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CONTEMPT

Maintaining order in the court

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Readers are encouraged to write letters to the editor and submit questions, comments, or story ideas for In Chambers. To do so, please contact Kimber Pflaum, Publications Coordinator, at 512.482.8986 or toll free at 800.252.9232, or via email at kimberp@yourhonor.com.

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etter from the Chair

Chief Justice Brian P. Quinn

I am 51 years old. Lost my hair worrying over kids and work. Seen the good and bad of politics and campaigning. Back hurts most of the time. Gained 30 pounds over the last year and find that workouts take more work. That's the kind of stuff that should make someone a realist and give up thoughts of Santa Claus and the Easter Bunny. Yet I'm still searching for a magic wand I can wave to make it all better. I would hold it up, wish my wish, and commence waiting for the multitudes to begin singing Kumbaya. The trouble is, I don't know where it is, that magic wand. The thing is so darn elusive. What this means is that I must confront all the hurdles before me without the help of magic.

What of those hurdles? They are many and growing since we have a legislative session on the horizon. While your first thought may be that the session is many months away, I must tell you that planning for it begins now. The various legislative committees of the Judicial Section are already working, as those who attended the January and February '08 Regional conferences discovered.

Yet foremost on the radar screen is the Texas Center's continuing effort to support us judges and develop the best educational programs possible. Much goes into doing this, not the least of which is securing consistent funding. To that end, we continue to work with the Court of Criminal Appeals in assuring a ready stream of monies from Fund 540, the legislatively created fund earmarked for the education of judges, among other things.

As you most likely know, the relationship between the Texas Center and the Court has had its peaks and valleys. That magic wand would come in handy there. But since it still eludes me, the best course of action at this time is to foster an open, frank, ongoing dialogue with the Court's members. We have met with some success in that regard, thanks to the help of various judges and others. But I am waiting to see what the future holds. Patience and open-mindedness, tempered with experience, are my bywords at this moment, though I stand ready to act when needed.

Also, the Texas Judicial Foundation is off the ground. It's been incorporated, bylaws have been adopted and, with the

help of State Bar President Gib Walton, the first permanent board of directors has been selected. By the time you read this, the baton will have been passed to that board to finish the job. As I said months ago, the Texas Judicial Foundation was created as a source of additional monies for judicial education. The more options that exist, the less dependent we are upon any one.

Oh yeah, if I had that magic wand, I'd surely use it like Dumbledore did at the feast scenes in Harry Potter. That way everyone attending the Texas Center's conferences would have whatever food and accommodations they want. Yet again, though, no wand. So I'll continue to rely on the efforts of the Texas Center personnel. They are doing a good job given the size of the judiciary, the limited number of hotels that can accommodate such a large group, and the rising prices for hotel space.

The funny thing about hurdles and other niggling problems is that they present opportunities to make things better. With the right people in place, we can overcome most anything, even without a wand. We have the right people; not just in the Texas Center's staff, but in the many judges scattered throughout Texas. And really, I never learned the words to Kumbaya; I'd probably get bored with a magic wand that could wave away all those hurdles and missed opportunities.

Talk to you later; I have work to do.



THOUGHTS FROM THE PAST CHAIR, JUDICIAL SECTION ETHICS COMMITTEE



By Judge Stephen Ables

After 20 years of riding to work and often riding home to beautiful Hill Country sunrises and sunsets, I have decided to pass the torch to another circuit rider. Three weeks of every month I was blessed to have a time of reflection as I drove from Kerrville to Fredericksburg, Bandera, or Boerne. I don't know how many times I gave thanks for a meaningful profession, incredible colleagues, firm and fast friends, and a loving wife and children who always understood.

Recently, as I rode into the sunset, I wrestled with personal pearls of wisdom to pass along to all my judicial colleagues. And I remembered that many years ago I was given a treasure by a lady in my Sunday school class: a beautifully bound set of the essays, addresses, and state papers of President Theodore Roosevelt. His knowledge was vast and his insight was keen. In Vol. VII, dealing with social justice, Teddy Roosevelt articulated exactly what I wanted to say, so let me share his wisdom of almost 100 years ago.

"It remains true that the judges are public servants just as other officials are, that they are, or should be, responsible to the public just as other officials are (for it is idle to call a man a servant of the public unless he is responsible to the public,) and that therefore there should be criticism of them just as of other officials. In the case of judges it is even more essential than in the case of other public officials that the criticism should be wise and temperate and, above all, that it should be absolutely truthful. I very seriously question whether, on the whole, we do not suffer in our public life quite as much from unjust assault upon upright public servants as from failure effectively to assault corruption and its exponents. Many newspapers and many magazines, sometimes because they are controlled by the special interests and quite as often because they are seeking to capitalize sensationalism and to turn to commercial advantage the literature of

exposure, have done, and are doing, all they can to degrade public life by practicing every species of reckless sensational and hysterical mendacity at the cost of reputable public servants. It makes not the slightest difference whether this form of falsehood is practiced because the writer is hired, directly or indirectly, by some special interest, or whether he is merely recklessly bent upon gaining money or notoriety by sensational slander; it makes no difference whether he is a cultivated man actuated by sour envy, or a crude fanatic who, in the name of conscience, is willing to perpetrate outrages upon conscience; and, finally, it makes little difference as to what particular class of public servant he assails. The infamy lies in the deed itself. The man who violates the ninth commandment and bears false witness against his neighbor stands on as low an ethical plane as the man who violates the eighth commandment and steals from that neighbor. To destroy the confidence of the people in the uprightness of upright judges is only a degree worse than to destroy their confidence in the uprightness of any other upright officials. Emphasis, however, must be laid on the uprightness, on the decency, on the ability and willingness to serve the public, so far as the official is concerned, rather than upon the office which he holds. It is impossible adequately to honor the faithful public servant unless we discriminate in the sharpest possible fashion between him and the unfaithful public servant; and all sense of such discrimination, all sense of proportion, is equally lost, whether we confound the honest and the dishonest, the competent and the incompetent, in indiscriminate praise or in indiscriminate abuse.

"With judges there should be even more care exercised than ought to be exercised as regards other public men. But there must be criticism. With the judge, as with other public men, it is undoubtedly ruinous to follow the

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unfortunately prevalent custom of paying heed simply to the debit and not also to the credit side of the account between the public servant and the public. There is altogether too much tendency to pay more attention to punishing than to rewarding public service, altogether too much tendency to omit entirely the sum of the man's good qualities and think only of his mistakes or shortcomings; a tendency which inevitably results in pushing forward weak nonentities simply because the nonentity rarely does anything either good or bad, while the strong man, however good, is sure, if he has had a long career of successful achievement, to have his record of good deeds interspersed with occasional failures and mistakes. Therefore, in all but wholly exceptional cases, the judge, like any other public servant, should be judged by his record as a whole, not by his record on some particular matter. Moreover, in the case of the judge, in those instances where he

acts simply as an umpire trying to do justice between individuals, very great caution should be exercised in criticizing his decision. In a great many cases of this kind there is certain to be room for wide divergence of opinion as to any decision rendered, and it is therefore necessary to accept from the outset the view that the judge's decision on such questions should not be criticized – unless in a long series of decisions his attitude is such as to create a real presumption of moral or intellectual unfitness for his task.”

President Theodore Roosevelt, 1911

I thank God for all the moral and intellectually fit judges who have been my mentors and friends. You are truly good and faithful servants.

STEPHEN B. ABLES
216th District Judge

New Administrators of Justice

Hon. William Joseph Boyce

Justice, 14th Court of Appeals
Harris County

Hon. Travis B. Brian, III

Judge, 272nd Judicial District
Brazos County

Hon. Jeffrey Vincent Brown

Justice, 14th Court of Appeals
Harris County

Hon. Patricia Jean Kerrigan

Judge, 190th Judicial District
Harris County



Hon. Stuart Messer

Judge, 100th Judicial District
Donley County

Hon. Don W. Minton

Judge, Criminal District Court One
El Paso County

Hon. Jeffrey A. Shadwick

Judge, 55th District Court
Harris County

2008 Family Violence, Sexual Assault, and Child Abuse and Neglect Conference

Wrap-up

If you weren't able to make it to the 2008 Family Violence, Sexual Assault, and Child Abuse and Neglect Conference in Galveston, March 31-April 2, you missed an excellent program. But fear not. As one of our cornerstone offerings, this program is presented annually, and next year promises to be even better.

We received great feedback from this year's attendees, and you can see some of their comments below. Thanks to our expert presenters, attentive participants, and competent TCJ staff, we can call this year's program a complete success. See you next year!

As advertised, [the conference] was loaded with information for judges dealing with juvenile cases; there was so much information beneficial to judges in adult courts.

As a result of this conference, I plan to rededicate myself to listening to families' problems and be more proactive in ordering solutions.

I learned that some sex offenders don't need specialized sex offender treatment and that [police departments] can now arrest for violations of temporary protection orders.

I came to this conference to continue my family violence education. I have found TCJ conferences in this area extremely valuable.

Excellent concentration on managing juvenile sex offenders.

As a result of this conference, I plan to establish -- and convince other local judges to establish -- an adult family violence docket.

I was surprised that domestic violence is a learned behavior that can be unlearned.

I came to this conference because I have juvenile jurisdiction and am concerned with how we are handling juvenile offenders.

Dr. Karyn Purvis! Absolutely the most fascinating speaker we've had in my 6-1/2 years on the bench.

As a result of this conference, I plan to be more mindful of the sacrifices that families make in an effort at rehabilitation.

I relearned that adult and juvenile sex offenders are not the same.

Tuesday was excellent. Wednesday was even better. Very well done conference. I appreciate the sincere desire of judges statewide to improve -- and I appreciate the Texas Center's continued efforts to educate us and help us to be our best!

As a result of this conference, I learned some valuable techniques for reviewing reports of mental health professionals and about attachment disorders.

I relearned the necessity for continued vigilance for discovery of family violence in all cases in court.

As a result of this conference, I plan to go back and review past juvenile sex offender assessments to see if my orders should require revising.

I discovered what to look for in expert evaluations; don't just read the conclusions.

As a result of this conference, I plan to look even more closely at (1) children on psychotropic meds, and (2) whether treatment of juvenile sex offenders is effective or should be terminated.

I was surprised that it's not true that [all] victims become offenders.

As a result of this conference, I plan to refer to the Bench Sheet provided by Judge Hamilton.

I'm reminded of the judge's responsibility as possible violence stopper.

As a result of this conference, I plan to require a more in-depth review of the history of offenders, as well as the instant offense.

CONTEMPT *of Court*

Our first in a special series on Contempt.

By Paul Davis, Senior District Judge

The quasi-criminal power of a court to hold a person in contempt is one of our most fundamental powers we have as judges. It is inherent – arising out of the very nature of the role of courts in our society. And it is essential to judicial independence and authority.¹

Generally, judges are confronted with our contempt powers in two different scenarios. One is when our written orders are violated, and it becomes necessary to enforce them. The second is in connection with our obligation to manage our courtrooms in a manner to “require that proceedings be conducted with dignity and in an orderly and expeditious manner and control the proceedings so that justice is done.”²

Indirect or Constructive Contempt

First, in situations when it is claimed that a written court order has been violated, the contemnor is entitled to full due process rights. Generally, this requires adequate notice to the contemnor and a fair hearing.³ On the one hand, appellate courts have said that the procedure in constructive contempt cases should conform as nearly as practical to proceedings in criminal cases, and that this type of contempt proceeding is quasi-criminal in nature.⁴ On the other hand, they have also recognized that contempt proceedings are not criminal within all the rules and definitions of criminal law. The standard to be applied is the standard of due process which requires that the contemnor be accorded notice and a fair hearing.⁵

Frequently judges see constructive contempt allegations in a family law context. Family law enforcement proceedings have been highly codified in Chapter 157 of the Family Code, which governs the enforcement procedures and

remedies with respect to family law orders. While a variety of remedies for a violation of court order exist, contempt has been the primary enforcement remedy. Generally, Chapter 157 has codified the case law setting forth constitutional due process requirements, but the statute is specific on many procedural requirements, and should be followed very closely.

Direct Contempt

“Oh, it is excellent to have a giant’s strength,
but it is tyrannous to use it like a giant.

Shakespeare, Measure for Measure II, ii

The second scenario in which judges encounter our contempt powers is in connection with our obligation to control the courtroom. The successful management of our courtrooms is key to insuring that justice is done in the proceedings brought before us. The power to hold a person in direct contempt is a critical tool for this purpose.

However, there are both precedential and statutory limitations on this power. Moreover, it is important to examine our motivations when considering whether to embark on a direct contempt finding.

Direct contempt occurs within the presence of the court, and the court knows firsthand all the facts constituting the contemptuous conduct.⁶

Depending on the exigencies of the situation, a court has full and complete powers to act immediately. When the

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court must act instantly to suppress a disturbance, violence or physical obstruction or disrespect to the court, the due process requirements of notice and hearing demanded in constructive contempt cases are not necessary.⁷ But, even if direct contempt is committed, the contemnor may be entitled to notice and a hearing if there is no exigent situation which requires the court to act immediately to quell the situation.⁸ Generally, if due process protections can be afforded, they must be.

There are even further restrictions on a court's contempt powers when dealing with an officer of the court. The procedure for holding an officer of the court in contempt is set forth in TEX. GOV'T CODE §21.002(d).⁹ When an officer of the court is involved, a court may certainly use all of its powers, including contempt, to control immediate courtroom disturbances. But once the immediacy has passed, due process and the statute step in.

Under the statute, you become "the offended judge" and the court officer is entitled to

- release on personal recognizance, and
- a hearing before a different judge for "a determination of his [or her] guilt or innocence."¹⁰

In addition to the court officer's due process and statutory rights, the court must at all times keep in mind the litigant's right to a fair trial.¹¹ The court's dealings with the attorney should not prejudice the litigant's rights.

Civil vs. Criminal Contempt

Another important analytical distinction in contempt law is whether the contempt is "civil" or "criminal." This classification is critical because it determines the procedural requirements which apply. The distinction here is on the nature and purpose of the penalty actually imposed, not whether the underlying case is civil or criminal. Of course, one cannot know the penalty until the end of the hearing, whereas the procedure to be followed must be known throughout the case, making this classification somewhat hard to apply for a trial court. It may be useful for a trial judge to require the movant in advance of the hearing to announce the punitive goal of the contempt action.

Civil Contempt

Civil contempt is frequently referred to as "coercive" contempt. A judgment of civil contempt is an effort to persuade the contemnor to obey some order of the court

where such obedience will benefit the movant in the action for contempt. The imprisoned contemnor in a civil contempt case can avoid punishment by simply obeying the court's order, and thus has been said to carry the keys to the prison in his or her own pocket.¹²

The penalty in a civil contempt is until the order of the court has been complied with. It is not for a finite period, and potentially could be a life sentence, depending on the obstinacy of the contemnor and the will of the court. Of course, "inability to comply" with the court order is a defense, and it becomes more credible the longer the contemnor remains in jail. A coercive civil contempt order is void if the contemnor is unable to perform the condition for purging the contempt.¹³

When the contemnor complies with the court order, he or she is released from confinement, and the contempt is purged.

Civil vs. Criminal Contempt

Upon a finding of "criminal" contempt, the contemnor is sentenced to jail for a definite length of time. Criminal contempt is essentially punitive in nature "and no subsequent voluntary compliance on the part of the defendant can enable him to avoid punishment for his past acts."¹⁴ Accordingly, criminal contempt is said to carry with it the greatest degree of procedural safeguards.

It is permissible for the court to issue a "hybrid" order, combining both civil and criminal elements.¹⁵

Serious vs. Petty Offenses

Another important classification of contempt is whether the offense is serious or petty. The reason this is important is that for serious offenses, the contemnor is entitled to a jury trial, but not for petty offenses.¹⁶ An offense is regarded as petty where the punishment does not exceed six months imprisonment or a \$500 fine. Above that, it is regarded as serious.¹⁷

The punishments for multiple acts of contempt may be aggregated. If the aggregated imprisonment for multiple contempt allegations would exceed six months, the offense is considered serious and the contemnor has an absolute right to a jury trial.¹⁸ However, if aggregated fines greater than \$500 are contemplated, a case-by-case analysis must be made to determine if the offense is petty or serious.¹⁹

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Currently, there is a split of authority among the courts of appeals as to when the characterization between serious and petty occurs. For example, in *In re Brown*, the Amarillo court of appeals concluded that punishment actually imposed determines whether the contempt is petty or serious, not the punishment possible.²⁰ By contrast, at least two other courts of appeals have concluded that the characterization of the offense is determined by the pleadings and the possible punishment.²¹

It is a good idea to determine from the movant in advance of the hearing whether or not a punishment in the “serious” range is being sought. If it is, then it becomes the responsibility of the trial judge to advise the respondent of his or her right to a jury trial.²² The right to a jury trial may be waived, but evidence of such waiver must be clear from the record.²³

Disobedience or disrespect of a court by acting in opposition to its authority, justice and dignity constitutes contempt. The power of contempt allows a court to maintain control of court proceedings and enforce its orders. Courts have both inherent and statutory power to enforce their judgments or to punish contemptuous conduct by means of a contempt citation. Contempt is thought of as quasi-criminal, and because of this, numerous contempt orders have been invalidated on due process grounds. Accordingly, the contempt proceedings must be conducted in accordance with appropriate statutory and due process standards.

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1 *Gompers v. Buck's Stove and Range Co.*, 221 U.S. 418 (1911); see *Ex parte Hughes*, 759 S.W.2d 118 (Tex. 1988); *Ex parte Browne*, 543 S.W.2d 82 (Tex. 1976); *Ex parte Daniels*, 722 S.W.2d 707 (Tex. Crim.App. 1987)

2 TEX. GOV'T CODE § 21.001

3 *Ex parte Werblud*, 536 S.W.2d 542 (Tex. 1976); *Ex parte Daniels*, *supra*

4 *Ex parte Cardwell*, 416 S.W.2d 382 (Tex. 1967); *Ex parte Davis*, 344 S.W.2d 153 (Tex. 1961); *Ex parte Scott*, 123 S.W.2d 306

(Tex. 1939); *Ex parte Stanford*, 557 S.W.2d 346 (Tex. Civ.App.—Houston [1st Dist.] 1977, orig. proceeding)

5 *Ex parte Jackman*, 663 S.W.2d 520 (Tex.App.—Dallas 1983, orig. proceeding)

6 *Ex parte Chambers*, 898 S.W.2d 257 (Tex. 1995); *Ex parte Ratliff*, 3 S.W.2d 406 (Tex. 1928)

7 *In re Bell*, 894 S.W. 2d 119 (Tex. Spec. Ct. Rev. 1995)

8 *Ex parte Knable*, 818 S.W.2d 811 (Tex. Crim.App. 1991)

9 “An officer of a court who is held in contempt by a trial court shall, on proper motion filed in the offended court, be released on his own personal recognizance pending a determination of his guilt or innocence. The presiding judge of the administrative judicial region in which the alleged contempt occurred shall assign a judge who is subject to assignment by the presiding judge other than the judge of the offended court to determine the guilt or innocence of the officer of the court.” TEX. GOV'T CODE § 21.002(d)

10 *Ibid.*

11 “In a case involving a lawyer's contemptuous conduct, a holding of contempt must be done in such a manner so to not prejudice the rights of the litigant who is represented by the contemptuous lawyer. If the trial judge decides to wait until the conclusion of the trial before making findings of contempt and assessing the punishment, he should note the offensive conduct at the time it occurs, and warn the lawyer in that respect.”

Kilgarlin & Ozmun, Contempt of Court in Texas □ *What You Shouldn't Say to the Judge*, 38 *Baylor L. Rev.* 291, 313-14 (1986)

12 See *Ex parte Busby*, 921 S.W.2d 389 (Tex.App.—Austin 1996, orig. proceeding)

13 *Ex parte Rojo*, 925 S.W.2d 654 (Tex. 1996)

14 *Ex parte Hosken*, 480 S.W.2d 18, 23 (Tex. Civ.App.—Beaumont 1972, orig. proceeding)

15 *Ex parte Sanchez*, 703 S.W.2d 955 (Tex. 1986); *Ex parte Busby*, *supra*

16 *Bloom v. Illinois*, 391 U.S. 194 (1968); *Ex parte Werblud*, *supra*

17 *Ex parte Werblud*, *supra*

18 *Ibid.*

19 See *Ex parte Werblud*, *supra* (\$1,000 fine held petty; no right to jury); *Ex parte Griffin*, 682 S.W.2d 261 (Tex. 1984) (\$104,000 fine, \$500 for each of 208 separate violations, held to be serious; entitled to a jury)

20 *In re Brown*, 114 S.W.3d 7 (Tex.App.—Amarillo 2003, orig. proceeding)

21 See *Ex parte York*, 899 S.W.2d 47 (Tex.App.—Waco 1995, orig. proceeding) (finding serious offense based on pleadings because party at risk of confinement for longer than six months); *Ex parte Howell*, 843 S.W.2d 241 (Tex.App.—Houston [1st Dist.] 1992, orig. proceeding) (stating that if confinement may exceed six months, offense is serious).

22 See *Ex parte Griffin*, *supra*

23 *Ex parte Griffin*, *supra*; *Ex parte Suter*, 920 S.W.2d 685 (Tex. App.—Houston [1st District] 1995, orig. proceeding)

IT TAKES A VILLAGE

Beyond the Bench utilizes a unique format designed to promote dialogue among key stakeholders of the Texas child welfare system (including legislators, judges, prosecutors, attorneys, educators, foster care professionals, child advocates, mental health/substance abuse professionals, and public health professionals). To create a program of a manageable size, which will facilitate open discussion, the Texas Center selects participating counties from a single geographic region, rather than promoting statewide attendance.

This year's conference will be held at the Adolphus Hotel in Dallas, April 13-15. Teams from McKinney, Dallas, Longview, and Tyler have been chosen to participate. Each county is asked to select an interdisciplinary team of 7-10 important decision makers. For example, one team might include a judge, a prosecutor, a CASA representative, a school representative, a CPS supervisor, a law enforcement representative, and a treatment provider. This combination sets the stage for a lively discussion.

In addition to each team, the program utilizes a multidisciplinary panel of experts with field experience—those people who would touch the life of a child in a suspected case of child abuse or neglect.

The program would not be complete without the addition of a strong moderator. The Beyond the Bench program owes much of its past success to the excellent moderation provided by Judge Scott McCown, who will once again serve as panel moderator for the entire conference.

Panel discussions and facilitated small-group dialogue provides insight on best practices, enhances communication between the various groups, and enables participants to work more effectively together to meet the needs of Texas children. Beyond the Bench presents an ideal forum in which judges, attorneys, caseworkers, and service providers can share information with colleagues from their region and counties.

This program is fully funded; there is no cost to participants. Beyond the Bench is the result of a broad collaborative effort, which has received support from the leadership of Justice Harriet O'Neill and the Texas Permanent Judicial Commission on Children, Youth, and Families.



The safety, permanency, and well-being of children, youth, and families are essential to the fabric of society. The old African proverb, "It takes a village to raise a child,"

still rings true. Cutting edge efforts such as Beyond the Bench are a good start to ensuring that all children have the opportunity to grow up in safe, permanent, loving homes.

For more information on the Beyond the Bench program, please contact:

Anissa Vila, Program Attorney
Texas Center for the Judiciary
Office: (512) 482-8986
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Email: anissav@yourhonor.com

1 The Pew Commission on Children in Foster Care, *Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care*.

2 <http://www.dfps.state.tx.us/>

3 National Council of Juvenile and Family Court Judges, *Adoption and Permanency Guidelines: Improving Court Practice in Child Abuse and Neglect Cases* (Fall 2000), page 6.

4 The Pew Commission on Children in Foster Care, *Fostering the Future: Safety, Permanence and Well-being*, page 34.

2008 EVIDENCE SUMMIT

By Ann Blankenship, Ph.D., J.D.
Research and Grant Program Manager
Texas Center for the Judiciary

Evidence is to the law what anatomy is to medicine. Evidence can be the most important part of a trial. It can either convict the accused or set them free. It can settle contested issues or end personal injury disputes. It can end a marriage or remove children from unsafe homes. You, as judge, preside over not only the parties involved but the evidence. That's why evidence is always the Texas Center's most frequently requested judicial education topic.

With that background, you can see why we are so excited about the 2008 Evidence Summit, to be held August 3-5, 2008 at the Sheraton Hotel in Austin. This first-ever two-day judicial education event brings together Texas judges and Texas law schools as judicial teams from across the state compete for the title of 2008 Evidence Summit champions.

How Will The Evidence Summit Work?

Each of the nine Texas law schools has agreed to host one hour of "Evidence Jeopardy." Each law school host team will consist of the law school dean (or his/her designate), an evidence professor, and a judge alumna/alumnus of the school's choosing. Teams of 10-15 judges will compete to answer 25 questions from each area of evidence.

More specifically, each law school dean will read a selected question and each judicial team will use electronic transponders to lock in their answer. The selected answers will appear on the screen and participants will see how many teams selected the "correct" response. The law school panel will validate the correct response and offer explanation. Each judicial team will receive points for every correct answer.

After all nine games, team points will be totaled again and the 2008 Evidence Summit winners will be announced. Grand prizes will be awarded to the winning team. Based on previous judicial jeopardy experience, we anticipate fierce judicial competition!

Who Can Participate In The Evidence Summit?

Texas Center for the Judiciary has funds for 125-150 judges to attend the Evidence Summit. There will be six hours of continuing judicial/legal education on the first day of the summit and three hours on the second day. Registration is on a first-come, first-served basis.

Want to Get a Head Start on the Competition?

The Curriculum Committee held an impartial drawing to determine an area of evidence for each law school. If you want to dust off those law books and bone up on recent case law (hint, hint), then you might want to study these areas: relevancy, hearsay, hearsay exceptions, contents of writings, expert witnesses, non-expert witnesses, authentication and identification, and objections.

Want to Learn and Have Fun?

The key word at the 2008 Evidence Summit will be PARTICIPATION. There's nothing like team energy to bring out the best in a group of judges. Judges of all experience and jurisdictional levels can expect to find camaraderie while learning in a motivated, spirited environment. Test your wealth of judicial knowledge and wisdom. Join us for the 2008 Evidence Summit.

We look forward to seeing you in August!

For more information on the Evidence Summit, contact:

Anissa Vila, Program Attorney
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AN EDUCATED DECISION

A Special Letter to Dean Rucker, Presiding Judge, 7th Administrative Judicial Region



Seventh Administrative Judicial Region
Sixth Administrative Judicial Region
Matthew Blair
Associate Judge

February 12, 2008

Hon. Dean Rucker, Presiding Judge
Seventh Administrative Judicial Region
Midland County Courthouse
Midland, Texas 79701

Re: Value of Continuing Judicial Education

Dear Judge Rucker,

I wanted to relay to you an anecdote regarding the value of the continuing judicial education that I receive as an associate judge. I was fortunate to be able to attend the Judicial Family Violence Seminar held in Galveston in 2005. Included in the presentations was a lecture by a forensic pediatrician, detailing and explaining the nature of injuries common in child abuse cases. The most shocking part was an actual security camera video of a baby being severely beaten by the mother's boyfriend. After viewing the video, all of the judges present would have agreed that summary execution of the perpetrator would have been too lenient. The doctor went on to describe the telltale patterns of other injuries such as scalding, blunt trauma and Shaken Baby Syndrome. It is the latter injury that came to my attention not more than three months later.

The doctor had explained that the injuries to a child must be consistent with the proffered explanation. While a skinned nose and forehead are consistent with a fall while running, a fractured skull is not consistent with falling off the couch. An explanation inconsistent with the injury is an indication of child abuse.

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I was hearing an Original Petition in Suit Affecting the Parent-Child Relationship. The child was approximately a year old. The mother had possession of the child and was living with a man, not the child's father. The biological father was present and was requesting the right

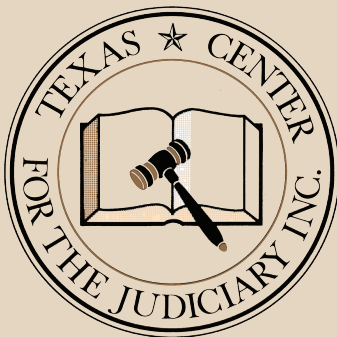
to be named as the Joint Managing Conservator to determine primary residence. Upon examining the file I noticed that there had been a CPS investigation when the child was three months old that did not result in any court filing. The child had been left with the mother by agreement. Medical records had been attached. During the hearing, evidence was adduced that the child was lethargic, undersized for her age, had some bruising and that CPS was again beginning an investigation.

As I reviewed the medical records, I noticed particular kinds of documented injuries: apparent broken ribs near the sternum, flexion injuries to the neck. When coupled with the later testimony it became immediately apparent to me, as a direct result of the training I received, that the child was very possibly a victim of Shaken Baby Syndrome. I placed the child with her father, with only supervised contact with the mother and notified CPS. I was incredulous that no one had picked up on this prior to me, but then again, I had only recently been taught what to look for.

I value greatly the training provided to associate judges and the quality of the programs generally offered. As associate judges we make decisions everyday regarding conservatorship, possession and access and other matters that profoundly affect the lives of young children for many years, including those years when they are most vulnerable to abuse and other hazards. It was helpful then and would be so in the future to also be allowed to participate more often in the training provided generally to judges in the state.

Very truly yours,

Matthew Blair



We're happy to present our readers with this special letter to the Honorable Dean Rucker from Associate Judge Matthew Blair in Midland, Texas.

It's extremely gratifying to the Curriculum Committee and the staff of the Texas Center to know how the training we provide helps judges do their jobs and how the communities they serve are affected so positively by it.

We know many of you have stories of similar magnitude, and we'd like to hear from you. How has the judicial training you received from the Texas Center served you on the bench? What outcomes were changed because you were able to use the information you gained from one of our programs?

Let us know by emailing: kimberp@yourhonor.com

Special Notice

Nominations Committee Preps for 2008-09

The Nominations Committee is preparing to slate new officers and members for the 2008-2009 Judicial Section Board of Directors and the 2008-2009 Texas Center for the Judiciary Board of Directors.

This is an opportunity to serve the Texas judiciary in a unique and rewarding way. Following are the positions which need to be filled.

Chair-Elect

The chair-elect position is currently open and must be filled by a county court at law judge for 2008-2009. The chair-elect nominee for the Judicial Section will also serve as the chair-elect for the Texas Center for the Judiciary. This position is for a one-year term, beginning September 15, 2008.

Please be aware that nominees for the chair-elect position will be interviewed in Austin by the Nominating Committee on June 13, 2008. However, neither the Texas Center nor the Judicial Section will be able to reimburse for any expenses associated with those travel arrangements.

Judicial Section Board

Three positions will be open on the Judicial Section Board of Directors:

- One appellate judge
- Two district judges

These terms are for three years, beginning September 15, 2008. The secretary/treasurer position on the Judicial Section Board is an appointed position.

Texas Center for the Judiciary

Four positions will be open for the Texas Center for the Judiciary's Board of Directors:

- An appellate judge
- A district judge
- A county court at law judge
- A former/retired judge

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2008 Nominations Committee Members

Judge Laura A. Weiser, Chair
County Court at Law #1
Victoria

Justice James T. Campbell, Member
7th Court of Appeals
Amarillo

Judge F. Alfonso Charles, Member
County Court at Law #2
Longview

Chief Justice David Chew, Member
8th Court of Appeals
El Paso

Judge Jose Roberto Flores, Member
139th District Court
Edinburg

Judge Joseph Gibson (Ret.), Member
Odessa

Judge Lamar McCorkle, Member
133rd District Court
Houston

Judge Wayne F. Salvant, Member
Criminal District Court #2
Fort Worth

Judge Ralph Strother, Member
19th District Court
Waco

Chief Justice Brian Quinn, Ex-Officio
7th Court of Appeals
Amarillo

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These terms are also for three years, beginning September 15, 2008. The secretary/treasurer position on the Board of Directors for the Texas Center for the Judiciary is an appointed position.

What You'll Need

The 2008 Nominating Committee has established an application process that requires all nominees to accomplish the following by June 1, 2008:

- Review the bylaws pertaining to chair-elect and board member duties;
- Review the appropriate job description (chair-elect, board member);
- Submit a letter of interest;
- Submit an up-to-date resume;
- Submit a completed application.

Candidates for any open position must submit their letter of interest, resume, and completed application by U.S. Mail or fax to:

MAIL:
Honorable Laura Weiser
County Court at Law #1
115 North Bridge Street
Room 203
Victoria, TX 77901

FAX:
(361) 575-7181

In addition, please provide the Texas Center for the Judiciary with a copy of your letter of interest and your completed application via U.S. Mail or fax to:

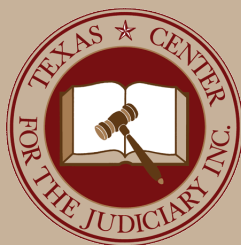
MAIL:
Ms. Mari Kay Bickett
Texas Center for the Judiciary
1210 San Antonio Street
Suite 800
Austin, TX 78701

FAX:
(512) 469-7664

If you would like to recommend someone for nomination, please notify Judge Laura Weiser, Chair of the Nominations Committee (info above), no later than June 1, 2008.

The Next Step

The Nominations Committee will meet on June 13, 2008, to slate new officers and members, and to interview applicants for the chair-elect position. Slated officers' names will be announced in the Summer 2008 edition of In Chambers. At the Judicial Section's Annual meeting in September, the greater Texas judiciary will be able to vote for their candidates of choice.



DOES THE TEXAS CENTER FOR THE JUDICIARY HAVE YOUR CURRENT EMAIL ADDRESS?

The Texas Center frequently sends out important information via email. To ensure you receive this information in a timely manner, please keep your email address current with us. To submit or update your email information, please contact Michele Mund, Registrar, at (512) 482-8986, or michelem@yourhonor.com.



Got a question about the Texas Center's policies and procedures or the Texas Court of Criminal Appeals grant?

**Ask Tana Petrich, Associate Director
Texas Center for the Judiciary**

Hotel Occupancy Tax Exemptions

In addition to state, city, and county taxes, all appellate and district judges and judges sitting by assignment are exempt from hotel occupancy tax. The State Comptroller requires hotels to be vigilant in obtaining identification from customers as to their tax exempt status.

In order for eligible judges to have taxes removed from their hotel bills, they are strongly urged to bring the following information with them when checking in at one of our conferences or on traveling for other official business:

- A Hotel Tax Exemption identification card, provided by the Texas State Comptroller's office, showing their tax exempt status from hotel tax;
- State-issued photo ID (i.e., a driver's license);

Note: The hotel must make a copy of these items for verification.

Tax Exemption Certificate

Judges may also be required to complete a Texas Hotel Occupancy Tax Exemption Certificate. In this event, judges need to check the very first box titled: United States government or Texas government official exempt from state, city, and county taxes. You can get a copy of this certificate by going to:

<http://www.window.state.tx.us/taxinfo/taxforms/12-302.pdf>

Don't have a Hotel Tax Exemption ID card?

Depending on the type of judge you are, there are a few distinctions to be made on how to get your ID card.

If a district judge or a judge sitting by assignment does not have a Hotel Tax Exemption ID card, they should contact the Texas Comptroller, Judiciary Section, at (512) 936-5985 or (800) 531-5441, ext. 65985, or email: judiciary@cpa.state.tx.us.

Appellate judges receive their Hotel Tax Exemption ID cards from their respective courts, not the State Comptroller's office. If no card has been issued, appellate judges must turn in their taxes to their court clerk who will then seek reimbursement through the Comptroller's office.

County Court at Law judges are not exempt from hotel occupancy tax.

For more information, contact:

**Tana Petrich, Associate Director
Texas Center for the Judiciary
512.482.8986 (toll free at 800.252.9232)
tpetrich@yourhonor.com**

In Memoriam

Our hearts go out to the families of those honorable souls who
have passed before us and served the bench so well.
Please join us in remembering

Honorable Howard Fender
Chief Justice (ret.)
Fort Worth, Texas

Contributions

The Texas Center for the Judiciary thanks you for your generosity.

Lists include contributions made through March 28, 2008.

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Upcoming Training Events

2008

Beyond the Bench

April 13-15
Dallas

Texas College for Judicial Studies

April 16-18
Richardson

Criminal Justice Conference

May 19-21
Dallas

DWI Court Training

June 2-6
Austin

Professional Development Program

June 16-20
Austin

Associate Judges Conference

July 7-9
Austin

DWI College

July 20-24
Austin

Evidence Summit

August 3-5
Austin

CPS Judges Conference

August 25-27
Austin

Judicial Section Annual Conference

September 14-17
Dallas

College for New Judges

December 7-12
Dallas

2009

Professional Development Program

June 14-18
Austin

Judicial Section Annual Conference

August 30 - September 2
Grapevine

College for New Judges

December 6-9
Austin



2010

Judicial Section Annual Conference

September 21-24
Corpus Christi