

AAYLA-LAW

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A PUBLICATION OF THE AMARILLO AREA BAR ASSOCIATION

JANUARY SPEAKER: CHAD BARUCH



Chad Baruch

Please join us at the Amarillo Club on January 12th to start off the new year with a presentation from Chad Baruch entitled, "Back to the Beginning: An Entertaining Romp Through Marbury v. Madison and the Roots of Judicial Review."

Chad Baruch presently serves as the 85th Chair of the State Bar of Texas Board of Directors. Chad is board certified in civil appellate law and is a former high school and college basketball coach and government professor. As the Texas Lawbook recently wrote, Chad is hired by "big corporate America" for "bet-the-company" appeals.

Chad has been voted to the "Top 100 in Texas" list of Texas Super Lawyers three times in the past five years. LawDragon recently named him one of the "500 Leading Lawyers in America."

In 2015, Chad wrote perhaps the most acclaimed legal brief in American history while representing what the New York Times called "a glittering array of hip hop stars." The "Hip Hop Brief" received national media attention, including feature stories in The New Yorker, Rolling Stone, Billboard, and Spin. One newspaper called it "the greatest amicus brief in Supreme Court history."

In 2017, Chad was one of two nominated candidates for President of the State Bar of Texas. He won the 2018 Patrick Wiseman Memorial Award, presented annually to an attorney who has made superior career contributions to the defense of constitutional rights and civil liberties in Texas. A recognized constitutional scholar, Chad also serves as a contributor to Black's Law Dictionary and has lectured across the country on Marbury v. Madison. His scholarly work has been cited as legal authority in three published appellate opinions, and in more than 30 law review articles.

A former college and high school head basketball coach, Chad was a Finalist for State Coach of the Year from the Texas Association of Basketball Coaches in 2006. He has served as the men's basketball coach at the University of Dallas and Paul Quinn College.

“...the hazy days of Christmas vacation, when the kids wear pajamas all day and pecan pie is considered an acceptable breakfast food, I also delight in the clean slate the new year represents.”

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“Who hasn't been sitting in their car, office, or elsewhere thinking "I want to break free, I want to break free"?”

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PRESIDENT'S PAGE

By: Liberty Lay

Scientific research has confirmed what our common experience has suggested: the start of a new year is associated with “increases in aspirational behavior.” In their paper “The Fresh Start Effect: Temporal Landmarks Motivate Aspirational Behavior,” researchers Hengchen Dai, Katherine Milkman, and Jason Riis explored the effect of “temporal landmarks,” such as the start of a new week or a new year, on human behavior. They found that the start of a “new mental accounting period” motivates people to tackle their goals with renewed vigor. (The researchers dutifully accounted for the tendency toward immoderate behavior during holidays and postulated that their findings “cannot be parsimoniously explained by the physiological need to offset overindulgence.”)

This conclusion likely comes as no surprise to those of us living in the United States, where new year’s resolutions are commonplace. Interestingly, while a majority of Americans under the age of 45 will make new year’s resolutions, only a quarter of Americans over the age of 45 will do so. Whether this means that people in the second half of life are more satisfied with their lot, or whether it indicates the triumph of experience over hope, is a question not addressed in the study.

I can certainly identify with the fresh start effect. As much as I enjoy the hazy days of Christmas vacation, when the kids wear pajamas all day and pecan pie is considered an acceptable breakfast food, I also delight in the clean slate the new year represents. Clearing away the 2022 calendar signifies something more than tidying up: it’s a way of relegating the disappointments and dissatisfactions of the previous year to the rubbish bin. With the fresh calendar comes the chance to refocus our energy on what we want to do and, more importantly, who we want to be.

The new year that has been given to us is, as poet Rainer Maria Rilke wrote, “full of things that have never been.” It is sure to have new demands. I trust it will also have new joys. Here’s to 2023.



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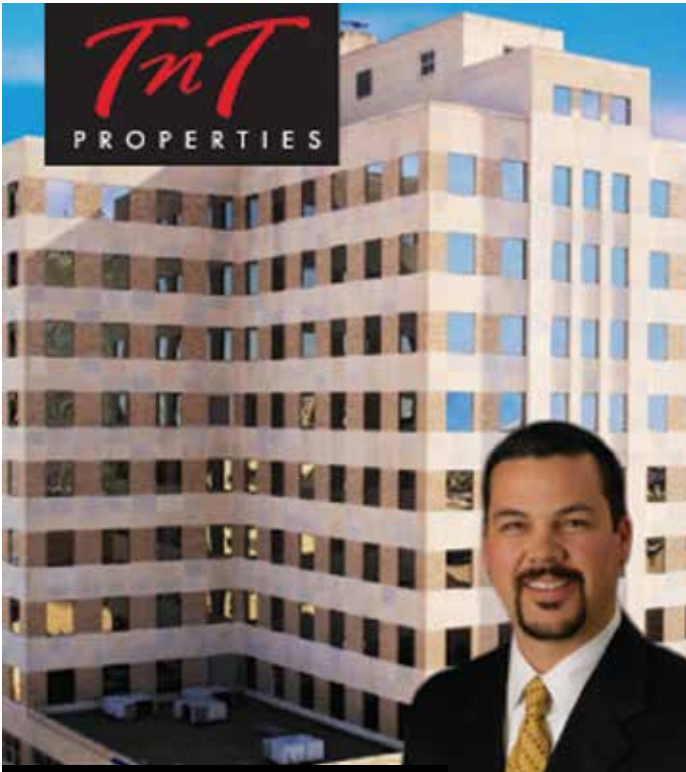
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7TH COURT OF APPEALS UPDATE

By Chief Justice Brian Quinn

Who hasn't been sitting in their car, office, or elsewhere thinking "I want to break free, I want to break free"? John Deacon's lyric pops to mind regularly over the years. There's only one attorney I know of who has found the way to make a living from practicing law while hiking, on his surfboard, or in a river raft over 50% of his time. Most of us need to learn from him and stay free, as do some clients.

Take, for instance, Judge Bill Sowder's experience with criminal defendants hoping to remain free with the help of a jury. He observes that two words may sometimes be better than one while pursuing that effort. "Defense attorneys try to humanize their clients at every opportunity. "[So] [w]hen a defendant is not going to testify, his response in front of the jury to the Court asking how the defendant pleads may be the only time the jury hears from [him]," according to the judge. The "response needs to make an impression." Nerves may take control, though, such as when one defendant "pleaded 'guilty'" resulting in "his defense attorney . . . waving his arms [and] saying, 'No. No. You are pleading not guilty.'" The trial then continued after the "defendant somehow was able to finally utter the words 'not guilty.'" In another instance, a defendant stood up and "pleaded 'not innocent.'" I guess two words may help gain freedom . . . if they are the right ones.

We recently had a case where an employee was made to break free. It was with the help of his employer. The employee, a truck driver, refused to carry a purportedly mislabeled load of fuel. Needless to say, that led to his boss saying, "Well then, you're fired" and "if you refuse, we don't need you." After that exchange, the employee believed himself fired despite his ex-boss texting within the hour offering a different load to haul. The driver didn't take it and, instead, applied for unemployment compensation. It seems that statute bars an employee from obtaining such benefits if fired for misconduct related to his work. We held in *Tex. Workforce Comm'n v. R.D. Wallace Oil Co.*, No. 21-00283-CV, 2022 Tex. App. LEXIS 8274 (Tex. App.—7th Dist. Nov. 9, 2022),

that refusing to haul a mislabeled load of fuel was not misconduct. So, the employee was entitled to benefits, notwithstanding the boss's later offer of a different load (or, e.g., offer of reemployment). Firing is firing, and the employee was set free.

You know, there is truth in Freddie proclaiming, "I've got to break free, I want to break free, yeah." Periodically doing that is a release which rejuvenates the soul, especially for those in our profession who, unlike my friend, are risk-averse or less imaginative. "I want, I want, I want . . ." It's a good time to try since it is a new year lying before us.

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AAYLA UPDATE

By Alysia Córdova

Happy Holidays! I say that with more enthusiasm than I generally feel towards winter because I will likely be in Mexico at the time this circulates. Naturally, that is what inspired this month's theme: rest. As a lawyer, it is easy

to overlook the importance of mental breaks. This year, we have had many excellent bar lunch speakers and CLEs geared toward improving attorney wellness, so I won't dive too much into the research and psychology behind it all. But I do want to encourage lawyers, especially young, to make an effort to take a substantive break from our profession on an annual basis.

I was the worst when it came to this. I never made effort to rearrange my litigation schedule or stock up enough billable hours to feel entitled to an entire week off. So, while I am advising you to do so, I only have one actual tip to accomplish this and that is to surround yourself with people who make it easier for you to hit the beach (even if figuratively speaking). For me personally, that means friends who help with airport rides and pet-sitting and professionally, that means support

staff and fellow attorneys that step in during your absence.

On that note, and since Thanksgiving is on the horizon, I would like to give thanks to a few individuals that have put in the extra effort. First, I could never be more thankful for great support staff. I truly believe the difference between a "good lawyer" and a "great lawyer" is the assistant or paralegal behind the wheels. Secondly, I would like to take a moment to brag about this year's AAYLA Board of Directors. Presidency is far more time consuming than I imagined but this board's enthusiasm and attendance has made it easier to manage. I want to give an extra shout out to my executive board and recognize Matthew Merriott, John Hinders, and Hannah Rivera, who eagerly volunteered when I've solicited help on a project. Notably, though Hannah just joined our ranks, she immediately stepped up in planning an excellent swearing-in ceremony.

In closing, I wish all of you a wonderful holiday season and hope you take the time to appreciate those who make handling other people's stress for a living, a little less stressful.

SEVENTH DISTRICT COURT OF APPEALS JOB VACANCY NOTICE – STAFF ATTORNEY

State Job Title:	Attorney IV
Salary Range:	\$100,000 - 106,000 (commensurate with experience)
Target Start Date:	February 1, 2023 (or earlier)

The Seventh District Court of Appeals is now accepting applications for a staff attorney position. The State job title is Attorney IV. Applications will be accepted until the position is filled. Vacation, sick leave, health insurance, retirement, and other benefits are provided in accordance with State policy. The staff attorney assists with the preparation of opinion drafts and legal memoranda to the Court. This position involves highly advanced and complex legal research and writing, coupled with other court-related tasks assigned by the supervising justice, Chief Justice, or the Court. For further information, please see the Court's website: <https://www.txcourts.gov/7thcoa/careers/>.

To apply, applicant must mail (1) a cover letter, (2) a resume, (3) a writing sample, (4) the State of Texas Application for Employment form, and (5) the name of two references to Mr. Bobby Ramirez, Clerk of the Court, Seventh Court of Appeals, P.O. Box 9540, Amarillo, TX 79105.

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YOUNG LAWYER OF THE MONTH: JOHN BYROM



John Byrom

John Byrom is an attorney in the corporate group at Brown & Fortunato, P.C. John received his undergraduate degree from TCU (Go Frogs!) and his law degree from Texas Tech University.

John grew up in Rockwall, Texas, a suburb of Dallas, complete with lush greenery and a large lake. From there, he picked up the skills and interests that would continually lead him west, deeper into the arid desert that is West Texas. He first developed his skills on the soccer pitch and played at Hardin-Simmons University in Abilene. While studying there he developed interests in business and law, which motivated him to enroll at TCU in Fort Worth and later at Texas Tech in Lubbock.

Finally, he moved to Amarillo in 2014 to primarily practice energy law with a particular emphasis on oil and gas title.

Today, he still works on energy related matters, but has broadened his practice to include real estate, contract review, corporate structuring and governance, and mergers and acquisitions. He married his wife, who is also an attorney in Amarillo, in 2019. In his free time, John enjoys going to concerts, and participating in sports to stay active. However, because he traded grass for desert, he has adapted and switched from playing soccer to ice hockey.

TEXAS BAR FOUNDATION GRANTS UPDATE

The Texas Bar Foundation recently granted \$20,000 to Amarillo Area CASA for its Collaborative Family Engagement with Specialized Services for Aging out Youth project. This project will strengthen collaboration and enhance CASA advocacy by providing an increasing number of supportive people in a child's life to positively impact their well-being.

Founded in 1965, the Texas Bar Foundation has maintained its mission of using the financial contributions of its membership to enhance the rule of law and the system of justice in Texas. Since then, the Texas Bar Foundation has been supporting law related programs across Texas that provide legal services to the poor, victims legal services, education about the third branch of government, and the administration of justice. Supported by members of the State Bar of Texas, the Texas Bar Foundation has distributed almost \$25 million in grants statewide.

Grants are awarded twice a year, in the Spring and Fall, to non-profit organizations whose project fits the mission statement of the foundation. During the 2022 Fall grant cycle in October, the Texas Bar Foundation awarded \$849,436 in grants to 56 organizations across Texas. This amount is the largest awarded during a single grant cycle in the history of the Foundation. The Foundation will award over \$1,500,000 in grants this bar year.

Please help us to spread the word in our community about the availability of grants from the Texas Bar Foundation. Grants are only given to non-profit organizations and local bar affiliates, and must meet the Foundation's mission statement and have a legal component. If you know a non-profit organization that might be interested in applying, please ask them to go

to www.txbf.org to sign-up or email Amy Weir, Grants Manager, at aweir@txbf.org.

Funding for these grants comes from the contributions of TBF Fellows. Election to the Fellows is one of the highest honors that can be bestowed upon a member of the State Bar of Texas. Those elected as Fellows join a network of distinguished attorneys in Texas who support professional integrity and the promotion of the cause of justice in Texas. Only one-third of one percent of licensed Texas attorneys are invited each year to join the Fellows. The only obligation of becoming a Fellow is a pledge of \$2,500, payable over ten consecutive years. Upon payment in full of the \$2,500, one becomes a Life Fellow, but one can become a Sustaining Life Fellow by contributing \$250 each year thereafter. All sustaining gifts are used directly for the Grants Program. If you would like to nominate a Fellow, please contact one of our District 13 Nominating Chairs: Andrew Evans or Justice Alex Yarbrough.

Scott Sherwood of Sherwood & Sherwood, P.C. in Panhandle and James Wester of Underwood Law Firm, P.C. were appointed for a 3-year term as trustee on the Bar Foundation board, in 2021 and 2022, respectively. They have been an active voice for the Texas Bar Foundation in the Panhandle.

"I am very pleased the Texas Bar Foundation is supporting these important projects in the Texas Panhandle and appreciate both Scott Sherwood and James Wester for their service as Texas Bar Foundation Trustees representing the Panhandle," said former Trustee Riney.

Prior to Mr. Sherwood and Mr. Wester, Mr. Tom Riney served on the board from 2018-2021 and Mr. Kyle Lewis of Dumas served from 2013-2016.



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YOUR BAR EVENTS - JANUARY 2023

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	AABA Luncheon, Amarillo Club	12	13
		Advanced Civil Trial, Eagle Center				
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				