

# AABA-LAW

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A PUBLICATION OF THE AMARILLO AREA BAR ASSOCIATION

## DAVID CHAMBERLAIN: GUEST SPEAKER

*“The people in our  
Panhandle communities  
make this the best place to  
live!”*

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*“Well, how can one argue  
with the logic of a “member”  
meaning “a member?”*

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We are kicking off our Bar year with the first monthly AABA luncheon on September 12th. The luncheon will begin with the presentation of our latest Charles L. Reynolds Award recipient by Justice Campbell.

David Chamberlain is our guest speaker, and we could not think of a better one to kick off the AABA bar year. Mr. Chamberlain is a nationally recognized trial attorney and bar leader. He is a Best Lawyer in America, Texas Super Lawyer, National Super Lawyer, and has been board certified in Personal Injury Trial Law by the Texas Board of Legal Specialization.

The DRI recognized him as an Outstanding Defense Bar Leader in the nation. He is also the past chair or past president of almost any attorney organization you could think of: the Board of Trustees of the State Bar of Texas Insurance Trust, the Texas Association of Defense Counsel, the American Board of Trial Advocates, Texas Chapters, and the Austin Bar Association (the year it was named the Outstanding Local Bar Association by the State Bar) to name a few. When Mr. Chamberlain speaks, people listen and follow.

Mr. Chamberlain's commitment to the practice of law is evident in his leadership in so many organizations. Throughout his practice and service, a particularly important



topic to him has become civility in the practice of law. He played a key roll in the passage of the new civility and integrity oath by the Texas Legislature. He will discuss with us various “hot topics” in civility and real-world applications that will help us all in our practices.

Please join us at the Embassy Suites on Thursday, September 12th to welcome Mr. Chamberlain to Amarillo and hear this interesting and helpful presentation. Ethics CLE credit will be offered.



# ***PRESIDENT'S PAGE***

By: Joby Mills

## ***A LONG JOURNEY BETWEEN BAR ASSOCIATIONS AND THE WONDERFUL QUALITY OF LIFE OF LIVING IN THE TEXAS PANHANDLE***

In June 2014, I made the journey to relocate from McAllen to Amarillo, a nice distance of 750+ miles and still being able to reside in the great State of Texas. I had spent quite a few years working in McAllen (plus a few years in San Antonio), so when I made the move to Amarillo, I had no clue what to truly expect as a future resident of Amarillo, Texas. Five years later, I can honestly say that I am completely amazed by how welcoming the people of the Texas Panhandle have been to me and my family, and we consider ourselves extremely blessed to call this place home.

When I lived in McAllen, I also served as a director on the Hidalgo County Bar Association board and had many enjoyable experiences serving the Hidalgo County legal community. When I relocated to Amarillo, I wanted to serve the legal community and be of service to the Amarillo Area Bar Association. I was fortunate to be welcomed onto the board by Tim Newsom, Mark Logsdon, Dusty Stockard, Chris Jensen, and many others. Working and living in Amarillo, and serving on the AABA Board, immediately made me realize that I am truly surrounded by a lot of wonderful people who treat others the way they want to be treated and honor the "Golden Rule." Although I worked and lived around a lot of wonderful and very professional folks in the Rio Grande Valley, I had never experienced such a warm and welcoming community in my 20+ years in the State of Texas. The people in our Panhandle communities make this the best place to live!

With that being said, it is a true honor for me to serve as your AABA President and I welcome your comments and ideas as to how we can continue to strengthen and improve upon the quality of our AABA luncheons, seminars, special causes, and other events. Our monthly luncheons are a great opportunity for us not only to listen to a great speaker, but also to form a fellowship with other attorneys whom we may not interact with daily. This is a great opportunity for trial attorneys to

visit with transactional attorneys, or in-house corporate attorneys to get to know transactional attorneys, or to find out what is happening at our Legal Aid office by visiting with Kay Pechin and her staff of attorneys, or to visit with our local judges, and so on. Many of us know fellow attorneys who may not be attending our luncheons or getting involved in our association's special events or events offered by our Amarillo Area Bar Foundation and Amarillo Area Young Lawyers Association. If you have not participated in many of our events, I encourage you to join us throughout the 2019-20 fiscal year. I believe you will find the experiences very rewarding and enjoyable.

At our first monthly luncheon in September, we have the privilege of honoring Mr. Bill Brian as the recipient of The Chief Justice Charles Reynolds award. Please join us in recognizing Mr. Brian. He's one of many legal professionals I have met who truly defines the word "professional" and this is a perfect way to start the new AABA fiscal year by honoring Mr. Brian. If you get the chance to visit with Brad Howard before or at the September meeting, please also thank him for his service as our AABA President last year. Brad did an outstanding job and he dedicated so much of his time in making the 2018-19 AABA year a huge success. It was my privilege to watch and learn from him and our previous presidents.

See y'all at our September meeting!

# AMARILLO TO OBSERVE NINTH ANNUAL RED MASS

All judges of the Texas Panhandle will be the guests of honor at the Ninth Annual Red Mass Ceremony on Tuesday, October 8, 2019, 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 anyone in the community with a concern for justice, regardless of religious background. We welcome everyone into the church for this very special Mass celebration.

Bishop Patrick J. Zurek of Amarillo will serve as principal celebrant, and the Mass will be followed by a keynote address from Justice Douglas Lang, who is currently Of Counsel to the law firm of Dorsey & Whitney LLP in Dallas. Justice Lang served for over 16 years on the Fifth District Court of Appeals in Dallas. While on the court, Justice Lang authored more than 2,100 opinions and participated in more

than 6,100 case decisions. Justice Lang is a frequent speaker at civil and continuing education events around Texas and nationally and has many published articles to his credit on appellate law, civility, and ethics. Justice Lang is well known and very well liked by so many Amarillo lawyers who have interacted with him over the years.

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.

## 2019 Trust, Probate & Guardianship Law Course

(An Attorney and Guardian ad Litem Certification Course)

**Date:** Friday, September 20, 2019

**Location:** Happy State Bank and Trust Company, Executive Dining Room (First Floor)  
701 S. Taylor, Amarillo, TX

**Registration:** Costs: \$150 AABA/LABA Members; \$200 Non-members of AABA or LABA

|                       |            |                                                                                                                                                                      |
|-----------------------|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Seminar Times:</b> | 7:45 a.m.  | Registration                                                                                                                                                         |
|                       | 8:25 a.m.  | Opening Remarks                                                                                                                                                      |
|                       | 8:30 a.m.  | Texas Legislative Update, Shyla Buckner of Sprouse, Shrader, Smith                                                                                                   |
|                       | 9:30 a.m.  | Texas Case Law Update, David Fowler Johnson of Winstead, PC, Fort Worth                                                                                              |
|                       | 10:35 a.m. | Update of the Fiduciary Handbook, Brandy Baxter-Thompson of Lan Smith Soslik, PLLC, Dallas                                                                           |
|                       | 11:35 a.m. | The Role of the Ad Litem, including Alternatives to Guardianship                                                                                                     |
|                       | 12:35 p.m. | Lunch Break                                                                                                                                                          |
|                       | 1:15 p.m.  | Dealing with Clients with Diminished Capacity, Chad McLain of Jordan Flournoy, Dallas                                                                                |
|                       | 2:15 p.m.  | Estate Planning for the Elderly and Disabled Clients, including Special Needs Trust Planning, Lee Franks of Franks & Pleasant, LLP, of Amarillo, Lubbock and Midland |
|                       | 3:15 p.m.  | Adjourn                                                                                                                                                              |

**CLE Credit:** 6.00 participatory hours, including 1.50 Ethics hours



# 7TH COURT OF APPEALS UPDATE

By Chief Justice Brian Quinn

Do you hear Glenn Frey singing: “The heat is on, on the street, inside your head, on every beat . . . .” Those lyrics have run through my mind quite regularly this summer. But, just as August lapsed into September and September is moving on, I’ll soon hear those lyrics change to S & G’s: “And the leaves that are green turn to brown, and they wither with the wind . . . .” Now, to the heart of this blurb.

Federal Rule 12(b)(6) motions . . . remember those? I do. Texas has somewhat of a counterpart in Rule of Civil Procedure 91a. It permits the dismissal of suits lacking a basis in law or fact. In *Raider Ranch, LP v. Lugano, Ltd.*, No. 07-17-00156-CV, 2019 Tex. App. LEXIS 3484 (Tex. App.—Amarillo Apr. 30, 2019, no pet.), Raider Ranch filed one of them only to have it denied. Raider Ranch believed Lugano’s declaratory action was baseless due to the execution of a release. Yet, we observed that “release” was defensive in nature and required proof outside the allegations contained within Lugano’s live pleadings. So too did we observe how Rule 91a limited a court’s attention to the allegations in those pleadings. That led us to hold the trial court did not err in refusing to grant the motion based on the defense of release.

“Say the word and you’ll be free, say the word and be like me, say the word I’m thinking of . . . .” The word is “member.” In *Davis v. Highland Coryell Ranch, LLC*, No. 07-18-00185-CV, 2019 Tex. App. LEXIS 5050 (Tex. App.—Amarillo June 18, 2019, no pet.), we had to decide whether an ex-member of a limited liability corporation was still a “member” for purposes of looking at the LLC’s books. The relevant statute allowed a “member” to look at them, subject to some restrictions. It also defined “member” as a person “who is a member or has been admitted as a member.” Well, how can one argue with the logic of a “member” meaning “a member?” Had that been the extent

of the definition, things would have been easier. But, it also included the phrase “has been admitted as a member.” Now, that sounded like the present perfect verb tense which can reflect either past action that continues or past action that ended. Ah, nothing like memories or nightmares of high school English class and their role in adjudicating rights. Anyway, a majority of the panel held that the legislature intended that the phrase meant past action that ended. So, ex-members were also members, at least for the limited purpose of looking at corporate records. Go on and read the dissent; it makes some good points. And, if you’re about to “say the word,” please know what you mean because it may or may not mean it. Oh, and thanks Messrs. Lennon and McCartney for your play with words.

I opened with thoughts of changing seasons and I close with them too. The season in mind is Justice Campbell’s tenure on the Seventh Court. It’s moving from present to past in several weeks. Working with him all these years has been an honor and education. Jim, some of us have Simple Minds and just wanna say, “Don’t you forget about [us]. Don’t, don’t, don’t, don’t, don’t you forget about [us],” since we won’t forget you. And, thanks!

## AABA History Quiz

### WIN A ROLLING BRIEFCASE!

Be the first to correctly answer the question below and send your answer to [cferral@bf-law.com](mailto:cferral@bf-law.com) and you will win a rolling briefcase provided by the State Bar of Texas.

What year was Justice James Campbell appointed to serve on the Seventh Court of Appeals of Texas?



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AMARILLO AREA WOMEN'S BAR ASSOCIATION

## MEMBERSHIP APPLICATION

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Address Line 1: \_\_\_\_\_

Address Line 2: \_\_\_\_\_

City / State / Zip Code: \_\_\_\_\_

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Dues (Check One): ☐ \$40 for government and solo/small firm attorneys (3 or less)

☐ \$50 for all others

Please check any committees you may be interested in serving on:

☐

Programs Committee

☐

Membership Committee

☐

Social and Networking Committee

☐

Communications Committee

AAWBA plans to sponsor several networking and continuing education events for both the fall of 2019 and spring of 2020. AAWBA members will receive discounted admission to various events throughout the year.

*Please return to Maggie Adams at First Bank Southwest at*

*2401 S. Georgia, Amarillo, TX 79109.*

\*\*\*\*\*

**Save the Date!**

**Dr. Celestin Musekura presents: "Seeking Justice in Africa"**

**October 24, 2019**

**Skyline Room - 16<sup>th</sup> Floor of Amarillo National Bank**

**Come hear stories of how the American Civil Justice System helped lawyers, judges, police & military personnel seeking justice for vulnerable citizens in Rwanda, Africa.**



## MEMBERSHIP APPLICATION 2019-2020 BAR YEAR

All attorneys who were (i) 36 years of age or younger as of June 1, 2019 or (ii) newly licensed to practice in the State of Texas during the 60 months preceding June 1, 2019 are invited to join the Amarillo Area Young Lawyers Association ("AAYLA").

Members will receive many benefits of AAYLA membership, including the following: LUNCHEONS (CLE available—*discounts to AAYLA members*); HAPPY HOURS (*food provided to AAYLA members*); CLE (*discounts to AAYLA members*); and SERVICE OPPORTUNITIES to benefit the community.

| <b>COMPLETE ALL BLANKS BY PRINTING OR TYPING LEGIBLY</b> |                |                   |            |
|----------------------------------------------------------|----------------|-------------------|------------|
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| PREFERRED                                                |                |                   |            |
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| SPOUSE'S NAME:                                           |                |                   |            |
| <b>OFFICE</b>                                            |                |                   |            |
| FIRM, CORPORATION, GOVERNMENT AGENCY, OR OTHER OFFICE:   |                |                   |            |
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| TELEPHONE:                                               | FAX:           | PREFERRED E-MAIL: |            |
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Enclosed is my check payable to the Amarillo Area Young Lawyers Association in the amount of:

|  |         |                                                                                                          |
|--|---------|----------------------------------------------------------------------------------------------------------|
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|  | \$50.00 | ALL OTHER LAWYERS                                                                                        |

**Please return your completed Membership Application and check to:**

**Amarillo Area Young Lawyers Association  
ATTN: Brittany Taylor  
P.O. Box 1992  
Amarillo, TX 79105-1992**

**\*\*Please call Brittany Taylor at (806) 345-6365 or e-mail at [btaylor@bf-law.com](mailto:btaylor@bf-law.com) if you have any questions regarding AAYLA membership.**

# TEXAS BAR FOUNDATION AWARDS GRANTS TO AMARILLO AREA

By Tom Riney

During the spring 2019 grant cycle, the Texas Bar Foundation awarded three grants to organizations in Amarillo and one in Hereford totaling \$60,779. Those organizations are Amarillo Area Bar Foundation (\$5,192) for the Trial Academy; Deaf Smith County District Clerk (\$7,254) to restore and preserve historical valued records; Family Support Services (\$20,000) for removing legal barriers project; and Catholic Charities of the Texas Panhandle (\$28,333) for expansion of legal services for low income and disadvantaged refugees and immigrants;.

Since its founding in 1965, the Texas Bar Foundation has distributed more than \$20 million in grants statewide that support law-related programs across Texas that provide legal services, education about the third branch of government and the administration of justice primarily through the generosity of the Fellows of the Foundation.

Election to the Fellows of the Texas Bar Foundation is one of the highest honors that can be bestowed upon a member of the State Bar of Texas. Fellowship each year is limited to one third of one percent of licensed attorneys in Texas. Nomination is based upon an attorney's outstanding contribution to the legal profession as well as commitment to the community. The only obligation of a Fellow is to pledge \$2,500, payable \$250 per year for ten consecutive years. Upon payment in full of the \$2,500, a Fellow becomes a Life Fellow with

no financial commitment but may become a Sustaining Life Fellow by contributing \$2,750 or \$250 each year to the Foundation after becoming a Life Fellow.

I currently serve as a Trustee of the Bar Foundation, succeeding Kyle Lewis. Please contact me if you would like more information about the Texas Bar Foundation.



# AAYLA UPDATE

By Thomas McMillian

"A more extensive Knowledge of the Realm, the Colonies, and of Commerce, as well as of Law and Policy is necessary, than I am master of." – John Adams, The United States' first lawyer-president.

"I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its constitution." – Thomas Jefferson, The United States' second lawyer-president.

Twenty-six of the forty-five individuals that have served as president of the United States of America have been lawyers. I recently discovered "America's Lawyer-Presidents: From Law Office to Oval Office" edited by Norman Gross. Each month I'll share quotes from these individuals that shaped our profession and our country.

I hope everyone had a great summer! On July 26th and 27th, AAYLA board members Richard Biggs, Alysia Córdova, Matthew Stringer, and

I attended the annual State Bar of Texas Bar Leaders Conference in Houston. We networked with representatives from other Texas Young Lawyers Association (TYLA) affiliates and received the first-place award in the "Small City Single Project – Service to the Public" category for our involvement with Beef with the Bench. Thanks again to all the judges, volunteers, donors, and attendees that made this event a success. We also attended programming on how to keep our associations relevant so that we can serve our members, the legal community, and the public.

We have some exciting events planned for this year. Here is a sneak peek of things to come. AAYLA is working with the Estate Planning section of the Amarillo Area Bar Association to roll out a wills clinic for firefighters. We are also planning to host the second annual Lawyers vs. Bankers Cornhole Tournament in conjunction with Happy State Bank. TYLA is bringing their "road show" to Amarillo in January. In



addition to CLE credit, the road show gives attendees the opportunity to learn about the resources offered by TYLA. This is of course a "Vegas year" and we are excited about the 16th Biennial Las Vegas CLE. Please drop me a line if you are interested in speaking or if you have a topic you would like to see presented. We are always on the lookout for new speakers and topics. Keep an eye out for announcements and emails for more details on these and other events throughout the bar year.

If you have any questions, please feel free to contact me at [thomas.mcmillian@amarillo.gov](mailto:thomas.mcmillian@amarillo.gov).

I am excited about the upcoming bar year and am honored to serve as president of the Amarillo Area Young Lawyers Association.




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**Courtney M. White**

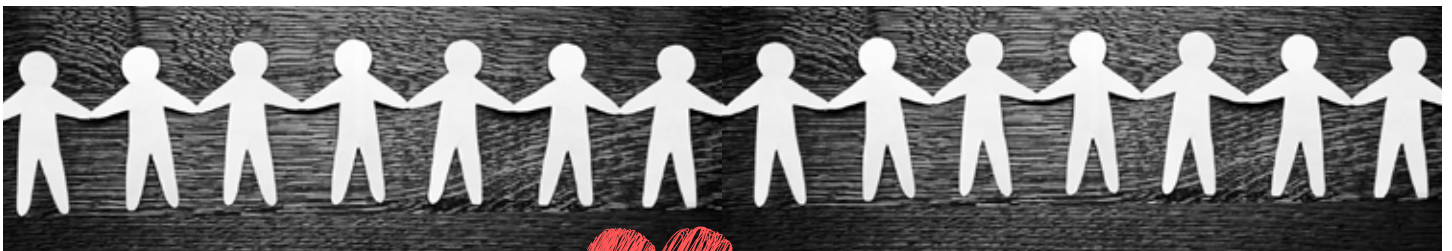
By: Thomas McMillian

On behalf of the Amarillo Area Young Lawyers Association, I am proud to announce that Courtney M. White has been named Young Lawyer of the Year for 2019. A native of Amarillo, Courtney is the daughter of the well-known, dynamic legal duo Mark and Terry White. She is a graduate of Wake Forest University and the Southern Methodist University Dedman School of Law. Courtney just couldn't stay away from the dusty plains of West Texas, so she returned Amarillo and began

her legal career with Irwin, Merritt, Hogue, Price & Carthel, P.C. in 2012. She became an associate at Sprouse Shrader Smith PLLC in 2013 when the firms merged. Courtney joined the legal team at the City of Amarillo in 2017 where, among many other things, she combs through stacks and stacks of Public Information Act requests. If you haven't seen it, Courtney does a fabulous, award-winning (in our opinion) presentation on the Public Information Act. It is a must see when it pops up on a CLE agenda!

Courtney is a fixture in the Amarillo Area Young Lawyers Association. She's served as Secretary, Vice President, and completed her term as President.

When it comes to AAYLA, Courtney has done it all. She's spearheaded AAYLA's participation in Legal Aid Clinics, career fairs, and TYLA initiatives like Vote America. She's run the biennial Las Vegas CLE, the annual Easter Egg Hunt, numerous local CLEs, and many other events. When something needs to be done, Courtney is the first one to volunteer and the last one to leave, much to her adorable pooch William's chagrin. Courtney is also involved with the Amarillo Symphony Guild as well as other civic organizations. I am proud to call Courtney a friend and colleague. I cannot think of anyone more deserving of this honor. Congratulations on being named Young Lawyer of the Year Courtney!



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**Colleen Ferrall**, AMA-LAW Editor

## YOUR BAR EVENTS - SEPTEMBER 2019

| S  | M  | T  | W  | T                                       | F                                                                                                        | S  |
|----|----|----|----|-----------------------------------------|----------------------------------------------------------------------------------------------------------|----|
| 1  | 2  | 3  | 4  | 5                                       | 6                                                                                                        | 7  |
| 8  | 9  | 10 | 11 | AABA Bar Luncheon,<br>Embassy Suites 12 | 13                                                                                                       | 14 |
| 15 | 16 | 17 | 18 | 19                                      | Trust, Probate and Guardianship<br>Seminar (an Ad Litem<br>Certification Course);<br>Happy State Bank 20 | 21 |
| 22 | 23 | 24 | 25 | 26                                      | 27                                                                                                       | 28 |
| 29 | 30 |    |    |                                         |                                                                                                          |    |