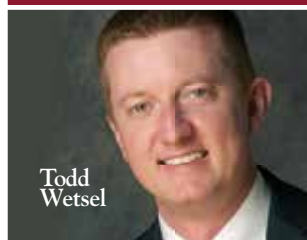
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Chris Klemme



Hunter Vagrosky



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Jason Carter

# AAYLA UPDATE

By Courtney White

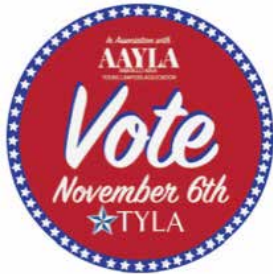


Hi everyone! There's lots going on with AAYLA!

**Vote America!** On October 1st, we presented TYLA's "Vote America!" project at Palo Duro High School. We visited the school's government classes to discuss voting rights, register eligible students to vote, and distribute voter reminder pins. This project was an informative and interesting experience for the students and the young lawyers. Special thanks to Brittany Taylor, Tim Williams, Claire Grammer, and Paige Havins for volunteering! And PLEASE remember to vote on November 6th!

**Cornhole!** On October 10th, Happy State Bank hosted us for the First Annual Lawyers vs. Bankers Cornhole Tournament! Thank you to Joby Mills and Happy State Bank for hosting us! And congratulations to Matt Sherwood and Tom Knapp on winning the tournament!

Lawyers – 1; Bankers – 0.



**New Lawyer Orientation!** Thanks to everyone who attended our annual New Lawyer Orientation on October 11th. We enjoyed welcoming the new lawyers and introducing them to our judges. Thanks to Joe Hinton and Grant Gibson for planning these tours and introductions.

**Swearing-In Ceremony!** The swearing-in ceremony is scheduled for November 7th at 4 PM at the Seventh Court of Appeals. A reception will follow at the Amarillo Club. Please contact Alysia Cordova at [acordova@pf-lawfirm.com](mailto:acordova@pf-lawfirm.com) if you need to be sworn in.

**Membership Renewals!** Finally, 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](mailto:courtney.white@amarillo.gov).

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## YOUR BAR EVENTS - NOVEMBER 2018

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
			AABA Bar Luncheon, Emassy Suites Advanced Family Law, Eagle Center Training Room			
11	12	13	14	15	16	17
			Advanced Civil Trial, Eagle Center Training Room			
18	19	20	21	22	23	24
25	26	27	28	29	30	AABA Christmas Party on December 13