

AABA-LAW

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COMING THIS FALL!



Laura Nirider

Mark your calendar for Fall Institute 2021! The COVID-19 pandemic thwarted our plans for Spring Institute 2020 and 2021, but the AABA is forging ahead with plans for a real, live Fall Institute for Friday, October 8, 2021. In addition to a morning of CLE, we expect to offer the traditional afternoon golf tournament as well as an alternative activity for the non-golfers among us.

You won't want to miss speaker Laura Nirider, a clinical professor of law and co-director of the Center on Wrongful Convictions at Northwestern University Pritzker School of Law in Chicago. Nirider is an expert on juvenile justice, wrongful convictions, confessions, and

police interrogations. In addition to her scholarly work, she maintains an ongoing caseload, primarily representing people who were convicted of crimes as children or teenagers. The case of one of her clients, Brendan Dassey, inspired the award-winning Netflix Global series Making a Murderer. The story of another client, Damien Echols of the West Memphis Three, was covered in the documentary West of Memphis.

Nirider has co-authored, together with the International Association of Chiefs of Police, protocols for the effective interrogation of juveniles. She has also published articles on interrogations and post-conviction relief and is a frequent presenter at defender and law enforcement training conferences. On the podcast Wrongful Convictions, which she co-hosts, she shares stories of individuals who have spent years in prison for crimes they did not commit.

Nirider is a graduate of the University of Chicago and Northwestern University School of Law. Before returning to Northwestern to teach, she was an associate attorney at Sidley Austin LLP in Chicago.

Please make plans to join us for our first-ever Fall Institute as we welcome Professor Nirider to Amarillo and learn more about her work. Stay tuned for further details.

“The two justices looked at each other and both spontaneously said ‘badges, we don’t need no stinking badges.’”

-Page 2

“To the full extent possible, make every decision one time only.”

- Page 4

CONTENTS

President’s Page	2
Seventh Court of Appeals	4
AAYLA Update	5
Young Lawyer of the Year	5



PRESIDENT'S PAGE

By: Jennie Knapp

The AABA is pleased to announce that Justice James T. Campbell will be award the Chief Charles L. Reynolds Lifetime Achievement Award in the fall.

Justice Campbell was a most even-keeled judge and person. Like Justice Reynolds, Justice Campbell was uniformly admired and respected. Those who worked closely with him noted his ever-present calm demeanor despite his half dozen cups of coffee through the day. He always maintained the ability to sit and talk with colleagues in a thoughtful, calm way. Never did he lose his cool, raise his voice, or the like.

Before he began his lengthy career as a jurist, he practiced probate law with what is now the firm of Ferris, Parker & Hubbard. He maintained a reputation as a great lawyer and friend during his 17 years at the firm. A long-time secretary recalled interviewing with Jim Campbell (we won't say how many years ago). She had previously worked for another lawyer who was not known for being . . . pleasant. She made clear that if she was going to be assigned to someone who threw papers or yelled, she didn't want the job. Jim Campbell responded, "Well, I think we are pretty nice guys." All who know him know that this description was an understatement. The firm was reluctant to let him go, but Jim Campbell felt called to be a judge and became a justice at the Seventh Court of Appeals.

As Justice Quinn put it,

Jim Campbell's personality was as close to Charlie Reynold's as I have encountered. He even maintained Charlie's mantra of 'the more you say in an opinion the more you can get it trouble' and told his court colleagues that, in his own words. I remember him urging that upon me when I was drafting a particular opinion years ago involving TTU and Coach Leach. His words led me to edit it and others to avoid the unnecessary.

In the age of computers, email, and most everyone communicating through them, Jim also made it a point to personally discuss questions about draft opinions and issues in general face-to-face. That remains a lesson to all of us . . . maintaining the human/personal touch in our communications.

Justice Campbell also had the ability to see and direct us towards the big picture and interject common sense in our discussions. Those traits guided the court through many budgetary and personnel issues.

Yet, like Reynolds, Jim was not stoic each minute of the day. He had his vices, like chocolate, and often wandered down to the office of a particular staff attorney to plead for a piece from the bowl she kept on her desk.

Nor did he ever miss an opportunity for a piece of birthday cake or any other baked good someone brought that day. And, his Friday donut run for the court has been missed."

Justice Hancock recalled an instance when the court had decided to get badges for each judge to carry with them when travelling. Our then court clerk, Peggy Culp, worked hard to find the right ones, obtained them, and planned to give them to us in a meeting. Mackey and Jim were the first to arrive and Peggy showed them the badges. The two justices looked at each other and both spontaneously said "badges, we don't need no stinking badges." If you never saw Blazing Saddles or the Treasure of Sierra Madre, it's time you do. They did.

When one would least suspect it, the subtlety of Justice Campbell's humor would spring up. Because a picture speaks more than words, please come to our ceremony in the fall where we will show you one.

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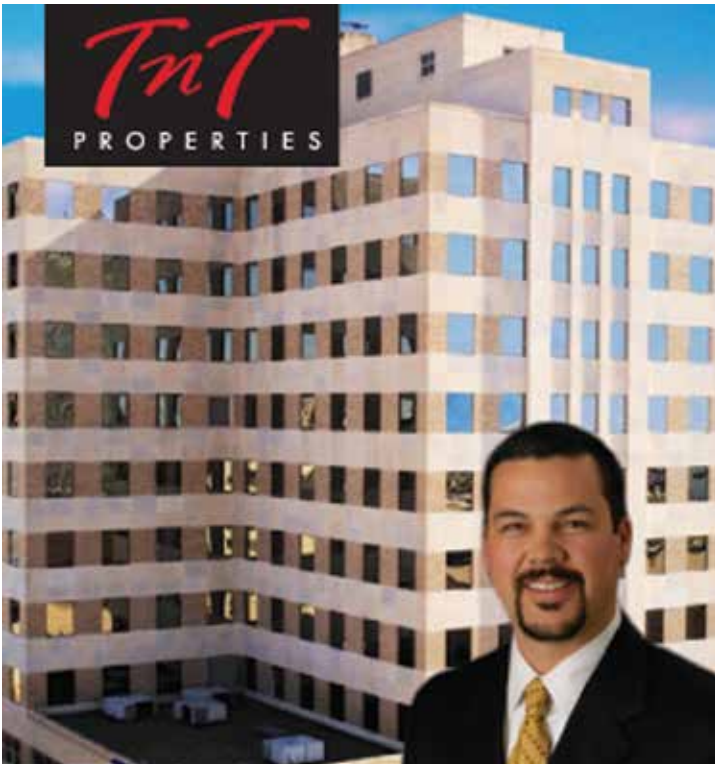
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7TH COURT OF APPEALS UPDATE

By Chief Justice Brian Quinn

Ferris (Bueller, not Tom) said, “Life moves pretty fast.” No lie! Within the last month, a proposed plan for restructuring the Texas Courts of Appeal was released by Senator Huffman, heard in committee, and withdrawn. I have to admit, it retained the structure and independence of the Seventh Court, save for adding a number of counties to the district. The issue may not be dead, though, for a there is talk about special legislative sessions on the horizon. Now if I can just work on patience since “the waiting is the hardest part”. . . ask Tom (not Farris, but Petty).

Wait no further though on this legal blurb. Damages is (are?) an element in a claim for breached contract. Without them, you’ll find difficulty in winning. And, you can’t fill the void by merely seeking attorney’s fees. Those incurred in attempting to pursue the claim are not damages, as we said in *Tomorrow Telecom, Inc. v. Johnson*, No. 07-19-00427-CV, 2021 Tex. App. LEXIS 1890 (Tex. App.—Amarillo Mar. 11, 2021, no pet. h.) (mem. op.)

We have had a spate of appeals about jurisdiction, lately. One concerned the jurisdiction of a small claims/justice court and whether the amount in controversy exceeded the statutory limit. We observed in *Clark v. Catron*, No. 07-19-00415-CV, 2021 Tex. App. LEXIS 2090 (Tex. App.—Amarillo Mar. 18, 2021, no pet. h.) (mem. op.), that the amount in controversy alleged by the plaintiff controls, unless the defendant shows that the amount was pleaded as a sham for purposes of gaining jurisdiction. Furthermore, the jurisdiction of a county court entertaining an appeal from the justice court is somewhat derivative. If the justice court lacked jurisdiction over the case, then the county court lacks jurisdiction over the appeal. Ok, this may appeal to more of the law nerds among us. Maybe that’s why I found it interesting. And, to forward a challenge made by the staff attorney some call “Mommie” (because she watches over us), how many of you know what the jurisdictional limit of a

small claims court is?

To repeat myself (which I do more often as I grow old), life goes by fast. That leads me to wonder about how many of our bar colleagues remember Judge John T. Forbis out of Childress. He wrote Rules on “Judicial Survival.” Two were: 1) “Always remember that a judge is elected, not anointed” and 2) “To the full extent possible, make every decision one time only.” While the first is one we judges should imprint on our minds, all lawyers (especially the newbies) should work on the second. You will have to wait until later to hear some of his other bits of wisdom, even though “waiting is the hardest part.” Be safe and adventuresome.

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AAYLA UPDATE

By Richard Biggs

Luckily for the readers of this column, this will be my last submission on behalf of the Young Lawyers Association. Brittany Hinton will be the president next year and Alysia Córdova will be vice-president, both of which will be noticeable upgrades from the present administration. After a hard-fought election, Joseph Hinton and John Smithee will be treasurer and secretary next year.

This year was a bit of a struggle. We didn't do most of the bar activities that we traditionally engage in, and some of the events we hosted were over Zoom – a software package which I've steadily fallen out of love with. Most of our meetings amounted to discussions over whether various activities were "safe enough." As professionals who advise others on what constitutes a

"reasonable standard of care," you think we would be good at determining what was safe and what wasn't. But looks can be deceiving. As a general rule, we kept everything on our schedule until the last possible moment, and then cancelled.

There were some notable exceptions. AAYLA and the exceptionally generous Seventh Court of Appeals hosted a live swearing-in ceremony with an internet feed for the families of new lawyers. And as the pandemic has waned, we even had a happy hour and got to see everyone in real life.

I regret that this year's list of achievements is not longer or more impressive, but sometimes you have to just play the cards that you are dealt.

AAYLA YOUNG LAWYER OF THE YEAR AWARD

WINNER: HONORABLE JUDGE TITIANA D. FRAUSTO

The Honorable Judge Titiana D. Frausto received a Bachelor of Arts from the University of New Orleans in 2004, and a Doctorate of Jurisprudence from Texas Tech University School of Law in 2009. She began her legal career working at the Abbott Law Firm. In 2013, Judge Frausto opened her own solo- practice, focusing in the areas of family law and criminal defense. In the fall of 2015, she joined the Underwood Law Firm as an Associate. Due to her hard work and dedication to the practice of law she was named a shareholder in January 2020. While at Underwood her practice areas included family law, criminal defense, and civil litigation. On September 11, 2020 she was appointed by Governor Abbott to fulfill the unexpired term of Judge John Board in the 181st District Court; she was sworn in on October 1, 2020.

Judge Frausto is a member of the Amarillo Area Bar Association and the Amarillo Area Young Lawyers Association (AAYLA). She actively participates in programs and activities of the Amarillo Area Bar Foundation, such as monthly meetings, Spring Institute continuing legal education (CLE), and the bi-annual trial academy. AAYLA recognized Judge Frausto as its 2016 "Outstanding Lawyer of the Year." Judge Frausto is a member of the Panhandle Family Lawyers Association (PFLA) Titiana served on the District 13 Grievance Committee from 2013 to 2019. Her panel reviewed and heard numerous cases, and they made tough decisions to uphold the ethical expectations of this professional. She was selected as one of the 20 lawyers to participate in 2020-2021 Leadership class for the State Bar of Texas.

Though Judge Frausto takes great pride in her service to her area bar associations and the legal profession as a whole, she is most proud of the work she does within the community. Judge Frausto is very active with local middle and high schools. She is an annual presenter at Amarillo's Bowie Middle School's career day where 7th and 8th graders participate and ask questions about various professions, including the legal profession. Judge Frausto has volunteered and served as a mentor for the College Student Initiative, a program focused on preparing students for college, exposing them to universities beyond the Amarillo area and providing mentorship for high school and college students. Judge Frausto is currently a board member for Opportunity School, an organization dedicated to providing quality early childhood education to children from low income families, and a board member of the Amarillo Art Institute, a non-profit organization focused on educating and enriching lives through art. Judge Frausto also is a volunteer for Project Safe Neighborhoods.

Judge Frausto is married to Joshua Frausto. They are the parents of three children, Joslyn, Jason, and Taylor. In her "free time" Judge Frausto enjoys DIY projects, cooking, and traveling.



Honorable Judge Titiana D. Frausto

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THANK YOU!

By James Wester, State Bar of Texas District 13 Director



James Wester

This is my last article as your State Bar Director. Thank all of you for the opportunity to serve as your Director. I am honored! It was a pleasure to build on the groundwork of many of our past District 13 Directors and the excellent representation they provided.

It has been an interesting 3 years. Despite every challenge, controversy, catastrophe, pandemic, etc., I am pleased to report that the State Bar has continued its laser focus on its mission:

The mission of the State Bar of Texas is to support the administration of the legal system, assure all citizens equal access to justice, foster high standards of ethical conduct for lawyers, enable its members to better serve their clients and the public, educate the public about the rule of law, and promote diversity in the administration of justice and the practice of law.

I hope that you have found useful information in my articles in AMA-LAW. Particularly, I hope that you learned about the numerous resources available to you by the State Bar of Texas, most provided because your annual membership dues at no additional cost to you. I thank the Amarillo Area Bar Association for its willingness to include these articles.

By the time you read this article, Audie Sciumbato should be elected to serve as your District 13 Director. I appreciate Audie's willingness to serve and I know that our District will be well-represented on the State Bar Board of Directors. Audie will be sworn in at the Annual Meeting, which unfortunately will be a virtual meeting.

To many of you that emailed, telephoned, or caught me out and about to discuss important issues facing our State Bar during the last 3 years, I thank you. As your representative, it was invaluable to me to hear your views and obtain your input. I encourage you to continue those efforts by contacting Audie when you want your voice to be heard.

I encourage you to become more involved with the State Bar. It is as easy as contacting Audie and letting him know you are interested. The State Bar is always looking for members that want to be actively involved and serve. We are blessed to have many of the best

and brightest lawyers in Texas volunteering to serve. The State Bar relies upon its volunteer members to continue the good work that benefits all of us. As an added bonus, you will make some lifelong friends.

I take this opportunity to thank the State Bar Staff. Our organization is blessed to have the best of the best working tirelessly for our State Bar. They are amazing people and truly devote their lives to our organization as it is not "just a job" for them. I cannot say enough about how invaluable the State Bar Staff has been to me as a Director. If I started mentioning each of them by name, AMA-LAW would have to publish a special edition for this article.

Lastly and definitely not least, my sincerest appreciation to the Underwood Law Firm family and the Wester family that have allowed me stay involved in bar service and serving our profession for the past 35 years. I can never repay them for the many sacrifices they made.

Thank you again for the opportunity to serve!

The views expressed in this article are mine and not necessarily those of the State Bar of Texas. If I can be of assistance, please feel free to contact me at James. Wester@uwlaw.com or 806-379-0354.

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