

AAYLA-LAW



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A PUBLICATION OF THE AMARILLO AREA BAR ASSOCIATION

SPRING INSTITUTE 2022

The AABA Spring Institute is back! We hope you'll join us at 8:00 a.m. on Thursday, May 12, for this longstanding bar tradition. We'll have breakfast, CLE, and lunch at the WT Enterprise Center, followed by your choice of (1) golf at Ross Rogers Golf Course, (2) a charcuterie board demonstration at The Local Wedge, or (3) returning to your office to work.



Randy Johnston

Our CLE will feature three excellent speakers. First up, **Randy Johnston** from Dallas will discuss his representation of Mark Bissonnette, a former Navy SEAL who authored the controversial book *No Easy Day*. After publishing his firsthand account of the raid that resulted in the death of Osama bin Laden, Bissonnette found himself the target of both civil and criminal investigations. Johnston took on the task of clearing Bissonnette's name, a highlight of his legal career.

Next, **Jerry Bullard** of Grapevine will provide a "Texas Legislative Postmortem" – a rundown on the new statutes from the Texas Legislature that affect trial and appellate practitioners. Joined by our own Representative Four Price, Bullard will give us updates on bills concerning business organizations, healthcare related to the COVID pandemic, revisions to the Civil Practice & Remedies Code, and more.



Jerry Bullard

Finally, **Anna McKim** of Lubbock will close out the CLE portion of the day with an ethics presentation. McKim's discussion on "Ethics: Things to Do Right" will provide information concerning common situations faced by attorneys that may lead to malpractice, grievance, and missed deadlines. Come hear her pointers for avoiding these missteps.

The AABA is grateful to the donors who are making this event possible; they are listed on the formal invitation which should arrive in your inbox very soon.



Anna McKim

"...where neighbors act like neighbors and mutual respect generally carries the day."

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"So, as time grabs you, grab back. It's about the ride."

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PRESIDENT'S PAGE

By: Matt Sherwood

A Final Note of Thanks

My good friend Ed Dowdy once described this time of life as one where “the days are long and the years short.” It is alarming how accurate this sentiment is. While Ed was using the phrase in relation to our kids growing up (how do I have a high school aged daughter!), this phrase accurately describes my time as your AABA President. It really does not seem that long ago that Justice Pirtle swore me in to serve as your President.

In some ways, it still feels like yesterday that I was a fresh-faced law graduate getting “teaching” emails from Mike Loftin and causing Roger Cox’s head (and keyboard) to explode with my cocky attitude. Time truly does fly, and it seems to be gaining speed.

I am still as humbled today to serve as your President as I was a year ago. It is an honor to serve as the President of this wonderful group of attorneys. We truly are fortunate to practice our craft and live in an area of the country where neighbors act like neighbors and mutual respect generally carries the day.

For my final column, I have a long list of thank yous and a few challenges to some of our members.

Thank you to Janet Byars. Janet has served quietly as our Executive Director for over five years. She is incredibly organized, helpful, and dedicated to this organization. Thank you for making my job so easy.

Thank you to my fellow officers, Liberty Lay and Tyler Topper. You two are amazing partners. You put in extra time this year as we transitioned back to in-person meetings. Liberty, your speaker choices were the best we have had in years, and you had all of them booked months in advance (the complete opposite of how I did it). Tyler, you volunteered to take on two officer positions, which volunteered you to put together a Spring Institute in about six weeks. The AABA is in great hands with you two running the show.

Thank you to the Executive Committee. You were engaged, helpful, and dedicated. You all took time away from your professional careers to spend time serving your fellow peers. You all helped to make our local bar association better for everyone.

Thank you to Michael Alexander. Editor of AMALAW is the most thankless job in our association. It takes an incredible amount of time to edit the articles, ask the President for his article, coordinate with the printer, hound the President for his article, and threaten violence if the President does not submit his article. Thank you for taking on this task and making the AMALAW one of the best bar association publications in the state.

Thank you to my partners, Patrick Weir and Jeff McCarn. You were supportive of my service, even went it meant time away from the firm.

And now, I would like to issue two challenges to the membership.

First, to the young lawyers. I would encourage you to get involved both in AAYLA and in the AABA. The average age of our luncheon attendees is pretty high because not many of our young lawyers seem to attend. While computers and electronic communication tend to dominate our lives, there remains no substitute for engaging personally with a friend, colleague, or stranger. AABA provides a wonderful way to meet other lawyers in our area that you might not otherwise ever encounter. Please make it a point to attend bar lunches next year. You never know when you might need new connections.

Second, to the older lawyers. I would encourage you reach out to the younger lawyers. Make them feel welcome when they attend an event. Maybe even take on a young lawyer in a mentor/mentee relationship. The lessons I learned from some of the finest lawyers in the area have helped my career immensely. You could truly make a difference.

One final thank you to the most important people in my life. My wife, Robin, and our children, Olivia and Will. They encourage me, motivate me, and support me. They have loved me through the late nights, the early mornings, and Trial Mode Matt (he sucks). And through my darkest times, they have loved me unconditionally. They are the reason I try to work hard. They are the reason I strive to be a better man. They are the reason I smile like a goober when I walk into my house after work. They are all my reasons.

I hope to see you all at the Spring Institute.

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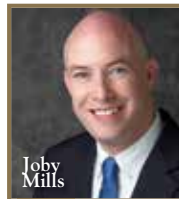
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7TH COURT OF APPEALS UPDATE

By Chief Justice Brian Quinn

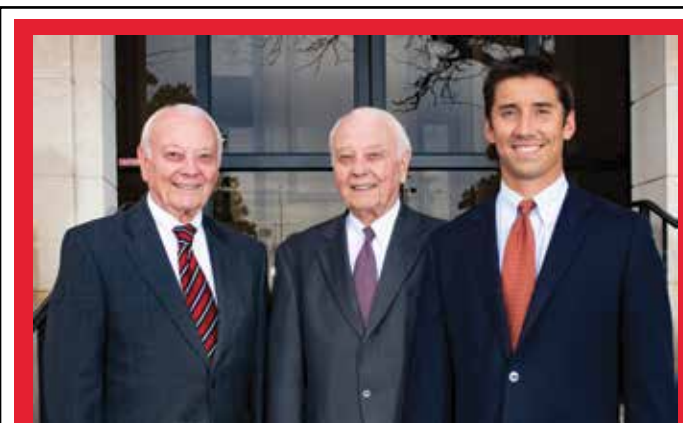
Green Day wrote a passage that goes: “Time grabs you by the wrist, directs you where to go. So, make the best of this test, and don’t ask why.” Do you think it would tell you as you fly through another Spring and days get left behind? When I asked Carrie, my staff attorney, for input about cases for this month’s piece, her comment was more amazement than anything: “Wow, Amalaw came back around fast.” Don’t ask, just hold on cuz here we go again.

Certain things you can confront in criminal trials, like witnesses . . . but . . . how about a presentence investigation report. After all, someone has to write it as he describes your client’s past. In *Harrison v. State*, 631 S.W.3d 838 (Tex. App.—Amarillo 2021, pet ref’d), Harrison argued that his right to confront witnesses was denied him when the trial court considered such a report. One problem,

though, or maybe two or three. He asked the trial court to prepare it. And, after it was completed, the trial court considered it, and he uttered no complaints. Instead, his counsel touted the benefits of considering such a report during his closing argument. Those circumstances led us to apply the waiver and invited error doctrines. In short, be careful what you ask for. Affirmatively seeking it from the trial court generally prevents you from complaining about what you get, just as it did Harrison.

Let’s be honest, people like to take verbal shots at our local appraisal districts, especially around this time of year. I’ve heard them from most of my friends. In lofting his, Paul Johnson aimed squarely at the chief appraiser when suing her for slander. Allegedly, she made false statements that both defamed him and resulted in the appraisal review board denying a particular appraisal of property. To get around her claim of governmental immunity, he said: “Ultra vires.” One actually can use that theory to pierce the cloak of immunity given a government official sued in his official capacity. But, the relief sought must be prospective and in the nature of forcing the official to comply with legal duties. You can’t use it to recover damages, and Johnson sued for damages. So, in *Johnson v. Cullens*, No. 07-21-00093-CV, 2022 Tex. App. LEXIS 1556 (Tex. App.—7th Dist. Mar. 7, 2022, no pet. h.) (mem. op.), Cullens’ immunity cloak withstood the attack, leaving dismissal of Johnson’s suit as the appropriate end.

Maybe Billie Joe was bitter when writing it. Nevertheless, “it’s something unpredictable . . .” So, as time grabs you, grab back. It’s about the ride. And, in the end, “I hope you had the time of your life.”



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**SPRING INSTITUTE
MAY 12, 2022**

8:00 a.m.

CLE @ WT Enterprise Center

11:30 a.m.

**Lunch/Swearing-in of new AABA officers and directors
@ WT Enterprise Center**

1:00 p.m.

Golf Tournament @ Ross Rogers

AAYLA YOUNG LAWYER OF THE YEAR: BRITTANY HINTON



Brittany Hinton

Brittany Hinton, an Amarillo native, received her bachelor's degree in Psychology from Texas A&M University in 2013. Two days later, she had packed her things, moved to Waco, Texas, and began classes at the Baylor University Law School as part of the Summer Quarter class. Her future husband, Joe, was also a fellow Summer Quarter enrollee. Throughout the next three years of studying, training, erasing years of TAMU brainwashing, and Practice Court, Joe fell deeply in love with Brittany's determination, grit, intelligence, and compassion. After law school, Brittany returned to Amarillo to begin her litigation practice in 2016 at Sprouse Shrader Smith. In 2018, Brittany began work at Brown & Fortunato where, through dedication and hard work, Brittany has become an excellent employment law attorney focusing on both litigation and transactional work.

Brittany is a member of the Amarillo Bar Association and is the 2021-2022 President of the Amarillo Area

Young Lawyers Association ("AAYLA"). As President, Brittany spear-headed the first post COVID biennial AAYLA Las Vegas CLE with the Vegas committee team (Tyler DiMarino and Alysia Cordova). The event was a great success, and much fun was had. Brittany also has served on the Board of Directors for the Turn Center for the past five years.

When she's not helping clients at the office, Brittany enjoys spending quality time with her dogs (Sophie and Suzy Q), rooting for the TAMU Aggies, putting up with her husband and his antics, and reading voraciously. Brittany would never tout her qualities, so Joe is writing this article to do just that. Brittany is a caring light to not only Joe's life, but to everyone who has had the opportunity to know her. We are all proud and appreciative of the person and professional that Brittany is in our community.



Terry White

AAYLA OLD LAWYER OF THE YEAR: TERRY WHITE

The 2022 Old Lawyer of the Year, a distinction bestowed by the Amarillo Area Young Lawyers Association, is Terry White. If you

have ever handled an ad-valorem tax matter, you have probably faced her or at least received advice from her.

Terry retired at the end of 2021, after 43 years of law practice. She began her career doing oil and gas title work at Phillips Petroleum after graduating from Texas Tech School of Law in 1979. Soon thereafter, she joined the ad valorem tax collection firm of Purdue Brandon Fielder Collins & Mott, LLP. At that firm, she represented appraisal districts and specialized in determining what defendants should be joined in collection suits. It seems that her title experience from Phillips Petroleum came in handy. For many years, after the suits were filed, she could be seen in courthouses throughout the Panhandle taking default judgements in tax cases literally by the hundreds. The judges loved her ability to clear their dockets!

She only tried one jury trial, and that was when she was at Phillips Petroleum. It ended in a hung jury after (according to the legend) she tripped over her opponent's briefcase into the jury box.

The reason Terry has been appreciated over the years is that she has been one of the very few lawyers that actually knew and understood the property tax code. She was never reluctant to help young lawyers when they had property tax questions. Terry has served on many boards in Amarillo, notably as the President of the Amarillo Area Bar Association from 2011 to 2012.

Terry is married to lawyer Mark White, has a lawyer daughter Courtney and the smartest one in the family, Hillary, is not a lawyer. In retirement Terry spends a lot of time on the Amarillo Symphony Board, needlepointing and traveling.

Congratulations to Terry!

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**AABA honors attorneys at April luncheon.
They were recognized for at least 50 years of practicing law**



Back row: Bill Countiss, Garland Sell, Burk Whittenburg, David Gleason
Seated: George Snell, Don Jackson, Jim Besselman, Fred Griffin, Qlo Crum
 Also in attendance but not pictured: Jody Sheets

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Terms Expire 2023: **Morgan Tilley**
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Courtney Miller

Brittany Hinton, AAYLA President
Janet Byars, Executive Director
Michael Alexander, AMA-LAW Editor

YOUR BAR EVENTS - MAY 2022

S	M	T	W	T	F	S	
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29	30	31					