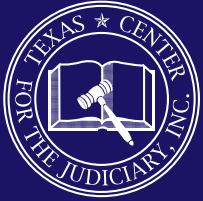
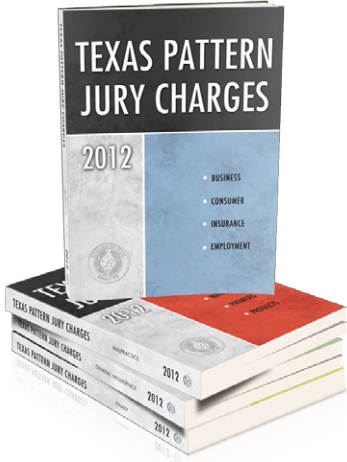


FALL 2013



THE OFFICIAL PUBLICATION OF THE TEXAS CENTER FOR THE JUDICIARY

# In Chambers



## FEATURES:

Texas Pattern Jury Charges Now Available  
Current Oil & Gas Issues in Texas Law  
Limited Scope Representation  
Supreme Court Term in Review

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# Texas Pattern Jury Charges Now Available to Judges **\*\*At No Charge\*\***

By Hon. Kent Sullivan

It is a pleasure to confirm that the multiple volumes of the Texas Pattern Jury Charge (“PJC”)—civil and criminal—are now available to the Texas judiciary through the website of the Texas Center for the Judiciary. This result is possible through the cooperation and hard work of a number of persons working on behalf of the Center, TexasBarBooks, the State Bar of Texas, and the PJC.

The PJC movement in Texas has taken a long and evolutionary path. The statewide pattern charge effort began in the late 1960s in recognition of the need for improvement, greater uniformity, and simplification. An initial volume was published as early as 1969—with additional sections (and ultimately new volumes) added as necessary over the next several decades. The most significant recent development was the decision in 2006 to prepare a comprehensive set of model jury charges for criminal cases.

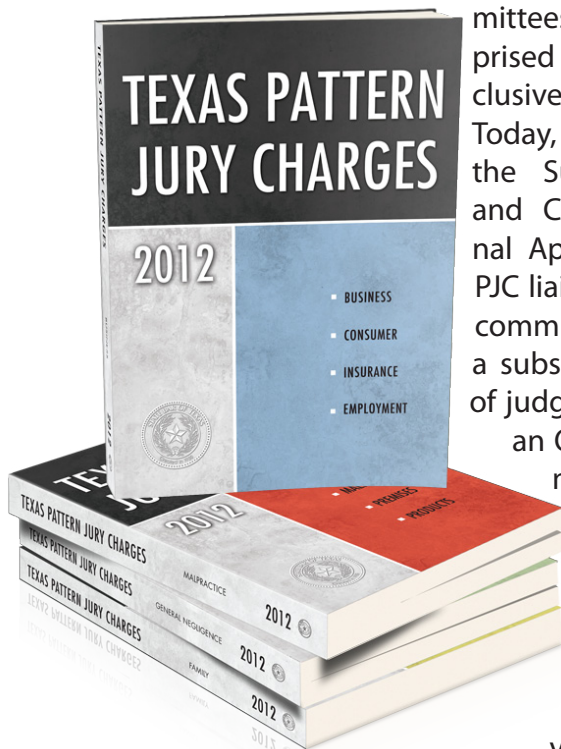
Each volume is the work of a separate appointed (but volunteer) committee. In earlier years, the committees were comprised almost exclusively of lawyers. Today, members of the Supreme Court and Court of Criminal Appeals serve as PJC liaisons, and each committee includes a substantial number of judges. In addition, an Oversight Committee exists to provide as much uniformity and harmony as possible among the various volumes.

The pattern charges are often the result of a delicate balancing of multiple factors. In civil cases, for example, the committees attempt to honor the stated preference for broad-form questions but must also acknowledge recent cases that question the efficacy of broad-form submission in certain circumstances. The committees also make every effort to use plain language that is easy for jurors to understand while being mindful of avoiding the use of language that would cause the charge to depart from established precedent.

And, of course, the pattern charges of the PJC are often only a starting point for the complicated work of a trial court charge conference. There are an almost infinite number of potential fact patterns and underlying issues that can influence the crafting of a proper jury charge, and it is impossible for the PJC committees to provide questions for all of them. However, the pattern instructions and questions hopefully provide useful guidance in many cases, and the comment sections immediately following provide ready reference to relevant case law and treatises.

Our hope is that, particularly with internet access to this information, the most up-to-date pattern jury charge research will always be readily available without cost to every Texas judge. We hope you will find this useful and that you will let those of us associated with the PJC know when we can improve upon the work product.

*Kent Sullivan is a former Texas district and appellate judge. He has a long tenure of service on the Texas Pattern Jury Charge committees and currently serves on the PJC-Oversight Committee. He is also a partner in private practice with Sutherland, Asbill & Brennan.*





## Current Oil & Gas Issues in Texas Law — “May You Live In Interesting Times”<sup>1</sup>

By Mr. Michel E. Curry

*Cotton, Bledsoe, Tighe & Dawson, P.C., Midland, Texas*

According to a recent article in the *Houston Chronicle*, the state of Texas accounts for almost half of all crude oil and a quarter of the natural gas produced in the United States. That production makes Texas the 14<sup>th</sup> largest producer of oil and gas worldwide and gaining. As of July 2013, the Permian Basin of West Texas is responsible for around 925,000 barrels of oil per day, and the Eagle Ford of South Texas produces approximately 540,000 barrels per day. Both numbers are climbing daily. As of mid-September, the Baker Hughes drilling rig count indicates that an average 844 rigs are running in Texas out of a total 1,768 active rigs drilling in the onshore United States. Of those drilling rigs, slightly over 76% are drilling horizontal or directional wells. Oil and gas production results in nearly 25% of all tax revenue collected in the

State of Texas, adds substantially to the Permanent University Fund corpus, is primarily responsible for the nation-leading low unemployment level in Texas. Add to that mix that the cost of drilling and completing a typical well has reached a lofty sum of \$8.2 million, and frequently can reach as much as \$12.5 million, and lease bonuses are often measured in thousands of dollars per acre, and it is clear that oil and gas is definitely big business for Texas.

Driving all of this is technology. Technology has made it possible to drill a well to a vertical depth of 10,000' and a horizontal length of 11,000' through a layer of rock that has less ability to flow liquids than the cement slab supporting most homes in Texas, and we can then “frac” the layer of rock in a way that results in hundreds of barrels of oil or millions of cubic

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feet of gas rushing to the surface. Yet, we are on the horns of a dilemma concerning legal practice relating to oil and gas matters in Texas.

So what's the dilemma? The dilemma is that the law is slow to develop, particularly where real property is concerned, but modern technology moves at light speed and creates new ways of thinking about established legal principles that challenge us all. We all want stability in land titles. Likewise, those in business would prefer predictability; that is, an established framework upon which to make sound decisions in today's business and technical environment. Those decisions necessarily include legal risk as a factor. Unfortunately, most oil and gas legal principles and regulations, at least until very recently, are predicated upon traditional legal thought and vertical well technology that extends back in time over the past 100 years. Recognizing that Texas oil and gas jurisprudence influences decisions in every producing jurisdiction, and that the financial stakes, both public and private, are higher than they have ever been, the challenge for us is to make sound decisions for the right legal reasons.

To illustrate these points, consider the issue of "Allocation Wells" that is receiving recent attention. Simply put, an Allocation Well is a horizontal well in which the lateral portion of the well bore crosses the boundary between two or more adjoining tracts of land and produces from each tract, but for which there is no pooling agreement in place. Where multiple tracts are combined within the authority of the leases to form a pooled unit, all of the production is treated as coming from a single lease and/or tract, and is allocated among the separate tracts according to some formula, usually on a surface acreage basis. However, pooling is not always available. In many instances, the lease form does not permit pooling under any circumstances or is limited in size to the spacing unit for a vertical well, e.g. 40 acres, where the horizontal well requires substantially more acreage based upon length of the lateral.

Without pooling authority, a litany of questions arise. For example, how will the commingled production be shared among the various stakeholders? Can surface operations and storage be conducted on one tract for the benefit, incidental or



otherwise, of the other tracts? Does the intersection of the wellbore and the lease line result in a violation of the Railroad Commission spacing regulations? How will we know if the well is producing in paying quantities from each tract through which the well passes?

Those opposed to Allocation Wells argue that the practice is a *de facto* pooling in violation of either the express provisions of the lease or the lessor's decision to withhold granting pooling authority to the lessee, as the case may be. The thinking is that the lessee is in fact doing that which has been prohibited or is not authorized. Those in favor of Allocation Wells, on the other hand, argue that the lessee has a duty to develop the lease as a reasonably prudent operator, which means in part by utilizing modern technology (horizontal drilling and hydraulic fracturing) to maximize returns to all interested parties. In order to meet its duty, and in the absence of pooling authority, the lessee is without choice except to either engage in drilling Allocation Wells or lose its lease investment. Further, so long as the lessee allocates production

on a reasonable basis, there is a credible argument that the lessor is not harmed. From a regulatory standpoint, the lessee has the right to drill on each lease, and whether multiple tracts are penetrated by a horizontal well or whether a single tract is developed by a vertical well is immaterial so long as the lease line and acreage spacing requirements are met. This very battle has been recently addressed by the Railroad Commission through its hearing process, and will likely reach the courts for resolution before long. When it does, the courts will be called upon to decide these issues using legal principles of contract, trespass, confusion of goods, and the like, all of which were laid down during times when the technical aspects particular to the current disputes were unknown.

Another issue coming into play concerns partial termination of old leases that are beyond their original primary terms and upon which continuous development has ceased. Many of those leases contain retained acreage provisions that depend upon Railroad Commission proration or spacing regulations to determine the acreage that remains subject to the lease, and that acreage which is no longer held by the lessee. Recently, we have seen challenges to the traditional snapshot in time type of approach alleging that the retained acreage may continue to shrink after the initial terminating event as the applicable spacing formula changes. Resolving these claims will involve well established

principles of construction, but may often be applied to new or unusual facts. Likewise, traditional pooling has become more complex as can be seen in the Texas Supreme Court's decision in *Wagner & Brown v. Sheppard*, 282 S.W.3d 419 (Tex. 2008). Cotenancy issues have also proliferated, as can be seen in *Sheppard* and is implicated above in the discussion of Allocation Wells. Where the project involves a vertical well, cotenancy is rarely an issue because the well location is compact and controlled. However, where the project involves horizontal drilling, the number of tracts increases significantly and the likelihood of an unleased mineral owner or a non-participating lessee increases likewise.

There are numerous other legal and business issues arising out of the tension between traditional, vertical well drilling and the new technology surrounding horizontal drilling, a complete discussion of which exceeds the available space for this brief article. Mix the technology issues with the traditional tension between mineral owner and lessee, and the business pressures of the modern oil and gas industry, and it is clear that we live in interesting times. Will our traditional jurisprudential thinking serve us well, or will we need to craft new ways of addressing new problems within our existing framework? Only time will tell.

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<sup>1</sup> "May you live in interesting times" is reputedly an old Chinese curse, source unknown.

# Limited Scope Representation: One Answer to *Pro Se* Litigation

By Mr. Phillip C. Friday

The rise of *pro se* litigation has significantly challenged our justice system. *Pro se* litigation has impacted our trials, our dockets, our orders, and the balance of justice. The system needs more lawyers—lawyers who are affordable to more litigants. One promising way of achieving this is “limited scope representation.” In contrast to full service representation, “limited scope representation” allows attorneys to provide only such specific services as may be agreed upon between lawyer and client. This article will provide an overview of limited scope representation, its potential benefits, and ethical considerations surrounding the practice.

## I. Effects of *Pro Se* Litigation in Texas

### A. *The Reality of Pro Se Litigation*

The number of litigants attempting to represent themselves has sky-rocketed in recent years. In Texas’ urban counties, the percentage of *pro se* litigants in family law cases now ranges from 25% to 45%. National data indicates that between 60% and 90% of family law cases involve at least one *pro se* litigant. There is little doubt that the primary cause is economic. The recent recession, combined with the high cost of litigation, has made legal services unaffordable for a large and increasing segment of our population.

All agree that our system works best when every litigant has a lawyer. But the legal marketplace has not adjusted to the demand. And neither legal aid agencies nor volunteer legal service programs are able to meet the need. There is only one legal aid attorney for every 11,152 Texans below the poverty line. And while many lawyers have graciously given of their time on a *pro bono* basis, the basic civil legal needs of so many Texans remain unmet.

The paradigm of traditional full-service legal representation is gradually shifting. The legal profession currently faces challenges that were unthinkable a decade ago. Law firms are refusing to hire summer law clerks, and some are deferring

employment offers to first year associates. There is even a serious effort to shorten law school education from three years to two years.



### B. *The Challenges of Pro Se Litigation*

This new reality has also created new challenges for judges and court staff. The increase in *pro se* litigation has many and varied effects. Trials involving *pro se* litigants are often longer and more difficult to try. Delays are often more frequent, and dockets are slowed. Additionally, *pro se* orders are less likely to be enforceable. For example, child support may be jeopardized for lack of a wage withholding order; retirement benefits may be lost due to an erroneously-drafted QDRO; or title-transfers may fail, or become clouded, because transfer documents are improperly prepared or simply not prepared at all.

Litigants have a right to represent themselves, *TRCP* 7, and courts cannot force self-represented litigants to hire lawyers, *Ex Parte Shaffer*, 649 S.W.2d 300 (Tex. 1983). However, this can provide an opportunity for litigants and lawyers to work together in a new way.

Judges often face the unique challenge of informing self-represented litigants of their rights, while refraining from legal advice and *ex parte* communication. In some cases, limited scope representation will eliminate these challenges. If the limited scope representation provided is litigation assistance, the lawyer will be present in court. However, even if the limited scope representation only involves preparation, advice and coaching, the client will be better prepared and know what to expect and how to behave. This will ease the burden on the judge.



## II. Limited Scope Representation: A Promising Answer

### A. *Limited Scope Representation Explained*

Limited scope representation is the practice of providing specific legal services to a client instead of handling an entire case. By way of example, in a divorce case, a lawyer might agree to provide consultation and draft a decree, but leave remaining tasks to the client. Limited scope representation is also sometimes referred to as “unbundled legal services,” or “unbundling.” It offers great promise to those who cannot afford to hire a lawyer to handle their entire case, i.e., *pro se* litigants.

Limited scope representation is not a new concept. Lawyers have been practicing limited scope or discrete-service representation for years. For example, lawyers routinely assist clients by drafting

*pro se* answers to avoid default judgments. This is a well-established, ethical way a lawyer can assist a client, for a fee, in a way that is helpful and cost-effective to the client.

Other discrete services can be effective in a limited scope practice. In a divorce case, for example, a lawyer might agree to prepare a decree, a qualified domestic relations order, and real estate transfer documents but not appear at the hearing when the prove up of the divorce occurs.

Limited scope representation is likely to be used more in uncontested and modestly-contested family law cases than in any other field of litigation. The clients who can least afford a full-service lawyer are precisely those clients who typically have simpler cases. They are likely to have little property, and their parent-child issues are likely to be straightforward. Litigants can typically manage to prepare a petition

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and an answer using readily-available standardized forms. And they can manage to prove up their case on an uncontested docket. Lawyers can be utilized to prepare a decree and any related orders.

Among the population who can least afford lawyers, contested divorce cases are most likely to center on parent-child disputes. Such cases are typically not difficult to try. In a child-support dispute, pay-stubs and tax forms are ordinarily available to prove the parties' income. And even in a dispute over custody and visitation, the important facts can be developed adequately through the parties themselves, and occasionally through one or more family members or neighbors. Hence, it is feasible for a lawyer to take on the tasks of interviewing witnesses, collecting documents, and then trying the dispute, even if they have not been previously involved in the case.

Formal discovery is seldom needed in family law cases involving litigants who can least afford lawyers. A lawyer can normally prepare adequately for trial by interviewing the client and occasionally other family members and neighbors.

Limited scope representation allows the lawyer to make a living, the court to conclude cases effectively and, perhaps most importantly, allows the client to complete the judicial process in an efficient and cost-effective way.

## *B. Limited Scope Representation is Not for Every Case*

Limited scope representation is much less suitable for complex or high-stakes litigation. Formal discovery is almost always necessary in such a case. Litigants can rarely navigate discovery procedures, and lawyers incur additional risks if they undertake to try a complex case without discovery. At times, the best limited advice a lawyer can give is to tell a client that his or her case is *not* appropriate for limited scope representation. But limited scope representation offers great promise to those who cannot afford to hire a lawyer to handle their entire case, *i.e.*, *pro se* litigants. The large majority of *pro se* cases are relatively simple, and they can be managed with a combination of effort by client and lawyer through limited scope representation.

## III. Benefits of Limited Scope Representation

### *A. Something Is Better Than Nothing*

Limited scope representation is admittedly an incomplete response to the questions posed by those trying to navigate the justice system without lawyers. Judges and lawyers alike would agree that the best solution to *pro se* litigation would be to provide every litigant with a lawyer for his/her entire case. But that simply will not happen. In the face of that reality, lawyer assistance for part of a case is significantly better than no lawyer at all.

In litigation, lawyers provide their greatest benefit by conducting hearings and preparing orders. From a judge's standpoint, having a lawyer conduct a hearing is almost always more efficient than a *pro se* hearing. Dockets will be less crowded and move more efficiently as a result. Additionally, the involvement of lawyers is more likely to produce more settlements, as contrasted to *pro se* litigants who are emotionally involved with their positions and uninformed about local norms of decision.

Even if a lawyer does nothing more than prepare orders, the benefit to the court and the client is significant. Orders prepared by lawyers are much likelier to be enforceable. In family law cases, enforceable orders mean more support for children and more clarity in property division, including clearer titles and more secure rights in retirement benefits.

### *B. Benefits of Limited Scope Representation to Lawyers*

The legal marketplace is undergoing significant change. The obvious benefit to lawyers of limited scope mode is the opportunity to grow their practices. Lawyers in a number of communities have carved out a niche for their law practice that relies heavily on the principles of limited scope representation. The *pro se* "market" is large and untapped. Limited scope representation practice is well-suited to young lawyers attempting to build their practices, and to lawyers seeking to build a high-volume practice. In addition, limited scope representation is well-adapted to "pay-as-you-go" fee arrangements. Many clients who cannot afford a retainer measured in the thousands-of-dollars could nevertheless afford to

pay in advance for specified services.

This practice model also allows the client to participate in the prosecution of his or her case in a meaningful way. Many clients have sufficient skills to handle specific tasks that advance the litigation. Of course, the primary benefit to the client is a lower cost of litigation.

## IV. Ethical Considerations of Limited Scope Representation

Limited scope representation is ethical in Texas. Limited scope representation is specifically authorized by Texas Disciplinary Rule of Professional Conduct 1.02(b), which states, “A lawyer may limit the scope, objectives and general methods of the representation if the client consents after consultation.” As with full-scope representation, limited scope representation must be reasonable under the circumstances, and is subject to all other ethical rules. The Rule is based on Rule 1.2(c) of the ABA Model Rule of Professional Conduct. Forty-one states have adopted Rule 1.2(c) or a substantially similar rule. The concept of limited scope representation is now well-established, and it is a model that is here to stay.

However, a written contract is absolutely essential to limited scope representation. Lawyers and clients should be sure to reduce their limited scope agreements to writing just as in any other case. The written agreement needs to spell out clearly what tasks the lawyer will undertake, and for what tasks the client will remain responsible. If the scope of services changes during the case, a written amendment is essential. A standard professional services agreement can be easily adapted to this purpose.

### A. Concerns About “Ghost-Writing”

“Ghost-writing” is a term that has been applied to a lawyer drafting pleadings or orders for clients without disclosing the lawyer’s identity. Some commentators have expressed concern, based on the difficulty of holding an anonymous lawyer accountable for his/her work. These concerns seem minor. Documents prepared by lawyers are far more likely to satisfy the needs of the court than those prepared by *pro se* litigants. Moreover, a court would

normally have no difficulty in discovering the identity of a lawyer-draftsman, if that were ever needed. The basic standard is that pleadings should fairly and accurately provide notice to all parties of the issues presented, and orders should clearly and accurately reflect the rulings of the court. Lawyers are more likely to “get it right” than clients.

### B. Limited Scope Representation is Covered by Malpractice Insurance

The Texas Lawyers’ Insurance Exchange has advised that the standard Texas malpractice policy would cover limited scope representation. Experience in other states indicates that limited scope representation does not increase the risk of malpractice claims. Across the nation, the rate of malpractice claims for limited scope representation is statistically lower than those for full-scope representation.

## V. Further Considerations

### A. Rules of Limited Scope Representation

At least 20 states now have special rules for limited scope representation. As of yet, Texas does not. However, Travis County has adopted local rules, which are currently pending approval by the Texas Supreme Court.

### B. Preliminary Realistic Assessment

As set out above, not all cases are suitable for limited scope representation. The greater the level of complexity, or the weaker the skills of the client, the greater the risk that limited scope representation may not be suitable. Moreover, it is important to be realistic in apportioning tasks between lawyer and client. As discussed above, a lawyer is much better equipped to prepare orders or conduct hearings, whereas a client can more easily prepare pleadings on their own.

### C. Setting Client Expectations

Experienced lawyers understand the importance of setting expectations in any case, and the need for clear explanations is even greater in limited scope representation. It is important to discuss all aspects of the case, not just those for which the lawyer is

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responsible. Delineating the client's responsibilities is extremely important, as is explaining how the client's tasks will fit together with the lawyer's. As in all cases, the lawyer needs to lay out the order of proceeding, the degree of difficulty, and the uncertainties that will arise if the case becomes contested.

## D. *Withdrawal of Counsel*

There are special concerns regarding withdrawal that every practitioner and every judge should consider. For limited scope representation to function properly, it is essential that a lawyer who has made a formal appearance in a case be permitted to withdraw after s/he has completed the agreed services. Of the many states which have limited scope representation rules, all but one specifically provides that a lawyer may withdraw without leave of court, provided the lawyer has completed the agreed services. To satisfy Due Process, the typical rule requires the lawyer to give notice of withdrawal to the client and opposing counsel, and provides the client with a right to object if the lawyer has not completed the agreed services.

Under current Texas Rules, withdrawal requires a formal motion and order. In ruling on motions to withdraw, courts typically consider whether withdrawal will interfere with the orderly conduct of the case. In most cases, judges will require a lawyer to prepare any orders resulting from any hearing which the lawyer has conducted. But the need for orderly litigation should be balanced against the contractual agreement between the lawyer and client regarding the extent of the lawyer's services. Absent exigent circumstances, courts should not require a lawyer to perform more services than she or he has contracted to do.

It is always tempting to require a lawyer to remain in a case indefinitely, but some legal representation is better than none. Unless the courts generally respect the limits on representation agreed by lawyer and client, limited scope representation will not be viable, and the *pro se* problems will increase.

## VI. Conclusion

No one disputes that full-service representation is preferable to limited scope representation. But the

reality of our current economy is driving our system toward *no representation* for increasing numbers of litigants. Limited scope representation offers the realistic prospect of reducing the number of *pro se* litigants and easing the burden on the courts, while increasing business for lawyers. This is a "win-win" proposition, and lawyers, clients and judges should all welcome this new model for legal representation.

## For more information:

ABA Unbundling Resources website: [http://www.americanbar.org/groups/delivery\\_legal\\_services/resources/pro\\_se\\_unbundling\\_resource\\_center.html](http://www.americanbar.org/groups/delivery_legal_services/resources/pro_se_unbundling_resource_center.html)

"Unbundled" Legal Services, <http://www.unbundledlaw.org/old/index.htm> (Old website, but contains valuable materials).

Barrie Althoff, *Limiting the Scope of Your Representation: When Your Client Wants, or Can Afford, Only Part of You*, *Washington State Bar News* (Jun. 1997).

Anthony P. Capozzi, *Responding to the Pro Per Crisis*, *California Bar Journal* (Feb. 2004).

Alicia M. Farley, *An Important Piece of the Bundle: How Limited Appearances Can Provide an Ethically Sound Way to Increase Access to Justice for Pro Se Litigants*, *The Georgetown Journal of Legal Ethics*, Vol. 20, No. 3 (Summer 2007).

Kim Prochnau, *Slicing the Onion: Rules of Professional Conduct and Court Rules Make It Easier for Private and Non-Profit Legal Practitioners to Provide "Unbundled" Legal Services*, *Washington State Bar News* (Apr. 2003).

Bradley A. Vauter, *Unbundling: Filling the Gap*, *Michigan Bar Journal*, Vol. 79, at 1688 (2000).

# Supreme Court Term in Review: The Court Affects All of Us

By Erwin Chemerinsky, Dean and Distinguished Professor of Law

Raymond Pryke Professor of First Amendment Law, University of California, Irvine School of Law

Above all, October Term 2012 powerfully shows that Supreme Court decisions affect each of us, often in the most important and intimate aspects of our lives. On Wednesday, June 26, the Supreme Court dismissed on jurisdictional grounds the case involving California's Proposition 8 and two days later same sex couples began marrying in California. The decisions of this term will affect who gets into college, when the government can take our DNA, what federal benefits married same-sex couples can receive, what voting systems are used and thus who gets elected, what medical tests cost, and whether injured individuals can successfully sue businesses.

Once more, it was the Anthony Kennedy Court. Justice Kennedy was in the majority more than any other justice: 91% of the time. But it is the 5-4 decisions where Kennedy's influence is best seen. Out of 73 cases decided after briefing and oral argument, 23 were decided 5-4. Kennedy was in the majority in 20 of the 23. Antonin Scalia was second most often in the majority in 5-4 cases, but in only 13 of them.

It therefore is possible to get the clearest overall sense of the ideology of the term by focusing on the 16 5-4 cases that were ideologically divided along familiar lines, with Roberts, Scalia, Thomas, and Alito on one side and Ginsburg, Breyer, Sotomayor, and Kagan on the other. Kennedy was with the conservatives in 10 and with the liberals in six of these cases.

So what were some of the more important cases of the term and what will they mean?

**Affirmative action:** In *Fisher v. University of Texas, Austin*, the Court remanded for further consideration a challenge to a University of Texas affirmative action plan. Texas used race as one of many factors in admissions decisions to benefit minorities and enhance diversity. The Court, in a 7-1 decision with

Justice Kennedy writing or the majority, held that the lower courts had not adequately considered whether Texas had shown that race was necessary in order to achieve diversity. The Court remanded the case to the Fifth Circuit and said, "The reviewing court must ultimately be satisfied that no workable race neutral alternatives would produce the educational benefits of diversity."



The greatest significance of the case is in what the Court did not do: the Court did not reconsider *Grutter v. Bollinger*, which held that colleges and universities have a compelling interest in having a diverse student body and may use race as one factor in admissions decisions to benefit minorities. The result is that affirmative action programs at colleges and universities across the country can continue, but the Court made clear that if challenged, they must show that no race neutral alternative can achieve diversity.

**Fourth Amendment:** This was a big year for the Fourth Amendment in the Court, with five decisions. Likely the most important was *Maryland v. King*. The Court held, 5-4 with Justice Kennedy writing for the majority, that it did not violate the Fourth Amendment for the police to routinely take DNA from those arrested for serious crimes to help solve other crimes for which the individual is not a suspect. The Court stressed that the police action was reasonable because the benefits to law enforcement outweighed the invasion of privacy and likened this to taking fingerprints from those arrested. Justice Scalia wrote

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a vehement dissent, joined by Justices Ginsburg, Sotomayor, and Kagan, in which he argued that it was unprecedented for the Court to allow taking evidence from a person to investigate a crime for which he or she was not a suspect. The dissent was deeply concerned about what can be learned about a person from DNA as compared to fingerprints.

**Marriage equality:** In *United States v. Windsor*, the Supreme Court declared unconstitutional Section 3 of the Defense of Marriage Act, which provided that for purposes of federal law marriage must be between a man and a woman. Justice Kennedy, writing for a 5-4 majority, explained that marriage has traditionally been defined by states and that it violated equal protection for the federal government to refuse to recognize a same-sex marriage that New York allowed. There are over 1,000 federal laws that provide benefits to married couples; now same sex couples who are married in states that permit this will receive all of these benefits.

In *Hollingsworth v. Perry*, the Court dismissed a defense of California's Proposition 8 on standing grounds. California's Proposition 8, adopted by the voters in November 2008, amended the California Constitution to say that marriage must be between a man and a woman. Two same sex couples brought a challenge to Proposition 8. In 2010, a federal district court in San Francisco declared Proposition 8 unconstitutional as denying equal protection and violating the right to marry for gays and lesbians. The District Court enjoined the defendant state officials, including the Governor and Attorney General, from enforcing it. The defendants chose not to appeal, but the supporters of the initiative sought to appeal to defend the initiative.

The Ninth Circuit certified to the California Supreme Court the question of whether the supporters of an initiative could represent the interests of the state in defending an initiative when the elected government officials refused to do so. After the California Supreme Court answered that question in favor of the supporters of the initiative, the Ninth Circuit ruled that the supporters of the initiative had standing, but then declared Proposition 8 unconstitutional.

The Supreme Court, in a 5-4 decision with Chief

Justice Roberts writing for the Court, held that the supporters of an initiative lack standing to appeal if the defendant government officials choose not to do so. Standing in federal court requires an injury and the supporters of an initiative are not injured by its being enjoined; their only harm is ideological and that never is enough for standing. The result is that the federal district court ruling declaring Proposition 8 unconstitutional stands and same sex couples can now marry in California.

Undoubtedly, the next step in marriage equality litigation will be challenges to state laws around the country that prohibit same-sex marriage. In a vehement dissent in *Windsor*, Justice Scalia said that it is only a matter of time before these laws are declared unconstitutional. In this prediction, he is almost surely correct.

**Voting rights:** The Voting Rights Act of 1965 is one of the most important federal laws adopted in my lifetime. Section 2 prohibits state and local governments from having election practices or systems that discriminate against minority voters. Lawsuits can be brought to enforce it. But Congress believed that this was not sufficient to stop discrimination in voting. Congress knew that litigation is expensive and time consuming. Congress also knew that especially Southern states had the practice of continually changing their voting systems to disenfranchise minority voters.

Section 5 of the Voting Rights Act provides that jurisdictions with a history of race discrimination in voting may change their election systems only if they get "preclearance" from the Attorney General or a three-judge federal district court. Section 4(B) of the Act defines those jurisdictions which must get preclearance, nine states and many local governments with a history of race discrimination in voting.

Each time the law was about to expire, Congress extended it. Most recently, the law was set to expire in 2007 and Congress held 12 hearings over an 11 month period and produced a record of 15,000 pages. The Senate voted 98-0 to extend the law for another 25 years and there were only 33 "no" votes in the House of Representatives. President George W. Bush signed the extension into law.

In *Shelby County, Alabama v. Holder*, the Court,



5-4, held Section 4(B) unconstitutional and thereby also effectively nullified Section 5 because it applies only to jurisdictions covered under Section 4(B). Chief Justice Roberts wrote for the Court and stressed that the formula in Section 4(B) rests on data from the 1960s and the 1970s. He said that it was an intrusion of state and local sovereignty to require that they “beseech” the Attorney General to approve their election systems. It thus exceeded Congress’ powers and violated the Tenth Amendment for Congress to require preclearance from these jurisdictions.

In theory, Congress can enact a new version of Section 4(B) based on contemporary data. In reality, it is hard to imagine Congress being able to ever agree on a new formula. The effect likely will be a significant increase in litigation under Section 2 and also many

election systems going into place that otherwise would have been rejected because of their impact on minority voters.

**Patenting genes:** In *Association for Molecular Pathology v. Myriad Genetics*, the Court ruled unanimously that a naturally occurring DNA segment is a product of nature and not patent eligible merely because it has been isolated, but complementary DNA (cDNA) is patent eligible because it is not naturally occurring. The case involved a company patenting the test for a genetic factor which significantly increases the risk of breast and ovarian cancer. The Supreme Court’s holding that such naturally occurring genes cannot be patented will substantially decrease the costs for this and other similar tests and products made from DNA.

# features

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**Business litigation:** In a number of important decisions, the Supreme Court ruled in favor of businesses and made it more difficult for those injured to sue. In *Mutual Pharmaceuticals Co. v. Bartlett*, the Court ruled, 5-4, that makers of generic drugs could not be sued for design defects. Two years ago, in *Pliva v. Mensing*, the Court ruled that makers of generic drugs cannot be sued on a failure to warn theory. In these two cases, the Court said that under federal law generic drugs can be sold if they are identical to the brand name drugs and if they have the warning label approved for the brand name drug. The Court said this precludes the generic drug company from changing the chemical compound or the warning label, so no lawsuits can be brought for failure to do so.

According to the Food and Drug Administration, almost 80 percent of all prescriptions are filled with generic drugs. If there is a generic equivalent to the brand name drug, over 90% of prescriptions are filled with the generic drug. Those injured by generic drugs, even severely, likely are without remedy.

In two employment discrimination cases, both 5-4, the Court made it much more difficult for employees who are bringing such claims. In *Vance v. Ball State University*, the Court made it harder for employees suing for workplace harassment. Earlier the Court held that an employer could be held liable for harassment by a fellow employee only if the employer was proven to be negligent in controlling the workplace. But an employer is strictly liable for harassment by a supervisor, though in some cases an affirmative defense may be available.

In *Vance*, the Court adopted a narrow definition of who is a supervisor, limiting it to those employees who have been empowered by their employer to take an adverse employment action, such as the power to “hire, fire, demote, promote, transfer, or discipline” the employee. This will mean that in many more cases an employee can recover for harassment only by proving negligence by the employer.

In *University of Texas Southwestern Medical Center v. Nassar*, the Court made it more difficult for employees to successfully sue for claims that they were retaliated against for complaining of discrimination. Generally, a plaintiff in an employment discrimination suit need only show that the prohibited grounds, such as race

or gender, were a motivating factor for the adverse employment action.

But in *Nassar*, the Court ruled that the retaliation provision of Title VII of the Civil Rights Act of 1964, and similarly worded statutes, requires a plaintiff to prove that an employer would not have taken the adverse employment action *but for* the desire to retaliate. This requirement for “but-for causation” likely will mean that many more of such claims will be resolved in favor of employers at the summary judgment stage.

Finally, in *American Express v. Italian Colors Restaurant*, the Court said that an arbitration clause in a contract must be enforced even if it means that the antitrust suit realistically would not go forward. Italian Colors Restaurant, a small business, wanted to bring a class action against American Express for alleged antitrust violations. American Express sought to prevent this litigation by invoking a clause in its agreement with Italian Colors requiring individual, and not class-wide, arbitration.

Italian Colors said that the suit simply could not go forward except as a class action. Successfully suing for an antitrust violation costs hundreds of thousands if not millions of dollars. Recovery for a claim under the antitrust law, though, is limited to \$39,000. The Court, 5-4, in an opinion by Justice Scalia, said that the Federal Arbitration Act required that the arbitration clause be strictly enforced, even if it meant that the antitrust claims otherwise would not be brought.

**Conclusion:** October Term 2012 was filled with blockbuster cases and next term promises to be more of the same. The Court already has cases on the docket concerning abortion rights, affirmative action, campaign finance, separation of church and state, separation of powers, and freedom of speech. It is an amazing time in the United States Supreme Court.

*This article originally appeared in the August 2013 California Bar Journal and has been reprinted here with permission.*

# ANNUAL JUDICIAL EDUCATION CONFERENCE 2013

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## TEXAS COLLEGE FOR JUDICIAL STUDIES 2013



## PROFESSIONAL DEVELOPMENT PROGRAM 2013



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Trial Court Coordination, Specialty  
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Professional Development Program  
Trial Court Coordination, Multi-County/Rural  
June 24-28, 2013 - Austin, TX



Professional Development Program  
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# Texas Association of Civil Trial and Appellate Specialists Presents Judge of the Year Awards

## About the Awards

On May 23, 2013, at The Houstonian Hotel, the Texas Association of Civil Trial and Appellate Specialists (TACTAS) honored two very special guests with the 2012-2013 Judge of the Year awards. Justice Tracy Christopher received the Appellate Judge of the Year Award and Judge Tad Halbach received the Trial Judge of the Year award. The awards are given annually to either state or federal judges in Texas since 1988. TACTAS was established to promote the availability, accessibility, and quality of the services of civil trial and appellate lawyers to the public. TACTAS provides service to the public interest and advances the standards of the legal profession in the area of civil trial and appellate practices.

## About Justice Tracy Christopher

Tracy Christopher was appointed to the Fourteenth Court of Appeals in December 2009. Prior to her appointment, Justice Christopher was the judge of the 295<sup>th</sup> District Court for 15 years, and was highly rated as a trial judge. She was honored as Trial Judge of the Year by TACTAS in 2001. She is also the recipient of the 2013 Texas Bar Foundation Samuel Pessarra Outstanding Jurist Award, an award to a jurist with at least ten years of experience who "exhibits an exceptionally outstanding reputation for competency, efficiency and integrity."

Prior to becoming a judge, she practiced law for 13 years with the law firms of Susman Godfrey (1986-1994) and Vinson & Elkins (1981-1986). She is board certified by the Texas Board of Legal Specialization in Civil Trial Law and Personal Injury Law. Justice Christopher attended the University of Texas School of Law, graduating with honors in 1981, and the University of Notre Dame, graduating with honors in 1978.

Justice Christopher is currently Chair of the Texas Pattern Jury Charge Oversight Committee and a member of the Supreme Court Advisory Committee. She has been an active volunteer with both Boy Scouts and Girl Scouts and with Texas Children's Hospital.



She currently volunteers with the Houston Bar Association's charitable programs, including acting in *Night Court*, a musical review that raises money for charity. She is married to Vance Christopher and they have three adult children and one grandchild.

## About Judge Joseph "Tad" Halbach

Judge Tad Halbach was appointed Judge of the 333<sup>rd</sup> Civil District Court in October of 1995. He was elected and then re-elected in the next five elections. During his 17 years on the bench, Judge Halbach has served Harris County in many capacities, including the Local Administrative Judge, the Civil Administrative Judge, and as a member of both the Criminal Justice Coordinating Committee and the Juvenile Board. Since December of

2009, he has also been the Silica MDL Judge for the state of Texas. Recently, he served as Justice on the First Court of Appeals by special assignment.

Prior to taking the bench, Judge Halbach has more than 13 years in an active trial and appellate practice covering a wide range of complex business, commercial, and tort disputes. He is Board Certified in Civil Trial Law and a frequent writer and speaker at various CLE programs. He is an Adjunct Professor at the University of Houston Law Center, teaching Trial Advocacy. He is a member and director of the Texas Association of Civil and Trial Appellate Specialists, a member of the State Bar of Texas, and a member of the Garland Walker Inn of Court.

Throughout his career, Judge Halbach has been

dedicated to professional and public service. He is a past president of the Houston Young Lawyers Association and was a charter member of the Pro Bono College of the State Bar of Texas. A member of the Leadership Houston Class XII, Judge Halbach was a 1994 Five Outstanding Young Houstonian Finalist. He served as a director for Marywood Children & Family Services, is currently an advisory director for Aspiring Youth Foundation, and remains active in Boy Scouts of America. He is also a dedicated volunteer and lifetime member of the Houston Livestock and Rodeo, for which he serves on the Grand Entry Committee. Judge Halbach has been married to his wife, Susan, for 29 years and has two adult sons and one grandchild.

## Congratulations to the 10th Graduating Class of the Texas College for Judicial Studies

At the 2013 Annual Judicial Education Conference, the 10<sup>th</sup> graduating class of the Texas College for Judicial Studies was recognized for their pursuit of judicial excellence. The graduates were called to the stage to accept their certificates of jurisprudence during the Texas Center's Business Meeting and were honored by the Deans of the College. These graduates now join over 250 other judges with degrees of jurisprudence in their specialty area.

The Texas College for Judicial Studies was held in April and had more than 130 judges in attendance. The Texas College is a multi-year program in which judges can earn advanced degrees in their jurisdictional area. Each year, the Texas College offers classes in four jurisdictional specialties: Civil Law, Criminal/Juvenile Law, Family Law and Appellate Law. Additionally, judges must complete a three day core curriculum within five years to graduate from the college. The core curriculum covers topics relevant to all judges regardless of jurisdiction and explores subjects from judicial stress to creating a bias-free court.



*Pictured from Left to Right* Row 1: Hon. Sharen Wilson, Hon. Sandra Watts, Hon. Midgalia Lopez, Hon. D'Metria Benson, Hon. Dori Contreras Garza, Hon. Maria Salas-Mendoza Row 2: Hon. James Anderson, Hon. Bill Sowder, Hon. Robin Malone Darr (co-dean), Hon. Roberta Lloyd, Hon. Susan Lowery, Hon. Tena Callahan, Hon. Dana Womack, Hon. Brian Hoyle Row 3: Hon. Lamar McCorkle (co-dean), Hon. Shane Hadaway, Hon. Bill Smith, Hon. Dan Moore, Hon. Dan Mills, Hon. Bud Childers, Hon. King Fifer, Hon. Tom Culver, Hon. Earnest White, Hon. Sergio Gonzalez, Hon. Angela King Not pictured: Hon. John Board, Lupe Flores, Elizabeth Frizell

The Texas Center staff and Curriculum Committee congratulate Judge Lamar McCorkle and Judge Robin Darr, co-deans of the 2013 Texas College for Judicial Studies, for an outstanding program.

Judges interested in applying to the Texas College can learn more about the program at <https://www.yourhonor.com/tcj-programs/Texas-College-for-Judicial-Studies>.

## Judge Robert Anchondo and Judge Diane Bull Receive Spotlight on Success Awards



Judge Robert Anchondo, El Paso County Criminal Court at Law #2, and the DWI Drug Court Intervention and Treatment Program Team were honored with the Spotlight on Success Award for their implementation of DWI Court Guiding Principle #5—Developing Community Partnerships. By reaching out to community colleges, health and wellness facilities and work placement agencies, the El Paso DWI/Drug Court has been able to provide a variety of services to their program participants.

Judge Diane Bull, Harris County Criminal Court at Law #11, was the recipient of the Spotlight on Success Outstanding Team Member Award for her work with the Harris County SOBER Court and her tireless effort as DWI Curriculum Committee Chair. [The Harris County SOBER Court Program](#) was recently recognized by the Harris County Commissioners' Court for increasing public safety.



## The Texas Center Honors Outstanding Faculty and Jurists

Texas Center for the Judiciary's 2012-2013 Chair's Awards:  
Hon. Laura Weiser and Justice Gina Benavides

### *Hon. Laura Weiser*

Judge Weiser served the County of Victoria as Judge of County Court at Law No. 1 from June 1, 1990 until she retired from that position on February 28, 2013 and joined the Texas Center for the Judiciary as the Judicial Resource Liaison. Judge Weiser is currently a member of the Texas Judicial Foundation, the Judicial Advisory Board for the Texas Association for Court Administration, the Long Range Planning Committee for the Texas Center for the Judiciary, the Juvenile Justice Committee for the Judicial Section of the State Bar of Texas, and the Advisory Board of the Police Academy at Victoria College. Judge Weiser is the Past Chair of the Judicial Section of the State Bar of Texas and the Texas Center for the Judiciary. She is a former board member of the Victoria Women's Crisis Center, the Advisory Council for the Texas Juvenile Probation Commission, Junior League of Victoria, Texas, Inc. and the Criminal Justice Section of the Judicial Section of the State Bar of Texas. She is also a past member of the Peer Review and Curriculum Committees for the Texas Center for the Judiciary. Judge Weiser received the Friend of Education Award from the Victoria Classroom Teachers' Association for 1991-1992 and 1992-1993 and was named as a South Texas Woman of the Year in 1998. She was the recipient of the 2007 Clayton Morrison Award for outstanding service to the children of Texas by the Texas Institute on Children and Youth. Judge Weiser is married to Judge Juan Velasquez III and has two children, Jessica, age 27, an



Left to right: Hon. Gina Benavides, Hon. Linda Chew, Hon. Laura Weiser.

attorney in Austin, Texas and Scott, age 26, a senior internal auditor for Clear Channel Communications.

### *Hon. Gina Benavides*

Before joining the 13<sup>th</sup> Court of Appeals, Justice Gina M. Benavides was a litigator with over 17 years of courtroom experience. She graduated from the University of Texas in Austin where she received her Bachelor in Business. Justice Benavides then attended law school at the University of Houston Law Center and was admitted to the State Bar of Texas in 1988. She began her legal career at Adams & Graham Law Firm in Harlingen, Texas. As part of a primary defense firm, Justice Benavides tried over 30 cases throughout the State of Texas in the areas of toxic tort, products liability, commercial litigation, and personal injury. After 12 years, she joined the law firm of Gonzalez & Associates, P.C., wherein she continued litigation practice but as a plaintiff's lawyer. Justice Benavides

continued to practice in these areas, including an active appellate practice, until elected to the Court in 2007. As private attorney, she was recognized in *Texas Monthly* as a Super Lawyer in 2003 and 2004 by her peers as one of the best lawyers in the State of Texas. Upon her first year on the court, Justice Benavides was bestowed the honor of Latina Judge of the Year by the National Hispanic Bar Association in Puerto Rico. She is a Past Chair of the Texas Center of the Judiciary and served on the Hispanic Issues Section for the State Bar of Texas. She was recently appointed to the Texas Access to Justice Commission. Justice Benavides served as the minority director for the State Bar of Texas. She was President of the Mexican American Bar Association of Texas and the Cameron County Bar Association, as well as a Vice-President of the Texas Association of Defense Counsel. Her service also includes numerous committees for the State Bar of Texas including Continued Legal Education and Law Focus Education. Justice Benavides is currently a Fellow with the Texas Bar Foundation. She is a member of the National Hispanic Bar Association, National Association of Women Judges, and Texas Women Lawyers. Justice Benavides is an active member with the Hidalgo County Bar Association serving in the Appellate Division and the Women Bar. She has been the program director for the State Bar of Texas CLE program on South Padre Island, as well as speaker at various CLE programs. Justice Benavides is the mother of two, Daniella and Ricardo.

*2012-2013 Exemplary Judicial Faculty Award:*  
*Hon. Cathy Cochran*

Judge Cathy Cochran was appointed to the Court of Criminal Appeals in 2001. Prior to her appointment to the bench, Judge Cochran (formerly known as Cathleen Herasimchuk) was of counsel to Rusty Hardin & Associates of Houston. As an assistant district attorney in Harris and Fort Bend counties, she tried 45 felony and misdemeanor cases and authored more than 200 felony appellate briefs. As an adjunct professor in Evidence, Criminal Law, and Criminal Procedure at the University of Houston Law Center, she was three times voted "Professor of the Year," once by the Student Bar Association and twice by the Order of the Barons. A frequent lecturer for the State Bar, the



Hon. Linda Chew, Hon. Cathy Cochran

Texas District and County Attorney's Association, and the University of Houston, Judge Cochran is Board Certified in Criminal Law by the Texas Board of Legal Specialization. She is also an active member of the Administration of the Rules of Evidence Committee of the State Bar and the State Bar College. Judge Cochran earned a BA in English with distinction in 1966 from Stanford University. In 1984, she earned a JD summa cum laude at the University of Houston Law Center, where she served as editor-in-chief of the *Houston Law Review*. Judge Cochran was also elected to the Order of the Coif and the Order of the Barons and was awarded the Distinguished Service Award.

*2012-2013 Exemplary Non-Judicial Faculty Award:*  
*Dr. Sandeep Narang*

Dr. Narang received his Bachelor of Arts from Auburn University, Auburn, Alabama, in 1990, majoring in Philosophy. He subsequently received a Juris Doctorate from Vanderbilt University School of Law, Nashville, TN, in 1993. He received his Doctor of Medicine from Georgetown



## awards & honors

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University School of Medicine, Washington, DC, in 2001. He completed his Pediatrics residency from the National Naval Medical Center, Bethesda, MD, in 2006, and his fellowship in Child Abuse & Neglect, from the Kempe Center for Prevention and Treatment of Child Abuse & Neglect, The Children's Hospital, Denver, CO, in 2010. He joined the faculty of the Department of Pediatrics at the University of Texas Health Science Center in August 2010. Dr. Narang is board certified in General Pediatrics, and board eligible for Child Abuse & Neglect. His interests in the field of child abuse & neglect include abusive head trauma, and the legal aspects of child abuse & neglect. He is actively engaged in various legal projects and a multi-center abusive head trauma research project.



Hon. Linda Chew, Mr. David Harris

### *2012-2013 Exemplary Article Award: Mr. David Harris*

Mr. Harris currently serves as assistant attorney general for the State of Texas. He has represented Texas judges in both state and federal court, and has given several presentations on judicial immunity and liability at judicial conferences. He received his BA from the University of Texas at Austin in 1979 where he graduated with special honors. He holds a JD from the Baylor University School of Law.

### *2012-2013 Judicial Excellence in Education Award: Hon. John J. Specia*

Texas Department of Family and Protective Services (DFPS) Commissioner John J. Specia, Jr.

is a distinguished jurist and attorney with broad experience in civil law and special expertise in family law, foster care, and Child Protective Services cases. He became DFPS Commissioner on December 1, 2012. Judge Specia's career has been dedicated to public service for more than three decades and is defined by his commitment to children and preventing child abuse. He was a founding member and jurist in residence for the Texas Supreme Court Children's Commission. Judge Specia established the Bexar County Children's Court, which provides specialized services for children as well as the Family Drug Treatment Court, which became a model for the state. He was vice-chair of the Supreme Court's Permanent Judicial Commission for Children, Youth, and Families and chair of the Supreme Court Task Force on Foster Care. Judge Specia served as District Judge of the 225<sup>th</sup> District Court in San Antonio for 18 years (1988-2006) and was the administrative judge for Bexar County district courts for four of those years. He also served as Master of the 289<sup>th</sup> Family and Juvenile District Court (1985-1988). Commissioner Specia was one of the state's first child welfare attorneys, serving as a regional attorney for the former Texas Department of Human Services (1980-1985), and he was a family law attorney in private practice before becoming a district judge. After retiring from the bench in 2006, Judge Specia served as partner in the law firm of Plunkett & Gibson, where he practiced mediation, arbitration, private judging and served as a visiting judge. He has been an adjunct professor at St. Mary's School of Law since 1995, teaching trial advocacy, advanced trial advocacy, and international arbitration. Judge Specia was honored with the 2012 Infant Mental Health Advocacy Award and received the 2011 Lone Star Award for his work in substance abuse prevention and treatment. He was a recipient of the Dale Wood Award for outstanding protection of children by the judiciary and was named "Judge of the Year" by Texas CASA. Judge Specia holds a bachelor of arts in political science from the University of Texas and a doctor of jurisprudence from St. Mary's University of Law.

## 2013 Lifetime Achievement Award Goes to Justice Linda Thomas

Each year, the Judicial Section of the State Bar of Texas presents its Judicial Lifetime Achievement Award to a current or former Texas judge who is recognized by his or her peers as having a reputation for and commitment to judicial excellence, has achieved a significant length of service as a judge in Texas and has demonstrated a long term, consistent and significant contribution to the betterment of the judiciary, access to justice and the system of justice in Texas.

Judge Barbara Walther presented the 2013 award to Justice Linda Thomas during the Texas Bar Foundation Luncheon at the 2013 Annual Judicial Education Conference. Judge Walther gave a heartfelt speech honoring Justice Thomas for her commitment and work on behalf of the judiciary, and that speech has been reproduced here:

*It is my honor today to announce this year's recipient of the 2013 Judicial Lifetime Achievement Award. When this award is given the purpose of it is to recognize a judge that has through his or her career demonstrated for the rest of us not just what is necessary to be a good judge but the best that that we can hope in the judicial system.*

*The award has been given the last three years to Texas judges who have spent their*



*lives in Texas courtrooms, with decades of trial and appellate experience between them. These judges have not been just the standard-bearers for our system of justice in Texas but have run full steam ahead across the battlefield, Lady justices sword in hand, year after year, in support of and to advocate for the judges of this state—to fight for quality education technology for judges, for access to justice, and, yes, for pay [that] will make it possible for qualified and quality men and women to be able to serve as judges and justices of this state.*

*This year's recipient is an individual that*

## awards & honors

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is so very difficult to describe. So often, before her name, we have said “The First.” And in her more than 30 years of service to the people of Texas, as a judge, she has become a legend. Trailblazer. Hero. Treasure. Icon. And always workhorse.

Along the way she found time to become a gourmet cook and humorist.

Because of her own unique talents, abilities, unfailing determination, and success, we today honor Chief Justice Linda Thomas with this year’s Judicial Lifetime Achievement Award.

Chief Justice Linda Thomas began her career as what was then called a legal secretary. Appreciative of the higher salaries of the attorneys around her, she thought, ‘I can do this,’ and applied to law school. Upon graduation from law school at Southern Methodist University in 1973, she first served as the associate director of SMU’s legal clinic and then she worked in the general counsel’s office for the Bureau of Alcohol, Tobacco, and Firearms in San Francisco. Along with the legal work, the general counsel’s office had the difficult, tedious responsibility of taking visiting dignitaries on tours of the California wine country. As Justice Thomas reported, with the smile we know so well, somebody had to do it. She later returned to Dallas and ultimately became a partner in the firm where she had worked as a legal secretary.

Chief Justice Thomas took the bench in 1979 as a judge in a newly created family court. As a baby lawyer, I had the privilege of appearing in her court in Dallas. And anyone that appeared in front of her learned not only to be prepared and to be the very best lawyer you could be for your client, but also got to experience a judge that always gave each case the attention and the respect that it deserved. When I became a judge, she was a role model for me of how I hope to be as a judge.

After eight years on the trial court, Chief Justice Thomas was elected to the Fifth Court

of Appeals taking the bench in 1987. Then in 1995, she became the court’s first female chief justice, retiring in 2009, after 31 years on the bench.

From the first, Chief Justice Thomas has always been a strong supporter of judicial education in general and education about judicial ethics specifically. She joined the faculty of the College for New Judges in 1981 where she served for 15 years. She was Dean of the College from 1988 to 1993. She was Dean of the Regional Judicial Conferences from 1987 to 1990 and that was when Texas held five regional conferences a year. She has been on the faculty at the National Judicial College from 1992 to today. She currently teaches at SMU Dedman School of Law where she has been named Distinguished Visiting Professor of Law.

In our organization, Chief Justice Thomas served as Chair of the Judicial Section of the State Bar of Texas and Texas Center for the Judiciary from 1991 to 1992—the First Female Chair of Texas Center. She was secretary-treasurer of the Texas Center for three years; she has served on every Center and Section committee, often repeatedly and sometimes simultaneously!

Chief Justice Thomas has received many awards. Significant awards like the Dallas Bar Foundation Fellows Award in honor of her legal career and civic contribution; Louise Raggio Award for meritorious contributions to women in the law; the SMU Maura Award for improving the lives of women and children; the ABOTA Judge of the Year Award; the Outstanding Profile Award by the Texas Women’s Initiative; the UTA Distinguished Alumni Award; and Presidential Citation by the State Bar of Texas.

There are many more—including the 2005 Award of Excellence for outstanding service to the judiciary.

We all know we do this job because we love the work. We love the day-to-day action and challenges of a trial court bench. Some

*judges go to the appellate court after years on the trial bench and others go directly to the appellate court, but all of us love the ability to look at an issue, research the law, apply the law to the facts presented, and then decide the case. We do it to try to make a difference in the lives of the people who find themselves caught in the judicial process.*

*We all know that none of us do it for the money. Well that's not exactly true—John Boyd and Curt Steib, they would do this job do for free.*

*In the past eight years, Texas judges have seen two pay raises from the Texas Legislature. And passage of a statute that required that county court judges receive certain minimum salaries. While a number of very hard-working judges have been instrumental in each of these efforts, you know, and I know, it couldn't have happened without the tireless efforts of Chief Justice Linda Thomas.*

*When we got the first pay raise, after a drought of 10 years, she drove that gigantic recreational vehicle named Pearl north and south on Interstate 35, and she walked the halls of the Texas capitol explaining the need for increased salaries for judges, dodging the political minefields located in places most of us don't even know exist.*

*This past session did not involve an RV but instead many, many trips, in the car, still on I-35 or flights on Southwest Airlines, countless phone calls and emails, meetings with other members of our team and members of the legislature or their staff but the job got done.*

*What most of you don't know and we wouldn't know if not for some inside information from the Dallas Court of Appeals, is that the travel expenses for all the efforts Chief Justice Thomas has made on our behalf, over both of these legislative sessions and pay raises, have been on her own dime. No legislative committee money; no court travel reimbursement money; she*

*wanted to do it/she paid for it.*

*When some members of an organization located in a city just north of us, suggested she'd have a much better chance of getting a substantial pay raise if she'd split the appellate courts away from the trial courts, Chief Justice Thomas said immediately and emphatically absolutely no—not going to happen, don't even think about it. We all get raises or none of us do. And we all did.*

*Clearly, Chief Justice Linda Thomas has touched every one of our lives in many ways. She has opened our eyes to the possibility that we could some day be judges. She has helped create and strengthen the entity that provides our excellent judicial education and has dedicated her life to the administration of justice in the State of Texas.*

*Our 2013 Judicial Lifetime Achievement Award recipient...Chief Justice Linda Thomas.*

# SUPPORT

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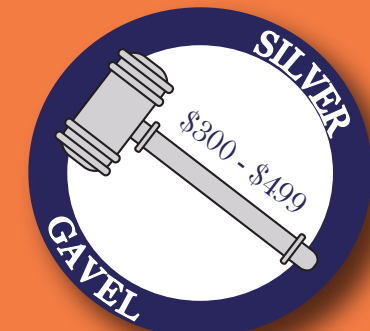
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# Advisory Opinion Summaries

October 23, 2012 – August 31, 2013

## *Texas Ethics Commission*

[EAO No. 506](#) (2012) – A refrigerator magnet on which a public officer's name, photograph public office, and contact information appear, as well as a list of items promoting that officer's priorities, is considered "political advertising" for the purposes of Section 255.003 of the Election Code. Therefore, public funds may not be used to pay for the magnets.

[EAO No. 507](#) (2012) – A former TxDOT employee may perform services on behalf of a private employer regarding a general engineering consultant contract to oversee a design-build contract if the services do not include a review or analysis of any highway design and construction provisions that are essential components of the design-build contract in which he was involved.

[EAO No. 508](#) (2012) – The laws under the Ethics Commission's jurisdiction would not prohibit a legislator from solely receiving compensation from the organization under the stated facts, provided that the compensation reflects the actual value of the legislator's services and not because of his status as a public servant; the services are provided in a capacity other than as a public servant and as long as the legislator's official position is not a reason for his employment by the organization; the compensation is not received in exchange for an official act as a public servant; and the compensation is neither a prohibited political contribution nor a gift, loan, or other prohibited expenditure by a registered lobbyist. A legislator should understand that the solicitation of contributions to an organization for which the legislator serves as executive director and from which the legislator receives compensation for services could be viewed as improper under certain circumstances. Accordingly, a legislator should use extreme caution when soliciting such contributions.

[EAO No. 509](#) (2013) – A parent for-profit corporation that assists a general-purpose committee under section 253.100(a) may solicit political contributions to the committee from the employees of a subsidiary for-profit corporation that it wholly owns and operates.

[EAO No. 510](#) (2013) – A general-purpose committee may accept political contributions by text

message if the committee's campaign treasurer is able to obtain the contributor information necessary to comply with the reporting requirements of Title 15 of the Election Code. A general-purpose committee would not be prohibited from accepting certain factored payments described in this opinion from a connection aggregator if the terms of the factoring agreement between the aggregator and the political committee reflect the usual and normal practice of the industry and are typical of the terms of agreements offered by the aggregator to other political and non-political customers

[EAO No. 511](#) (2013) – Merely accepting a person's signature on a petition for a place on the ballot during the period in which the candidate is prohibited from accepting political contributions is not prohibited by the Judicial Campaign Fairness Act.

[EAO No. 512](#) (2013) – A person who is entitled to serve as justice of the peace of a particular precinct in accordance with article 5, section 18(c) of the Texas Constitution "holds" that office for purposes of section 255.006 of the Election Code and may indicate in political advertising that he holds that office for the duration of his term. This includes a person who was elected to the position of justice of the peace of a particular precinct that was subsequently renumbered to a different precinct.

[EAO No. 513](#) (2013) – A principal campaign committee formed under federal law to support a candidate for federal congressional office located in Texas that makes political contributions to state or local candidates in Texas is not required to file a campaign treasurer appointment or campaign finance reports under title 15 of the Election Code. Additionally, the committee is not required to file with the Texas Ethics Commission a copy of each document required to be filed under federal law that is related to the candidacy of the federal candidate for which the committee is formed.

These summaries have been taken directly from the TEC's website. To see summaries from previous years, please visit: <http://www.ethics.state.tx.us/legal/AT-eaosquery.html>.

## Judicial Section of the State Bar of Texas Committee on Judicial Ethics

Opinion No. 296 (2013) – It is inconsistent with Canons 6D(2), 2A, 2B, 4A and 4D(1) for a part-time family law associate judge, appointed by a court, to represent clients before any court of the county in which he or she is appointed and before courts in the counties surrounding the county in which he or she is appointed, provided that those courts are “subject to the appellate jurisdiction of the court which he or she serves”.

### State Commission on Judicial Conduct

No. PS-2013-1 (04/29/13) – [I]t is the Commission’s position that the part-time magistrates in Bexar County are permitted under the Code to represent criminal defendants, other than those they have magistrated, in the Bexar County courts. None of the matters before the Bexar County magistrate judges are referred to them by the district judges; the part-time magistrate judges are performing functions in matters before the jurisdiction of the district court attaches; the duties and authority of the magistrate judges, which are found in the Texas Code of Criminal Procedure, are wholly independent and distinct from those pertinent to the District Courts or the County Courts; the magistrate judges cannot rule on the merits of any matter before them other than to determine if probable cause exists to arrest and confine an individual; and without the necessity of a referral, magistrate judges can issue search warrants, arrest warrants, and protective orders, none of which constitute a final adjudication of any aspect of the case.

### American Bar Association’s Judicial Ethics Opinion

There was a Formal Opinion issued by the American Bar Association entitled “Judge’s Use of Electronic Social Networking Media.” *Formal Opinion 462* (February 21, 2013). While the opinion notes that social media can be beneficial for judges, it also examines the proper extent to which a judge should engage in social networking. In summary, the Formal Opinion advises:

#### *Potential Pitfalls of Judges’ Use Electronic Social Media (“EMS”)*

- Judges should be mindful of the easy

dissemination of comments and images beyond the intended recipients when it comes to EMS.

- Any comments, photos, and messages published using EMS can be found years, even decades, later.
- Judges’ use of EMS is governed by the principles that they must act in a manner that promotes public confidence and avoids impropriety and the appearance of impropriety. Essentially, judges must always be careful of how their relationships on EMS can be seen by the public, no matter how innocent and proper they in fact are.

#### *Judges’ Use of Electronic Social Media for Recreation*

- Judges should not post comments, share photos, or engage in activities using EMS that could undermine public confidence in the judiciary.
- Judges should not form EMS relationships with individuals or organizations that may convey an impression of impropriety.
- Judges should avoid making comments, using photos or sending messages through EMS regarding matters before their court that can be construed as *ex parte* communication. “Indeed, a judge should avoid comment about a pending or impending matter in any court... and take care not to offer legal advice...” *Id* (emphasis added).
- Judges with EMS connections with lawyers or parties before their court should examine whether disclosure is required for purposes of disqualification. In making this determination, a judge should analyze: (1) the context of the relationship; (2) the frequency of communication via EMS; and (3) how the relationship would be viewed if it were a personal or professional relationship. If the judge believes the relationship is relevant and should be considered, he or she should state it on record. However, after disclosing the relationship, the judge can also aver that he or she believes the relationship does not require disqualification.

### *Judges' Use of Electronic Social Media for Campaigning*

- Websites and ESM can be established and maintained by campaign committees, so long as they are not established or maintained by the judge or judicial candidate personally.
- When visiting others' political campaign ESM sites, a judge should not use "like" labels or anything indicating approval of shared messages, photos, and other content because

it can be construed as endorsing or opposing another candidate for office.

**The Takeaway:** "When used with proper care, judges' use of ESM does not necessarily compromise their duties under the Model Code any more than use of traditional and less public forms of social connection, such as U.S. Mail, telephone, email and texting."

## DISCIPLINARY ACTIONS FY 13

(September 1, 2012 – August 31, 2013)

### State Commission on Judicial Conduct

#### *Public Sanctions*

**Public Warning:** The Commission found Aransas County Court at Law Judge in violation of Canons 3B(4), 4A(1), and 4A(2) because a video released by his daughter showing him forcefully striking her with a belt, yelling profanities, and threatening her with physical harm cast reasonable doubt on his capacity to act impartially as a judge and interfered with the proper performance of his judicial duties. The video caused the Commissioner of TDFPS and several attorneys who regularly practiced in the judge's courtroom to question the judge's ability to act in a fair and impartial manner when presiding over child abuse and neglect cases. The Commission acknowledged that the judge was not aware that he was being filmed, but noted that his private conduct still cast public discredit on the judiciary. The Judge was also found to have treated attorneys in his courtroom below the minimum standard of patience and courteousness because he demonstrated a pattern of anger and poor judicial demeanor. (CJC No. 12-0217-CC, Signed 09/04/12)

#### *Private Sanctions*

The judge failed to comply with the law and engaged in willful conduct that was inconsistent with the proper performance of her duties and cast public discredit upon the judiciary or administration of justice by covering up for an employee's late arrivals

to work. [Violation of Article V, §1-a(6)A of the Texas Constitution and Canon 2A of the Texas Code of Judicial Conduct.] *Private Reprimand of a Justice of the Peace.* (09/17/12).

The judge's policy that required defendants who entered "not guilty" pleas and requested trials to sign a "Request for Trial" form before a notary public, placed an unreasonable burden on a defendant's fundamental rights to trial and access to the court. [Violation of Canons 2A, 3B(2) and 3B(8) of the Texas Code of Judicial Conduct.] *Private Admonition and Order of Additional Education of a Justice of the Peace.* (09/25/12).

The judge failed to comply with the law, demonstrated a lack of professional competence in the law, and failed to accord a litigant the right to be heard when he (1) failed to provide a litigant with notice and an opportunity for a hearing to resolve a speeding citation once that citation was filed with the court, (2) failed to enter a final written judgment assessing a fine and court costs, and (3) allowed the matter to go into warrant status in the absence of the requisites recited above. The judge also failed to comply with the law and demonstrated a lack of professional competence in the law when he assessed post-judgment interest at a rate that exceeded the maximum allowed by law. [Violation of Canons 2A, 3B(2), and 3B(8) of the Texas Code of Judicial Conduct.] *Private Order of Additional Education of a Justice of the Peace.* (11/07/12).

The judge failed to maintain professional competence in the law when she repeatedly imposed monetary sanctions against the parties during a hearing, without a finding of contempt, and then ordered the parties to either pay the sanctions to a charity or face incarceration. In addition, the judge repeatedly made threats to impose unauthorized monetary sanctions and/or to incarcerate the parties as an intimidation tactic to ensure order in her courtroom. Moreover, the judge failed to perform judicial duties without bias or prejudice, exhibited an improper judicial demeanor, and engaged in a persistent pattern of questioning only the husbands in these hearings in a manner that gave rise to the impression that the judge was assisting the wives in the prosecution of their cases. [Violation of Canons 2A, 3B(2), 3B(4), and 3B(5) of the Texas Code of Judicial Conduct.] *Private Admonition of a District Judge*. (11/12/12).

The judge failed to follow the law and demonstrated a lack of professional competence in the law by not following the correct procedures for selecting and seating a jury in a civil proceeding. In addition, the judge used a jury verdict form in a civil proceeding that was applicable only to a criminal proceeding, and failed to correct this error when it was brought to his attention through an objection from a litigant. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Order of Additional Education of a Justice of the Peace*. (11/26/12).

The judge failed to disclose the nature and extent of his relationship with one of the attorneys involved in a case prior to trial, and refused to make the disclosure when directly asked about the relationship at a post-trial hearing and when the issue was later raised in a recusal motion that he denied. [Violation of Canon 3B(1) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Private Warning of a District Judge*. (11/26/12).

The judge failed to comply with the law and demonstrated a lack of professional competence in the law when she accepted a criminal complaint, performed her own independent investigation into the merits of the case, and then dismissed the matter in a manner not authorized by law. The judge further demonstrated an impermissible bias in favor of the complaining witness, and lent the prestige of her judicial office to advance the private interests of that person by facilitating a financial settlement of a

criminal dispute between the complaining witness and the defendant. [Violation of Canons 2A, 2B, 3B(2), and 3B(5) of the Texas Code of Judicial Conduct.] *Private Warning of a Municipal Court Judge*. (11/27/12).

The judge erred in his handling of a contempt situation involving a witness by detaining and handcuffing the witness for the purpose of public humiliation and/or to make an example out of the contemnor, rather than for the purpose of quelling a disturbance. The judge failed to treat the witness with the requisite patience, dignity or courtesy expected of a judicial officer. [Violation of Canon 3(B)4 of the Texas Code of Judicial Conduct.] *Private Admonition and Order of Additional Education of a Justice of the Peace*. (02/01/13).

The judge manifested a bias or prejudice against a litigant based upon gender and socioeconomic status, and failed to remain fair and impartial toward litigants appearing before her, when she admonished a father not to have any children unless he had \$300,000 in the bank. [Violation of Canons 3B(5) and 3B(6) of the Texas Code of Judicial Conduct and Art. V, §1-a(6)A of the Texas Constitution.] *Private Reprimand of an Associate Judge*. (02/21/13).

The judge failed to comply with the law when she (1) signed written orders and judgments in a criminal case that did not include the date on which the defendant was to begin serving his sentence; (2) orally ordered the defendant to turn himself in at a future time to begin serving his sentence; (3) orally ordered the defendant to report once a week to a probation office until that time, but; (4) failed to suspend the defendant's sentence or place specified conditions in a written order of judgment; and (5) failed to correct the matter after nearly five years had passed without the defendant having served any part of his sentence. Further, in two other matters, the judge failed to treat a law firm and a litigant with the patience, dignity, and courtesy expected of a judicial officer. [Violation of Canons 2A and 3B(4) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.] *Private Warning of a District Judge*. (03/06/13).

The judge failed to comply with the law and failed to maintain professional competence in the law when he found an attorney in direct contempt of court for allegedly "lying" to the court. The judge failed and/or refused to give the attorney an opportunity to be heard in defense of the judge's accusations, and

instead, summarily found the attorney in criminal contempt of court, ordered him handcuffed, and placed him in a holding cell until a \$500 fine was paid. The judge failed to issue a written contempt or commitment order from which the attorney could have challenged his detention through a writ of habeas corpus. [Violation of Canons 2A, 3B(2), and 3B(4) of the Texas Code of Judicial Conduct.] *Private Reprimand of a District Judge*. (03/07/13).

The judge failed to comply with the law and demonstrated a lack of professional competence in the law in her initial handling of a traffic defendant's case. The court's "courtesy letter" to defendant contained erroneous information, including the fact that a fine had already been assessed against her; the only option available to the defendant was to enter a guilty or no contest plea and pay the fine; and an arrest warrant would be issued for the offense of "violate promise to appear" if the defendant did not enter the plea or pay the fine. If the defendant had complied with these instructions, she would have been deprived of her right to a trial. [Violation of Canons 2A, and 3B(2) of the Texas Code of Judicial Conduct.] *Private Order of Additional Education of a Justice of the Peace*. (03/21/13).

The judge failed to follow the law and demonstrated a failure to maintain professional competence in the law when he: (1) failed to afford defendants the opportunity to enter a plea of not guilty and to ask for a trial prior to questioning them about the merits of the case and their defense; (2) failed to advise defendants at their first court appearance of their constitutional rights; (3) required defendants to appear for status hearings each month in order to monitor their conduct at school, without having the defendants enter a guilty or no contest plea and/or without placing the defendants on deferred disposition; (4) failed to issue proper deferred disposition orders informing defendants of the terms of their deferral; (5) conducted criminal proceedings, including the questioning of defendants and witnesses about the merits of the case and their defenses to the charges, outside the presence of the prosecutor; (6) dismissed cases without a motion from the prosecutor; and (7) failed to maintain docket sheets containing the requisite information set forth in the Texas Code of Criminal Procedure. [Violation of Canons 2A, 3B(2), and 6C(2) of the Texas Code of Judicial Conduct.] *Private Admonition and Order*

*of Additional Education to a Municipal Court Judge*. (03/25/13).

The judge failed to comply with the law and demonstrated a lack of professional competence in the law by dismissing certain criminal cases without a motion from the State, including cases involving his brother-in-law and sister-in-law, which he was legally disqualified from handling altogether. Further, the judge exhibited an impermissible bias and failed to be patient, dignified, and courteous in his dealings with members of the police department. Finally, the judge's refusal to fully cooperate with the Commission's investigation became an aggravating factor regarding the imposition of this sanction. [Violation of Canons 2A, 3B(1), 3B(2), 3B(4), and 3B(5) of the Texas Code of Judicial Conduct, and Article V, §1-a(6)A of the Texas Constitution.] *Private Warning of a Justice of the Peace*. (04/08/13).

The judge failed to follow the law and demonstrated a lack of professional competence in the law when he magistrated his grandson. Although the judge was not similarly disqualified from magistrating a friend of the judge's grandson, a material fact witness in the case involving the grandson, the fact that the grandson's father contacted the judge on behalf of the material fact witness created a perception that the judge was providing special or favorable treatment to family and friends. [Violation of Canons 2A and 3B(1) of the Texas Code of Judicial Conduct.] *Private Order of Additional Education of a Justice of the Peace*. (04/15/13).

The judge failed to follow the law and demonstrated a lack of professional competence in the law when he erroneously issued a capias pro fine warrant against a defendant, who subsequently spent five days in jail at least in part as a result of the condition laid out in the capias pro fine warrant. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Admonition and Order of Additional Education of a Justice of the Peace*. (04/15/13).

The judge solicited funds for a nonprofit corporation and lent the prestige of judicial office to advance her own private interests, and the private interests of the nonprofit corporation, when she (1) allowed the nonprofit corporation to send out a letter that included her name and judicial position and that encouraged past supporters to buy charitable raffle tickets; (2) contacted a State Senator in an effort to secure grant funding for the nonprofit corporation and drew attention to her position by discussing

her “judicial reputation;” and (3) solicited public participation in fundraising operations to support the nonprofit corporation through the corporation’s website and Facebook postings. [Violation of Canons 2B and 4C(2) of the Texas Code of Judicial Conduct.] *Private Reprimand of a Justice of the Peace.* (04/23/13).

The judge improperly intervened in a defendant’s case by ordering the defendant released on a personal bond after another judge had already magistrates and set a surety bond for the defendant and after the defendant’s case had already been filed and assigned to a district court. [Violation of Canons 2A, 2B, and 3B(2) of the Texas Code of Judicial Conduct.] *Private Admonition and Order of Additional Education of a Justice of the Peace.* (05/23/13).

The judge failed to maintain patience, courtesy, and dignity toward individuals with whom she deals in an official capacity. [Violation of Canon 3B(4) of the Texas Code of Judicial Conduct and Article V, §1-a(6)

A of the Texas Constitution.] *Private Admonition of a Justice of the Peace.* (06/26/13).

The judge failed to comply with the law and demonstrated a lack of professional competence in the law when she attempted to mediate a dispute resulting from a physical altercation between two citizens when no case was pending in her court. [Violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.] *Private Order of Additional Education of a Municipal Court Judge.* (07/09/13).

The judge failed to make a reasonable inquiry to determine if he had a disqualifying relationship in a matter where his niece, a relative within the third degree of consanguinity, was a manager of a business that was a litigant in the judge’s court. [Violation of Canons 2A, 3B(1) and 3B(2) of the Texas Code of Judicial Conduct.] *Private Admonition and Order of Additional Education of a Justice of the Peace.* (07/16/13).

*Suspensions*

Judge	Court	Status
Hon. Cesar Perez	Justice of the Peace, Pct. 2 Eagle Pass, Maverick County, Texas	Pending criminal trial
Hon. James J. Fernandez	Justice of the Peace, Pct. 2, Pl. 1 Del Rio, Val Verde County, Texas	Pending criminal trial
Hon. Christopher Dupuy	County Court at Law No. 3 Galveston, Galveston County	Pending criminal trial
Hon. Eric L. Williams	Justice of the Peace, Precinct 1 Kaufman, Kaufman County	Pending criminal trial

*Resignations*

Judge	Court	Agreement Date
Margaret Polansky	Caldwell Municipal Court Caldwell, Burleson County	09/17/12
Darlene Nelson	Former Municipal Court Judge Oak Ridge, Cooke County	06/14/13
Gladys T. Bransford	Former Municipal Court Judge Houston, Harris County	06/14/13
Clarence E. Holmes, Jr.	Former Justice of the Peace Hawkins, Wood County	06/14/13

# Texas Ethics Commission

## Sworn Complaints

Editor's Note: Complaint orders with duplicative facts and findings to those listed below were omitted.

Date Issued	Violations	Sanction
11/12/2012	Respondent was a candidate for City Council and was an opposed candidate in the run-off election. Candidate filed the 30-day pre-election report 7 days late and therefore violated section §254.064(b). SC-31110235	\$250 civil penalty
12/14/2012	Respondent was the treasurer for a general-purpose political committee. The Committee found a technical violation because the semiannual report disclosed \$5,815.65 in contributions maintained and the bank statement showed \$6,315.65. However, the correct amount did not exceed the lesser of 10% of the amount originally disclosed or \$2,500. Respondent made political expenditures to support candidates in the November election, and therefore should have filed 30-day and 8-day pre-election reports; respondent violated §254.154. Respondent also erroneously disclosed expenditures as contributions in violation of §254.151(4). Respondent also failed to timely report two contributions which exceeded \$100. SC-3120101	\$1,000 civil penalty
12/17/2012	Respondent was a campaign treasurer for a general-purpose political committee. The Commission found that Respondent only committed a technical violation by failing to identify the candidates and/or officeholders and/or general-purpose committees supported by the committee in its reports because he disclosed their names and addresses in Schedule F. The Committee also found that VFW accurately described a payee because VFW is a commonly used acronym for "Veterans of Foreign Wars." Respondent did violate §254.031(a)(3) by failing to disclose category descriptions for 56 expenditures, even though purpose descriptions were disclosed for those expenditures. Respondent also violated §254.036(h) by filing reports without his digitized signature. SC-31104105	\$750 civil penalty
12/20/2012	Respondent was the campaign treasurer for a general-purpose committee. Respondent violated §253.037(a) by making \$65,000 in political expenditures before accepting political contributions from at least 10 persons. The Respondent only accepted a contribution of \$100,100 from one individual. Respondent made a technical violation by filing a report without his signature or the assistant campaign treasurer's signature, instead allowing someone else to sign and file the report. SC-3120248	\$6,450 civil penalty
12/27/2012	Respondent was a state representative. Respondent failed to accurately disclose the amount of contributions maintained. The average difference between the amounts reported and the balance on the bank statements for that period was \$10,930 and were therefore not technical violations. Respondent also violated §254.031(a)(8) because he only disclosed the initial of their first and middle names and their last names, which are not their full names as required. Respondent also failed to disclose the occupation or job title of numerous contributors of over \$500. Respondent also accepted contributions from out-of-state political committees before receiving the proper documentation required by §253.032(a) nor did he report the political committee's PAC identification number. There is no violation when the out-of-state political committee is registered with the Commission. Expenditures made for a golf tournament that Respondent holds as a political fundraiser is not considered personal use because it is in connection with his activities as an officeholder. Respondent did violate §254.031(a)(3) by failing to properly report a staff reimbursement. Respondent also violated §571.1242(c) by failing to respond to a Category Two sworn complaint. SC-3110227	\$750 civil penalty

Date Issued	Violations	Sanction
01/03/2013	Respondent was a District Court Judge. The Commission found that describing an expenditure as "holiday gifts to staff" is sufficient for the purpose of §254.031(a)(3) and that it does not require that actual recipient be disclosed. Respondent violated §254.031(a)(6) by improperly disclosing officeholder expenditures as non-political expenditures in Schedule I, thereby reporting the wrong total expenditures on semiannual reports. Using the description "office supplies" or some close variation is sufficient for describing the purpose of an expenditure. However, "sponsorship" is not a sufficient description for the goods or services purchased by Respondent. The Commission also found that computer difficulties did not excuse the failure to disclose the correct office sought and the campaign treasurer's telephone number on semiannual report coversheets. The Commission also stated that purchasing Rosetta software to better communicate with voters and dinner expenses for attendance to local political party dinners were not personal use so long as they were ordinary and necessary expenses in connection to her duties in office. Respondent did not make contributions to political committees for a primary election when a payment was made for part of an ad for the democratic party in the local newspaper that did not exceed her pro rata share of the ad expense, nor if she paid for sponsorship/advertising/goods/admission to an event and the total value of that contribution exceeded the amount paid. However, direct contributions to the local political party with nothing of equal or greater value received in return, reported by the committee itself as political contributions, are in violation of §253.1611(b).	\$350 civil penalty
02/19/2013	Respondent was a District Judge. Respondent made a technical violation by failing to accurately disclose the amount of political contributions maintained. Respondent violated §254.031(a) by failing to disclose the correct amount of an expenditure by \$400. Respondent also violated §254.031(a) and Rule 20.61 because although she disclosed descriptions for each of her expenditures on several annual reports, she did not include categories. Respondent violated §253.1611 by using her political contributions to make contributions exceeding \$250 to general-purpose political committees during years in which her office was not on the ballot. However, Respondent made no violation when the political contributions were made to the county executive committee and were for her pro-rata share of the normal overhead and administrative costs of the party. SC-31107173	\$500 civil penalty
02/19/2013	Respondent was a limited partnership with an incorporated general partner. A partnership that has corporate partners is subject to the same restrictions on political activity that apply to corporations. Therefore, Respondent violated §253.003 and §253.094 by making a \$100 contribution to an elected officeholder. SC-31109213	\$100 civil penalty
02/22/2013	Respondent was the campaign treasurer for a general-purpose political committee. Respondent violated §254.151(3) by failing to include the election information on his cover sheet. In this case, the Commission found that it was only a technical violation that Respondent disclosed the purpose of political expenditures without including categories. Respondent also violated §254.031(a)(6) because he was reporting administrative expenses as non-political expenditures, thereby causing the total expenditures on the financial reports to be inaccurate. Administrative expenses should be reported as political expenditures. The Commission does not have jurisdiction to determine if there was a violation when the payments at issue were made by Respondent for reimbursement to a federal political action committee; the payments are governed by federal law. SC-31105150	\$500 civil penalty

Date Issued	Violations	Sanction
02/25/2013	Respondent was a campaign treasurer for a general-purpose committee. Respondent failed to timely file the reports required by §254.153 and §254.154. Respondent committed a technical violation by failing to list identify the candidates or officeholders and general-purpose committees supported by the committee in its reports because he disclosed their names and addresses in Schedule F. Respondent also accepted contributions from out-of-state political committees before receiving the proper documentation required by §253.032(a) nor did he report the political committee's PAC identification number. He also failed to properly disclose the full name of the out-of-state committee because he listed it as "IBT DRIVE" which is not a commonly used acronym. SC-31105124	\$2,500 civil penalty
03/05/2013	Respondent was a candidate for state representative. Respondent violated §255.006(c) because his advertising signs stated "Elect [name omitted] State Representative [district omitted]." Without using the word "for," Respondent made representations that he was the current officeholder. SC-31204111	No Sanction
04/12/2013	Respondent was a general-purpose committee. Respondent violated §253.163(a) by making a \$23,000 contribution to a district judge's campaign without filing a notice of intent to exceed the expenditure limit. SC-3120380.	\$1,200 civil penalty
04/19/2013	Respondent was the campaign treasurer of general-purpose committee. Although Respondent did not disclose the names of the candidates supported or opposed, the Commission stated that when the name of the committee includes a party identification that the requirement is satisfied. Respondent violated §254.031(a)(6) because he was reporting administrative expenses as non-political expenditures, thereby causing the total expenditures on the financial reports to be inaccurate. Respondent may have violated §253.094 by accepting a \$500 contribution from a partnership that has a corporation as a general partner, however, it was unclear as to whether the contribution was permissible under §253.100 as a contribution to establish the general-purpose committee. Respondent did violate §254.151(9) by failing to disclose the contribution on the correct report. SC-31110233	\$500 civil penalty
04/23/2013	Respondent was incumbent candidate for district clerk. Respondent violated §254.031(a) by failing to provide proper descriptions for political expenditures. "Food/beverage" and "cell phone" are not sufficient descriptions of the purpose of expenditures. Respondent did not disclose the proper payee when listing a bank as the payee for a withdrawal described as "petty cash." Respondent also violated §254.031(a)(3) by not disclosing the full address of payees – only their city and state. Respondent also failed to properly reimburse himself for use of his personal funds. SC-31112282	\$1,000 civil penalty
04/24/2013	The Respondent was a county commissioner in Comal County who later ran for railroad commissioner. A candidate who has filed a campaign treasurer appointment decides to seek a different office that would require the appointment to be filed with another authority, a copy of the appointment certified by the authority with whom it was originally filed must be filed with the other authority in addition to the new campaign treasurer appointment. The original appointment terminates on the filing of the copy with the appropriate authority or on the 10th day after the date the decision to seek a different office is made, whichever is earlier. § 252.010. Respondent held campaign fundraising events and advertised his intention to seek a different office long before appointing a new campaign treasurer. He furthermore accepted contributions and made political expenditures before a new treasurer was appointed. Respondent therefore violated §§§ 252.001, 252.005, and 252.010. SC-31112268	\$600 civil penalty

Date Issued	Violations	Sanction
04/29/13	Respondent was a District Judge. Respondent violated Section 254.031(a)(1) by failing to disclose a contributor's full name. Respondent also violated Section 254.0611(a)(2)(A) because she listed some contributors as "self-employed" when they were employed by separate entities, as well as failing to disclose the job titles of some of the contributors. Respondent also disclosed incorrect job titles and employers for some contributors. Respondent also failed to properly disclose reimbursements made to campaign staff. SC-31111256	\$500 civil penalty
06/11/13	Respondent was a campaign treasurer of a PAC. The Commission found no violation for improperly disclosing contributors' full names because the names were listed in the report the same way as they appeared on the contribution checks. Respondent did violate section 254.031(a)(6) by reporting political expenditures on Schedule G instead of Schedule F. Respondent also violated sections 254.151(6) and 254.156(1) by failing to disclose the contributors principal occupation. Instead, Respondent either left it blank or put the entity's name down. Respondent did not violate sections 253.003 and 253.094, which prohibits the acceptance of contributions from labor unions and corporations, because there is no evidence that Respondent knew the contributor's status prior to accepting the contribution. In order to show a violation of section 253.003 of the Election Code, the evidence must show that the contributor was a corporation that at the time the respondent accepted the contribution she knew that corporate contributions were illegal, and that the respondent knew the particular contribution at issue was from a corporation. SC-31209249	\$300 civil penalty
06/18/13	Respondent was a corporation. Respondent made a \$500 contribution to a candidate for City Council. In response to the complaint, Respondent swore that it was unaware that contributions with corporate funds were not allowed. Respondent violated sections 253.003 and 253.094 of the Election Code. SC-3130355	\$250 civil penalty
06/24/13	Respondent was a District Judge. Respondent violated 254.0611(a)(3) by failing to disclose assets over \$500 that were purchased with campaign funds and on-hand at the time of filing. Respondent violated 253.035(a) by converting political contributions to personal use. Respondent violated 254.031(a)(3) when he withdrew \$5,000 and listed the expenditure as Christmas baskets to "staff." Respondent was required to list the actual names of the recipients and "staff" is insufficient. Respondent also made reimbursements to staff without fully disclosing the actual payee information and therefore violated section 254.031(a)(3). The rules require that candidates/officeholders report the original expense and vendor that a payment was made to by a staff member, and not just the reimbursement of that expense to the staff member. Respondent also violated section 253.035(h) when he reimbursed himself \$1,000 for political expenditures he previously made from his personal funds to pay campaign workers, even though the expenditures were \$50 or less. If Respondent intended to seek reimbursement for such expenses, they are required to be itemized. Furthermore, Respondent failed to "include in the description of the purpose of an expenditure a brief statement or description of the candidate, officeholder, or political committee activity that was conducted by making the expenditure" when he listed 15 expenditures to AT&T for \$4,770 in his semiannual reports. SC-3112277	\$1,000 civil penalty
06/24/13	Respondent was a District Judge. Respondent violated section 254.031(a) (3) because he failed to adequately describe the purpose of travel and it was unclear whether it was officeholder related. Describing a travel expense as just "Travel to Dallas" is insufficient and must include a description that makes it clear travel is for purposes related to the campaign or office. Respondent also failed to disclose the employers of contributors. He listed "self" as their employers, when they were actually partners in businesses that did not include their names in the title. SC-3120260	\$300 civil penalty

Date Issued	Violations	Sanction
07/01/13	Respondent was a District Judge. Respondent did not violate section 254.031(a) (1) by failing to list the full name of the firm. Respondent provided complete address information so that anyone could reasonably ascertain the firm's full name. Respondent also did not violate that section by only listing the first initial and last name of individual contributors. By providing the individual's complete address and employer, anyone could reasonably ascertain the identity of the individuals. Respondent also made no violation by listing "KPFT" or "MABA" as the names of payees because they are commonly recognized acronyms and were easily identified using an Internet search. He also provided their complete addresses. Respondent did violate section 254.031(a)(3) by listing the purpose of an expenditure as "Event Expense." Respondent violated section 254.0611(a) (2)(A) by listing "requested" for the employer of contributors. Respondent also failed to report an asset valued at over \$500 that was purchased with political funds and on-hand at the time of reporting. Respondent also violated section 253.1611(e)(1) by making contributions to political committees that were more than the value of goods and services received in return. Respondent also made political contributions to political committees exceeding \$500, without earmarking the contribution for nonpolitical purposes, which violates section 253.1611(c). These contributions were also made when Respondent was not on the ballot. SC-31109207	\$1,000 civil penalty
07/01/13	Respondent was a candidate for District Representative. Respondent violated sections 254.031(a)(1), 254.031(a)(5), and 254.031(a)(6) by failing to disclose political contributions related to a fundraising event. Respondent held a fundraiser at a bank, which included rental of the venue and catering charges. Those charges were later paid by two individuals who were volunteering for the campaign. By allowing the individuals to pay for expenses related to the fundraiser, Respondent accepted political contributions. Respondent failed to report these contributions. SC-3120245	\$250 civil penalty
09/04/13	Respondent was a campaign treasurer for a general-purpose committee. Respondent violated section 254.031(a)(1) by filing reports without some of the addresses and/or employers of contributors. Respondent violated 254.031(a) (3) by listing "LSG" as the name of a payee. "LSG" was not a registered acronym. Respondent also failed to accurately report the total amount of contributions maintained, a discrepancy of which averaged \$26,870. Respondent also made a \$2,500 contribution without listing the payee's name, address, or the purpose of the expenditure. Respondent also made political contributions to other general-purpose committees without first disclosing recipient committees in its campaign treasurer appointment, in violation of sections 252.003(a)(2) and 253.037(b). SC-3120384	\$2,500 civil penalty
09/04/13	Respondent was a candidate for Town Council. Respondent violated section 254.031(a)(1) by failing to report the complete address of contributors. A complete address requires the street number. Respondent violated sections 254.031(a)(3) and 254.031(a)(6) by failing to timely report expenditures. Respondent incurred expenses for web development, automated robocalls, and campaign mailers. She claimed that they were reported late because she could not determine the final costs until after the reports were due. According to the Election Code, if the character of an expenditure is such that under normal business practice the amount is not disclosed until receipt of a periodic bill, the expenditure is not considered made until the date the bill is received. However, the services performed for Respondent were not periodic bills and were therefore determinable on the day they were performed, which was prior to the date of reporting. Respondent also violated section 254.031(a)(3) by not disclosing the address of the payee for an expenditure. SC-31305107	\$300 civil penalty

## Letter from the Chair, Hon. Eric Shepperd

My Fellow Judges,

Wow! It is an honor to serve as your Board Chair for the coming year. I look forward to working with all of you and meeting as many of you as I can in the coming months. I realized at the Past Chairs dinner at the Annual Conference what a rich tradition of excellence the past chairs have established and I am humbled by it. I solicit your prayers and support as I seek to continue that tradition.

You have an excellent board of directors, and together with them, I hope to solidify our infrastructure and build on successful programming. I look forward to working with Judge Atkinson and his wonderful team as we enhance our current programs and add new ones to provide the judges of Texas the best judicial education in the country. If you will share your vision and give voice to your ideas, then we will accomplish that goal. Again, thank you for your support!

Best Regards,



Hon. Eric Shepperd  
Judge  
County Court at Law #2  
1000 Guadalupe St., Ste. 211  
Austin, TX 78701  
Phone: (512) 854-9242



## Spotlight on the Staff



*Christie Smith:*

Christie is new to the Texas Center in the role as Office Administrator, but not new to the Center itself. Originally publications coordinator a decade ago, Christie also worked with the Center in 2007, and 2008-09 as a contractor through her own business. She worked on the Center’s website, publications and was instrumental in getting the Bench Book online. In her new role, she is overseeing third party vendor relationships, day to day office administration and helping to streamline operations. Mom to two teenage sons, Christie enjoys ballroom dancing, movies and travel.

## Spotlight on a Texas Freedom Court

### Freedom Court is Working to Rehabilitate Drug and Alcohol Offenders

*By L. Scott Mann*

*Originally published on SandstormScholar.com*

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Judge William C. Sowder’s Freedom Court is a bridge from the jail house to the real world supported by genuine concern and tough love. “The job of Freedom Court is to keep you free from drugs” [Judge] Sowder tells a courtroom full of probationers.

The scene in the 99<sup>th</sup> District Court is different when Freedom Court is in session. Instead of sitting on the bench and having people approach him, the participants sit in the audience and the Judge stands at the bar and talks informally to each individual. An observer comes away with the impression that the Judge knows and cares about them as people.

Described as a reentry court, Freedom Court supervises a group of approximately 65 felony drug and alcohol offenders who have done long-term jail or drug treatment and are on probation. [Judge] Sowder calls roll and addresses every probationer individually. “Tell



me what’s happening in your life?” he asks.

Small victories are acknowledged and applauded. Failures are noted, analyzed and penalties meted out. Participants are required to call the Probation department every morning and, when their number comes up, they have only hours to report for a drug test. Failing a drug test results in an automatic three days in jail. Nothing is left to chance; accountability is the rule of the day in Freedom Court.

This close supervision and personal attention pays off. [Judge] Sowder points to four elements essential to a successful specialty court program:

- 1) Accurate and robust testing. Freedom Court probationers can expect to report for testing an average of three times a week.
- 2) Immediate and appropriate sanctions for bad behavior and rewards used as positive reinforcement.
- 3) Participants must have a sense that the process is fair.
- 4) Trusting and personal relationship with the judge.

The Judge emphasizes that consequences have to work both ways. It’s not solely about punishment but also about recognizing and rewarding progress. Rewards may be a seven day token for someone starting out, or starting over, to a gift card to a restaurant contributed by a local business for someone who has obtained a G.E.D.

Success is measured by good decisions and may

be as simple as choosing not to attend a wedding where alcohol or drugs may be present. “You’ve got to be honest with yourself,” the Judge admonishes a new member of the group.

Education, daily Alcoholics Anonymous or Narcotics Anonymous meetings, public service, and group and individual counseling are all part of the minimum of a year-long process to reintegrate offenders. “Meetings are medicine. You can’t will it on your own no matter how tough you are.”

Missing required meetings may be punished by additional community service hours. “Why do we make you do community service?” [Judge] Sowder asks. “Because it keeps you busy, it helps you and it helps others. It teaches you to manage your time. Busy people are productive,” he explains.

“Education is the key,” he reminds his captive audience. “I’ll trade you eight hours of community service if you’ll get your G.E.D,” [Judge] Sowder offers one.

While formal studies of all of Lubbock County’s specialty courts are underway, Judge Sowder says Freedom Court has a 40%-60% successful completion rate.

This combined role of teacher, preacher, cheerleader and judge is working to make productive citizens. “I’m not their best friend,” Judge Sowder observes, “but they know I’m on their team.”

## Upcoming Conferences

*College for New Judges*  
December 1-4, 2013  
Hyatt Regency, Lost Pines

*Regional A (Regions 1, 6, 7, 9)*  
January 23-24, 2014  
Marriott, Horseshoe Bay

*Regional B (Regions 2, 3, 4, 5, 8)*  
February 20-21, 2014  
Moody Gardens, Galveston

*Family Violence Conference*  
March 27-28, 2014  
Tremont House, Galveston

*Texas College for Judicial Studies*  
May 5-9, 2014  
Sheraton Capitol, Austin

*Criminal Justice Conference*  
May 15-16, 2014  
Hilton Bella Harbor, Rockwall

*Child Welfare Conference*  
June 9-11, 2014  
Hyatt Regency, Lost Pines

*Professional Development Program*  
June 15-20, 2014  
Embassy Suites, San Marcos

*DWI College*  
July 10-11, 2014  
Radisson, Austin

*Annual Judicial Education Conference*  
Sept 7-10, 2014  
Omni, Fort Worth

*College for New Judges*  
December 7-12, 2014  
Sheraton Capitol, Austin

## Advisory Board

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- Hon. Paul Davis
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as of 10/11/2013

## NEW JUDGES

Hon. John Bailey	11th Court of Appeals	Eastland
Hon. Jennifer Balido	291st District Court	Dallas
Hon. Elizabeth Beach	Criminal District Court No. 1	Fort Worth
Hon. Chad Bradshaw	300th District Court	Angelton
Hon. Kara Darnell	South Plains Cluster Court	Lubbock
Hon. S. Grant Dorfman	334th District Court	Houston
Hon. Lynn Ellison	Atascosa County Court at Law	Jourdanton
Hon. Travis Ernst	County Court at Law No. 1	Victoria
Hon. Catherine Evans	180th District Court	Houston
Hon. Phyllis Gonzalez	Title IV-D	El Paso
Hon. Dennis Jones	County Court at Law No. 1	Kaufman
Hon. Rick Kennon	368th District Court	Round Rock
Hon. Michael Lee Landrum	113th District Court	Houston
Hon. Cheryl Mabray	CPC of the Hill Country	Mason
Hon. Stacey Mathews	277th District Court	Round Rock
Hon. Melissa McClenahan	Child Protection Court of Central Texas	San Antonio
Hon. Derrick John Morrison	305th District Court	Dallas
Hon. Jesus Nevarez	231st District Court	Fort Worth
Hon. Tracey Scown	Child Protection Court of West Texas	Odessa
Hon. Jaime Tijerina	92nd District Court	Edinburg

## JUDGES ON THE MOVE

Hon. Ada Brown	5th Court of Appeals, Dallas
Hon. Marc Brown	14th Court of Appeals, Houston
Hon. Robert Hofmann	452nd District Court, Mason
Hon. David Stith	319th District Court, Corpus Christi
Hon. Ken Wise	14th Court of Appeals, Houston

## IN MEMORIAM

Hon. Mike Anderson	262nd Criminal District Court	Houston
Hon. Joe Brown	95th District Court	Dallas
Hon. William Cornelius	Former Chief Justice, 6th Court of Appeals	Texarkana
Hon. Charles Coussons	Civil County Court at Law No. 4	Houston
Hon. Alfred Gerson	County Court at Law No. 1	Beaumont
Hon. Thomas Greenwell	319th District Court	Corpus Christi
Hon. Royal Hart	51st District Court	San Angelo
Hon. C.T. Hight	75th District Court	Liberty
Hon. H. Dee Johnson	44th District Court	Dallas
Hon. William Kilgarlin	Supreme Court Justice	Houston
Hon. Paul Nye	13th Court of Appeals	Corpus Christi
Hon. W.G. Woods	253rd District Court	Liberty

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Hon. Leslie Yates in Memory Of Hon. A.D. Azios

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# OFFICE OF COURT ADMINISTRATION

## COURT SERVICES PROGRAM



The Office of Court Administration (OCA) is pleased to announce the addition of Aurora Zamora to its staff. As the agency's court services consultant, Ms. Zamora provides assistance to courts in evaluating and implementing case management and

other administrative programs to improve the efficiency of court operations and the administration of justice—a key element of OCA's mission.

Services offered include:

- Evaluation and development of case management strategies.
- Technical assistance (via telephone or on-site) on court administration matters, including assignment of judges, jury management,

development of forms, and case management.

- Training on case management principles, techniques and best practices.

Ms. Zamora's consulting services are provided at no cost to courts. However, because of limited travel funds, OCA requests that counties cover Ms. Zamora's travel costs when possible.

Ms. Zamora has over 25 years of court management experience. She also has extensive experience providing training on court administration matters, including case management, for various entities, such as the Texas Association for Court Administration and the Texas Center for the Judiciary. She has attended all three phases of the court coordinator's certification program through the Texas Center for the Judiciary and attended the Judicial Administration Program at Michigan State University where she obtained a noncredit certificate.

To learn more about the services offered by OCA or to request assistance, call Aurora Zamora at (512)-463-0976, or e-mail her at [Aurora.Zamora@txcourts.gov](mailto:Aurora.Zamora@txcourts.gov).

## MORE ONLINE:

Look for links to Research Findings on Civil Protective Orders, Texas Pattern Jury Charges and all the resources the Texas Center has to offer.