

AMA-LAW



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MARCH SPEAKER: KIRSTEN CASTAÑEDA



Kirsten Castañeda

On March 12, join us for a hard-hitting discussion about the latest opinions from the Texas Supreme Court. Kirsten Castañeda, a partner in the appellate firm of Alexander Dubose & Jefferson, will provide practical advice about recent cases. Kirsten will also provide some insight on upcoming cases to keep your eyes on.

Kirsten is an appellate attorney who regularly teams with trial lawyers at trial (and pre-trial proceedings) in cases involving consequential industry issues, difficult venues, complicated legal issues, or high potential damages. Kirsten is Board Certified in Civil Appellate Law by the

Texas Board of Legal Specialization and an active member of the American Bar Association's Tort Trial & Insurance Practice Section, and the Counsel of Appellate Lawyers. She has worked to help shape the law in several key areas, including the standard for class certification and decertification throughout the life of a class action; the impact of threshold statutory mandates, expert testimony standards, and causation requirements on healthcare liability claims; and the scope of statutory, contractual, and equitable duties applicable to oil and gas lessors, lessees, and operators.

“I love judges and I live courts.” -Page 2

“If nothing else, they tell me that about a quarter of 2020 has followed Elvis out the building.” -Page 4

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PRESIDENT'S PAGE

By: Joby Mills

2020 Spring Institute is Around the Corner; Nomination Committee for 2020-21 AABA Directors; Luncheon Locations for 2020-21 fiscal year; and How Many Lawyers Have Been Elected as President of the United States of America

It's hard to believe it is already February! I have not been able to travel to anywhere really warm this winter, so it makes me extra excited for summer to get here soon. As I wrap up my year as President, I want to thank my fellow members for your support. As always, we finish our fiscal year with our Spring Institute seminar and golf tournament. This is not only a great time of fellowship with fellow attorneys, but also our main fundraiser for our local bar association. With this noted, we appreciate all donations (financial and/or in-kind) at the Spring Institute to keep moving us forward and plan for important bar-related events each year. On behalf of the AABA, we appreciate your contributions and we will continue to work hard on making sure all contributions are used wisely each fiscal year for AABA events.

Almost two years ago, we moved the monthly luncheons to the Embassy Suites after receiving notice that Amarillo Club was closing. Since then, Amarillo Club has reopened and is interested in receiving our business. Please know that the AABA Board is going to seek bids from Embassy Suites, Amarillo Club, and possibly other potential luncheon sites for the 2020-2021 fiscal year. If you have a suggestion for a good meeting site for our regular monthly luncheons, please give us a call or send an email to Ms. Janet Byars at director@amarillobar.org. Also, you may always contact me directly at 806-349-9893. We welcome all your thoughts and ideas for not only our luncheon location, but also seminar topics, speaker ideas, and other events that may benefit our local communities and the legal profession. This is your bar association, so please share your ideas with us. Enough arm-twisting for now! One further note, if you have any recommendations for 2020-21 AABA directors and officers, please send us your recommendations.

As I was writing this President's Page, I was thinking President's Day is quickly approaching and I have no clue how many prior U.S. Presidents were also attorneys. After doing some research, I learned that we have had 26 U.S. Presidents who were also

attorneys. It definitely shows you the importance of the legal profession at the highest office in the land. For those who are considered resident Cliff Claven types ("it's a little known fact . . .") in their respective firms/offices, here's the complete list.

John Adams (1797-1801); Thomas Jefferson (1801-1809); James Moore (1817-1825); John Quincy Adams (1825-1829); Andrew Jackson (1829-1837); Martin Van Buren (1837-1841); John Tyler (1841-1845); James Knox Polk (1845-1849); Millard Fillmore (1850-1853); Franklin Pierce (1853-1857); James Buchanan (1857-1861); Abraham Lincoln (1861-1865); Rutherford B. Hayes (1877-1881); James A. Garfield (1881); Chester A. Arthur (1881-1885); Grover Cleveland (1885-1889 and 1893-1897); Benjamin Harrison (1889-1893); William McKinley (1897-1901); William Howard Taft (1909-1913); Woodrow Wilson (1913-1921); Calvin Coolidge (1923-1929); Franklin Delano Roosevelt (1933-1945); Richard M. Nixon (1969-1974); Gerald R. Ford (1974-1977); William Jefferson Clinton (1993-2001); Barack Obama (2009-2017).

Source: **American Bar Leader January-February 2010, Vol. 34, No 3.**





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7TH COURT OF APPEALS UPDATE

By Chief Justice Brian Quinn

Beware the Ides of March, especially if your name is Julius. If nothing else, they tell me that about a quarter of 2020 has followed Elvis out the building.

Before more time leaves, let's talk about preserving error after a trial court denies a challenge for cause in a criminal trial. *Spielbauer v. State*, No. 07-18-00028-CR, 2020 Tex. App. LEXIS 591 (Tex. App.—Amarillo January 22, 2020) was the name, and selecting an unbiased jury was the game. We had to decide whether the defendant preserved his complaint about being denied extra peremptory challenges. There're steps involved in doing it. They contemplate a defendant making a challenge for cause which is denied, using peremptory strikes to remove the venire members complained of, exhausting all of those strikes, asking for more, being denied more, and identifying objectionable jurors remaining on the panel. Here, the defendant completed all of them but waited to identify the objectionable members that remained until after the names of those ultimately called to sit on the panel were read. We rejected the State's argument that the defendant had to identify the objectionable jurors before using any of his peremptory challenges. The circumstances before the trial court were enough to make it aware of the relief sought at a time when it could have been provided, and that is what preservation's about.

Though I don't see it as much on appeal, the claim for intentionally inflicting emotional distress on someone is still out there. We had occasion to address it in *Diocese of Lubbock v. Guerrero*, No. 07-19-00280-CV, 2019 Tex. App. LEXIS 10635 (Tex. App.—Amarillo December 6, 2019). The Lubbock Diocese was sued for purportedly defaming Guerrero, an ex-deacon. He accompanied the claim with one for inflicting emotional distress. Yet, there was no evidence that the Diocese intended for him to suffer such distress when allegedly defaming him or anticipated that distress would be the primary consequence of the alleged defamation. Because the cause of action required proof that emotional distress was the intended consequence of the act complained

of, we concluded that Guerrero's claim should have been dismissed. Simply suffering emotional distress was not enough.

Off topic now ... what do "association", "education", "imagination", and "jollification" all have in common? If you went to the AAYLA Vegas CLE, you'd know. From the opening words of "Just Us" through the "John and Dan Finale", it was as good a CLE as any I've attended and much better than many. Meeting new faces, seeing old ones (yeah you, Jerry), and listening to current topics presented with wit, humor, imagination, and a touch of cynicism is what made the difference. To AAYLA and especially Thomas McMillian ... ya did great ... thanks!!

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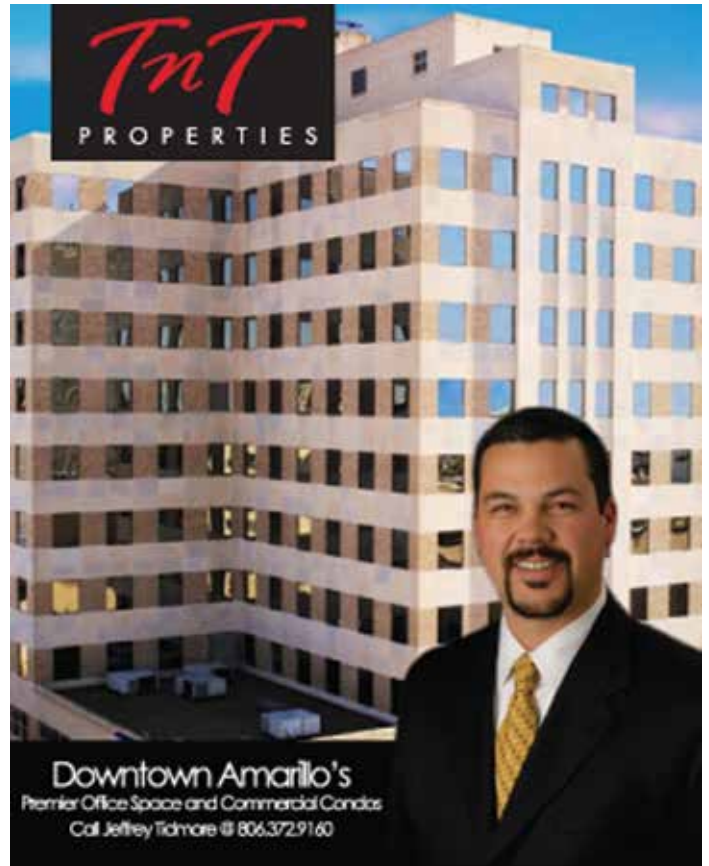
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SAVE THE DATE

"Demystifying Federal Sentencing"

Date: April 1, 2020
Location: Patterson Auditorium,
Happy State Bank
Time: 10:30am-4:30pm followed by a
happy hour
CLE Credit: 6 Hours (2hr Ethics) (pending)

Join West Texas' two new U.S. District Court Judges — the Hon. Matthew J. Kacsmarik (Amarillo Division) and Hon. James Wesley Hendrix (Lubbock Division) — for a deeper dive into the mechanics, guidelines, and ethics of Federal Sentencing in the Northern District of Texas. While this program will be insightful for attorneys interested in criminal and constitutional law, all are welcome and encouraged to attend.



AMARILLO AREA ESTATE PLANNING COUNCIL'S TWENTY-NINTH ANNUAL INSTITUTE ON ESTATE PLANNING MAY 14-15, 2020

Professor Lee Schwemer – Recent Developments Affecting Estate Planning

Professor Gerry Beyer – Technology's Impact on the Changing Future of the Trusts and Estates Practice/
e-Wills/Your Pleasure or Business Cannabis Client: It's High Time Estate Planners Know What to Do

Christine S. Wakeman – Planning Alternatives Using the Subchapter S Election

Jeff Chadwick – Optimizing Lifetime Gifts: Advising Clients in Uncertain Times.

Sarah Patel Pacheco – Fiduciary Pitfalls

Eric D. Marchand – The Anatomy of Spousal Lifetime Access Trusts (SLATs)

Wes Turiano – Fiduciary Oil & Gas Management Risk Mitigation

Walter T. "Four" Price – Legislative Update & Interim Charges of the 86th Legislative Session

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

Trent Hill – The Trend of Charitable Giving in the Texas Panhandle

For questions contact: John Brown at 806-337-1113; or
Mable Kelling at 806-930-2976 or aaepc1@gmail.com
Visit our website: aaepc.org

WHAT DOES THE STATE BAR DO FOR ME?

By James Wester, State Bar of Texas District 13 Director



James Wester

The State Bar of Texas offers many valuable services and benefits to its members. I will highlight several member benefits below, but you can find a full list at texasbar.com/benefits.

TEXASBARCLE — Did you know that (i) there is always a free online class offered and (ii) live and video replay courses are offered 50% off for lawyers practicing five years or less? Also, all members have free access to more than 2,100 ethics-related articles through the TexasBarCLE Online Library. Because the State Bar is committed to making high-quality CLE available to all its members, across all income categories, scholarships are available for lawyers who need financial assistance and meet certain requirements.

The State Bar continues to provide the best resource for continuing legal education for Texas lawyers. In addition to live courses and webinars, TexasBarCLE provides live webcasting of all Texas Supreme Court oral arguments, which is free and accessible to the public. It also offers more than 25,000 CLE articles for purchase in the Online Library. In the past fiscal year, the Bar has offered 31 multi-day advanced-level courses, 50 one and two day institutes, and 14 “101” level courses. Recognizing that it is sometimes difficult to leave the office and because travel is expensive, more than 150 live webcasts were produced last year. All program titles (more than 2,600 hours) are archived

as streaming videos in the Online Classroom, which is compatible with all mobile devices. Check it out at **TexasBarCLE.com**.

Texas Bar College Benefit: If you join the Texas Bar College, you get a free annual subscription to the entire TexasBarCLE Online Library.

TEXAS LAWYERS’ ASSISTANCE PROGRAM

— We all need help at times or know other lawyers who need help. The Texas Lawyers’ Assistance Program (TLAP) helps lawyers, judges, and law students whose professional performance is impaired because of substance use or mental health issues. Last year, TLAP handled over 600 calls regarding impaired attorneys. Help is available 24 hours a day. **ALL COMMUNICATION WITH TLAP IS CONFIDENTIAL BY STATUTE.** The website is tlaphelps.org and the phone number is 800-343-8527(TLAP). The State Bar, through TLAP, is committed to fostering an environment where all lawyers have a safe resource to get help with substance use and mental health issues. Many times, attorneys come to TLAP after depleting both personal and financial resources. The Sheeran-Crowley Memorial Trust is an independent entity created in 1995 that provides financial support for Texas lawyers and law students so they can receive necessary treatment for substance use and other mental health issues. You can learn more at sheerancrowley.org.

ETHICS HELPLINE — When you have an ethics question and need guidance, the State Bar has a resource just for you. The Ethics Helpline provides guidance on the Texas Disciplinary Rules of Professional Conduct, Texas Rules of Disciplinary Procedure, ethics opinions, and some caselaw to assist you with your decision-making. Last year the Helpline fielded 5,922 calls. The Helpline is available to Texas attorneys during normal business hours, Monday-Friday from 8 a.m. to 5 p.m. CT at 800-532-3947. Calls and messages are answered by staff attorneys in the order they are received.

If I can be of assistance, please feel free to contact me at James.Wester@uwlaw.com or 806-379-0354.



AAYLA UPDATE

By Thomas McMillian

“With your business capacity and experience, I would have preferred railroading or some commercial business.”

--Rutherford B. Hayes’ (the United States’ 13th lawyer-president) reaction to William McKinley’s (the United States’ 18th lawyer-president) decision to become a lawyer.

“I love judges and I live courts.”

“Neither law nor morals can give a man the right to labor or withhold his labor for [an unlawful] purpose.”

--William Howard Taft, the United States’ 19th lawyer-president.

“Taft’s legal resume is by far the most extensive and diverse of the lawyer-presidents.” He covered courts for a local newspaper while in law school and ended his legal career as chief justice of the United States Supreme Court. America’s Lawyer-Presidents: From Law Office to Oval Office (Norman Gross ed., Northwestern University Press, 2004).

The 2020 Biennial Las Vegas CLE is in the books! I hope those of you that joined us had a great time and learned something along the way! Thank you again to our generous sponsors (Freeman & Nance, Diana Hathaway, Mullin Hoard & Brown, Sherwood & Sherwood, and Sprouse Shrader Smith) for helping make this event possible. I would also like to thank all of our speakers for their informative and entertaining presentations. The beautiful Venetian Resort and Casino were wonderful hosts and a pleasure to do business with.

The Texas Young Lawyers Association (pronounced T-Y-L-A, not “tyla” according to one of their recent Facebook posts) is bringing their road show to Amarillo on March 26th. Jay Forrester with TYLA will be here as well as a representative from the Texas Lawyers Assistance Program and AAYLA. This no-cost CLE will be held at the Amarillo Club in the afternoon. Keep an eye out for more information.

Easter falls on April 12th this year. That means that the annual AAYLA Easter Egg Hunt will be held on Friday, April 10th and the Bunny Hop 5K will be held on Saturday, April 11th. Keep an eye out for emails and announcements about these upcoming events.

We are still accepting donations for our Children’s Luggage Drive in conjunction with the Panhandle Family Law Association benefiting the Rainbow Room. Many children that enter the foster care system have little more than trash bags to carry their belongings in. We are accepting donations of new children’s luggage of all sizes. Donations can be made from your desk by visiting bit.ly/AAYLADrive. You can also contact Alysia Córdova (alysia.cordova@sprouselaw.com) or Titiana Frausto (titiana.frausto@uwlaw.com) to arrange a drop off.

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How many U.S. Presidents were born in Texas and what were their names?



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Contact Us

For more information about your local area bar association or for address changes, contact Janet Byars, Executive Director, at:

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Also visit our website at www.amarillo-bar.org for information and links to both local and state-wide legal resources.



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YOUR BAR EVENTS - MARCH 2020

S	M	T	W	T	F	S		
1	2	3	4	5	6	7		
8	9	10	11	AABA Bar Luncheon, Embassy Suites	12	Building Blocks of Wills, Estates & Probate, Eagle Center Training Room	13	14
15	16	17	18	19	20	21		
22	23	24	25	26	27	28		
29	30	31						