

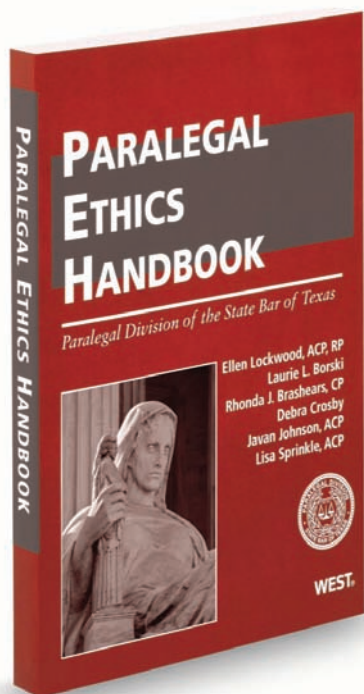
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# TPJ

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**By: Ellen Lockwood, Et Al**

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# PRESIDENT'S *Message*

by Joncilee Davis, ACP, President, Paralegal Division

Anyone remember watching “Perry Mason” on television? I’m sure we can all think of a legal show or movie we watched that somehow sparked a legal fire within us. It could have been a black and white movie like “Twelve Angry Men,” a television show like “The Practice” or “Law and Order,” or a more recent movie like “A Few Good Men.” Who can forget that famous line delivered by Col. Nathan Jessup: “You can’t handle the truth!” For some of you, it may have been a book you read. Maybe a John Grisham novel? I remember not being able to put *The Firm* down when it was first released.

However, of all the movies, television shows, and books, there is one that stands out in my mind. *To Kill A Mockingbird* is, in my belief, one of the greatest novels ever written. The book was published in 1960, and the movie was released in 1962. This year, the movie celebrates its 50th anniversary. Did you know Harper Lee entered law school at the University of Alabama but did not complete her degree? Her father was an attorney and the inspiration for the character Atticus Finch. After being a paralegal for almost twenty years, I find a different and deeper appreciation for the book. Imagine interviewing some of the witnesses or preparing for the deposition of Mayella Ewell, Bob Ewell, or Tom Robinson.

Arthur “Boo” Radley is a mysterious character. He is the hermit who lives next door



to the Finches. As you may recall, rumors and myths have circulated around town that Boo is a horrible person. The children of the town are scared to death of him. However, Boo just wants to be someone’s friend. He leaves small presents for Scout and Jem in a tree knothole. Upon finding these presents, the Finch children begin to see Boo more as a person.

We know that Boo is a reclusive man who is very loyal, responsible, caring, and protective. As one book scholar wrote: “As the novel progresses, the children’s changing attitude toward Boo Radley is an important measurement of their develop-

ment from innocence towards a grown-up moral perspective. At the beginning of the book, Boo is merely a source of childhood superstition. As he leaves Jem and Scout presents and mends Jem’s pants, he gradually becomes increasingly and intriguingly real to them.” No longer is Boo Radley a myth.

In the finale of the book, Mr. Ewell tries to harm the Finch children, Scout and Jem. Boo ensures this does not happen, and saves both children from an evil fate. It seems Boo happens to appear at just the right time, and he also serves as an inspiration for the other characters. He refuses any fame or honor which would have come from the town knowing that he saved Scout and Jem. Boo is one of the mockingbirds in the book. He is a symbol that good exists in people and that despite all the cruel things the world hands out; you can still maintain purity of heart.

Does Boo Radley share any of the same

traits you have as a paralegal? Are you a recluse when it comes to attending pro bono or social events? If so, the Division can help you by pairing you with a mentor. Please visit the mentor/protegé program information section under the members’ only section of the website. Do you inspire others? If so, the Division could use you as a volunteer. In fact, there is a special “volunteer” button on the website just for you! Are you altruistic and loyal? If so, you have chosen the right career.

As we approach another year for the Paralegal Division of the State Bar of Texas, I hope you are finding new ways to allow the Division to help you grow in your legal endeavors. The Division has a plethora of opportunities for you, including continuing legal education, travel opportunities, networking, mentoring, and developing your leadership skills. We are a Division with a Vision!

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# EDITOR'S *Note*

By Heidi Beginski, TBLS-BCP

**E**verything we do, or don't do, is a choice that can affect our lives and the lives of others.

Simply stated, ethics refers to standards of behavior that tell us how human beings ought to act in the many situations in which we find ourselves—as friends, parents, children, citizens, businesspeople, teachers, professionals, and so on.

Ethics really has to do with all these levels—acting ethically as individuals, creating ethical organizations and governments, and making our society as a whole ethical in the way it treats everyone.

Ethical choices are based on principled decisions, not on self-interest or easy-returns. Such principles are based on universal values that have been held across time, culture, politics, religion and ethnicity. Any decision can be evaluated in terms of the universal values or core ethical principles of trustworthiness, respect, responsibility, fairness, caring and citizenship.

Ethical principles are ground rules of decision making—not just factors to consider. Ethics has a price and sometimes people must choose between what they want and who they want to be. But ethics also has a value, which makes self-restraint and sacrifice, service and charity, worthwhile.

In this issue, you'll read about colleagues who will be serving the PD in various capacities during the coming year. They have examined the alternatives, and chose to help the Division serve its members. They will be assisting our new President to implement her plan for the year in a way that maximizes the benefits.

Being a PD member is a choice. I hope this issue will inspire you to become more involved in the Division.



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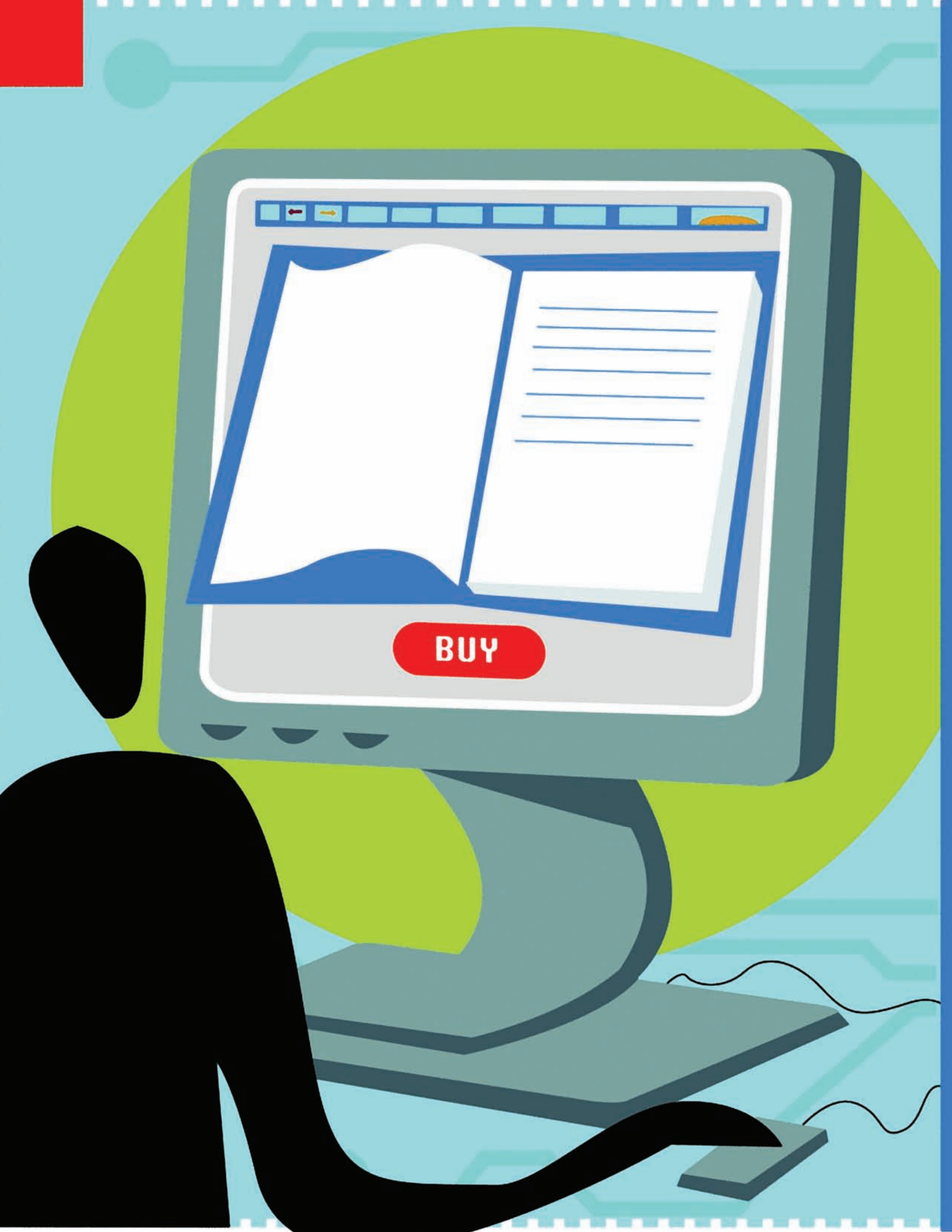
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# Dollars and Sense: Alternatives to High End Legal Content Providers

*By Ruth Bernstein and Deirdre Trotter, ACP*



There are more options today for online legal content than ever before. While Lexis has established itself as the mid-list law database of choice, and Westlaw has cemented itself at the high end of the market for law firms, a number of other databases are available to law firms or legal researchers whose wallets are a bit thinner.

Basic, more affordable providers are making moves for greater market share. Fastcase won the 2010 prize for AALL's new product of the year, with Westlaw Next having won that prize in 2011, and BloombergLaw taking it in 2012. Fastcase was also the 2010 Rocket Product App of the Year. In 2010 Greg Lambert, JD, MLIS, then an AmLaw 100 firm librarian in Houston, touted Casemaker as a great alternative to "high-cost legal research providers," with much of it available free through a Texas State Bar membership (and to paralegals who are members of the Paralegal Division of the State Bar of Texas). As legal research options, Casemaker, Fastcase, Loislaw, and VersusLaw are definitely worth considering. They offer less information overall, but all that information is not always necessary. A smaller database may provide just enough of what is needed. All are reasonably priced and provide a good service to their users.

## **A Review of the Underdogs of Legal Research Content**

### ***Casemaker***

Casemaker offers Federal Supreme Court, Circuit Court, District Court, and Bankruptcy Court decisions, in addition to state libraries that compares favorably with the major players. Casemaker also has the most comprehensive and current statutes and codes on both the state and federal level. Casemaker continually updates these codes and includes notations on future changes. In addition, Casemaker has added a digest service that is covered by the former editors of Michie Publishing (Lambert, 2010, p. 56). CasemakerDigest covers 36 state court decisions plus federal court decisions. Casemaker



also offers a citator service comparable to the major players, which is not an automated service. Casemaker has about 500,000 subscribers nationwide. The year 2012 brought new upgrades to Casemaker. It now offers a federated search similar to Google as well as a work space, the ability to track research by client, and the ability to add notes to documents, all similar to features found in Westlaw Next and Lexis Advance. While Casemaker basic is available in Texas through state bar membership, CaseCheck+, CaseDigest, and CiteCheck can be added for a nominal fee. However, for those who are not members of the State Bar of Texas, Casemaker+ is available by subscription in Texas for \$599.00 a year or \$59.00 a month. Robert Ambrogi (2012) reported that the new version of Casemaker is “simple and intuitive” (n.p.).

#### **Fastcase**

Fastcase customers can choose a flat fee, monthly or annual subscription rate. Fastcase offers primary sources back to 1 S.W. 1 in Texas, free Pacer Abstracts, a newspaper database, and forms database. CEO Ed Walters calls Fastcase an alternative to traditional services, with the purpose of democratizing the law and making legal research smarter. Fastcase aims to “reinvent” the provision of legal content, not copy the way other providers are doing it. Fastcase offers “foresight” through its citation analysis and the use of interactive maps designed to show the researcher the most significant cases eliminating the need to read each case.

In addition, Fastcase is a pioneer in the mobile market with its iPhone App and iPad App. Use of these apps does not require a subscription. Fastcase publishes free advance sheets for eBook readers. While Fastcase began in 1999, it is hitting its stride. Fastcase has about 500,000 subscribers nationwide. The ABA reports that Fastcase has the most mobile users. Fastcase offers a 24-hour free trial and free webinars daily. A Fastcase subscription

**Texas paralegals who need access to case law should take a look at Casemaker since it is a comparable alternative to high end providers and is provided free to Texas attorneys through the State Bar, and to Texas paralegals who are members of the Paralegal Division.**

runs \$995.00 annually or \$95.00 monthly for access to all of its services.

#### **Loislaw**

Loislaw allows users to choose either complete access to its entire database or to select just information from a single state, as well as a variety of subscription options in between. The cost for these services stays at about \$200 per month. The complete database provides access to 50 state (appellate and supreme), federal (district and circuit), and U.S. Supreme Court case law.

Loislaw cannot compete with Lexis and Westlaw in terms of secondary sources, but it does offer a good collection of Aspen treatises. Recently, Loislaw began to offer a “search within a search” feature, and a simple find-by-citation feature is also available. Loislaw also provides a cite-checking service, GlobalCite, and a current awareness service it calls LawWatch. Loislaw gives the user a substantial bang for a comparatively low buck, making it a viable low-cost alternative.

#### **VersusLaw**

VersusLaw also has a flat-rate fee structure. According to the VersusLaw Web site ([www.versuslaw.com](http://www.versuslaw.com)), the monthly flat rate varies from \$13.95 to \$39.95 depending upon the plan. VersusLaw's standard plan contains only case law, but more comprehensive plans add other features, such as statutory and administrative material. The only statutory and administrative material available is federal, and it is only available

in the professional plan (\$39.95).

VersusLaw provides very little in the way of secondary sources, but if you are primarily interested in case law, VersusLaw is a source to consider. The standard plan grants the user access to case law from all 50 states, as well as federal cases, with coverage varying by jurisdiction. One interesting feature of VersusLaw is its coverage of tribal courts. Decisions are provided from 19 different tribal courts (date coverage varies by court). This coverage is significantly greater than any of the other online services.

#### **Conclusion**

Texas paralegals who need access to case law should take a look at Casemaker since it is a comparable alternative to high end providers and is provided free to Texas attorneys through the State Bar, and to Texas paralegals who are members of the Paralegal Division. However, Fastcase, Loislaw, and VersusLaw each offer a unique set of services that may be a better fit for a particular practice area and each merits consideration.

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# Equal Access to Justice: More than a Soapbox Issue?

By Deirdre Trotter, ACP, MIS

*Democracy does not guarantee equality of conditions;  
it only guarantees equality of opportunity....Anonymous*

## Introduction



Equal Access to Justice has become a mantra among state bar associations and other legal organizations. In large part, while the intentions are good, the actions necessary are disproportional to the volunteer organizations and/or individuals available to meet the need. Unlike the lone boy in the story of Hans Brinker, who plunged his finger into the hole of the dike in order to save the town from a flood, a mass of individuals and large sums of money are necessary to provide legal services to meet the needs of the masses of impoverished Americans who do not have the ability to pay the high fees of attorneys to represent them in civil court actions ranging from foreclosures and bankruptcies to divorce. Though meager, there are options available to individuals who need assistance in civil legal matters. Following are current opinions regarding equal access to justice, the problems and possible solutions. An annotated bibliography that directs individuals seeking assistance to materials, websites and organizations available for civil litigation and/or mitigation assistance appears at the end.

## Equal Access to Justice – The Problem

In 2006, the American Bar Association (“ABA”) adopted a resolution that urged governments across the country to “provide legal counsel as a matter of right....to low income persons” in cases involving the basic human needs of “shelter, sustenance, safety, health or child custody...” (as cited in Brooks, 2008, n.p.). According to Brooks, the California Conference of Delegates of the California Bar Association adopted the ABA’s resolution in the fall of 2006. However, as of the fall of 2008, the state of California had failed to implement the resolution. In 2009, California Governor Schwarzenegger signed a law to provide counsel to “poor litigants in certain high-stakes civil cases” (ABA, 2010, p. 3). While the states of Hawaii, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New York, New York, North Carolina, Pennsylvania, Texas, and Washington had undertaken the issue in various ways, as of August 2010 none other than California had passed any meaningful legislation on the matter (ABA, 2010, p. 3-7). ABA leadership along with other national leaders agreed that “the ABA can and should be doing more to help support state efforts to advance the establishment and implementation of the right to counsel throughout this country” (ABA, 2010, p. 7). In other words, it has been discussed and pilot projects have been put together and committees have been formed, but unlike the boy and the dike, no meaningful action has taken place; the water is still leaking through the hole in the dike, but at least the issue of civil legal aid to low income individuals is being discussed.

In Texas, to qualify for legal aid in civil matters, a four-person family can earn no more than \$27,563.00 per year. There are about 6 million people in Texas alone who qualify for legal aid. In 2009, Texas lawyers reported a total of 2.24 million to 2.56 million hours *pro bono* or reduced fee hours spent in providing legal services to the poor. In



# Focus on...

2009, more than \$600,000 was donated through Texas State Bar dues earmarked for civil legal aid to poor Texans (Texas Access to Justice Commission, 2010, n.p.). Texas Supreme Court Justice Nathan L. Hecht (2010) reported that there were 5.7 million people in Texas who qualified for legal aid for issues involving “foreclosures, employment disputes, domestic violence, and benefits for veterans and the elderly” (n.p.). Justice Hecht reported that one cause for a lack of funding for legal aid is the low interest rates on Lawyers’ Trust Accounts (“IOLTA”). The interest from these accounts has dropped from a high of \$20 million in 2007 to \$5 million in 2009, devastating legal aid service providers who depended on these funds to provide civil legal service to the poor (Hecht, n.p.). In 2012, the interest is projected to be \$3.7 million, an 80 percent decline in five years. In 2011, the Texas Legislature earmarked \$17.5 million for legal aid to “bridge the gap” left through diminishing IOLTA interest. (Access to Justice Foundation, 2012, Exhibit D).

While individuals are certainly allowed to represent themselves in a court of law, Gene R. Nichol, Jr. (2010) cited the fact that laypersons are effectively excluded from the “civil justice system because they cannot ‘afford to pay the fare’....*We have constructed, honed and maintained an immensely complicated, arcane, formal, imposing and mystifying structure for the government-enforced resolution of civil disputes. Almost no one, unschooled in its specialized practices, could conceivably navigate its corridors....*Lay Americans cannot here sensibly proceed on their own” (p. 327, *emphasis added*). Help in navigating the legal system requires a lawyer. With legal fees charged by lawyers in any state of the nation ranging from an extremely conservative \$125 per hour to \$650 per hour, most Americans are locked out of the civil legal system. While a lawyer charging \$125 may be competent, he/she usually has less experience, less time, less staff and less money to spend



on expert witnesses and other legal services. Individuals who can afford the higher rate usually receive better legal services by more experienced attorneys with a large staff and access to expensive expert witnesses and other legal services. Frequently in litigation cases involving poor Americans, a “David vs. Goliath” scenario exists, with the poor American battling a wealthy adversary. While it does not mean the less expensive lawyer or *pro se* party cannot win, the deck is certainly stacked in the opponent’s favor.

## Where Does the Fault Lie?

Nichol (2010) believed that judges are to blame for the lack of equal access to justice in America by failing to make findings and/or render verdicts that would allow for easier access to the justice system by those who cannot afford to pay the expenses involved in litigation (p. 362). Nichol believed that it is the duty of the judicial department “to gauge and ensure the essential fairness and integrity of its proceedings. But American judges have abdicated this central mission by ignoring the exclusion from our civil regime that occurs for those unable to afford counsel” (p. 330). Nichol believed that eighty percent of the legal needs of “ninety million Americans” are unmet (p.327).

The issues of equal access to justice are

not being completely ignored by lawyers and judges, state bar associations and state legislatures, but it seems more like it is a grandstand issue that is given “lip service,” but no real teeth – they can see that water is leaking from the hole in the dike, but they cannot decide who is going to put their finger in it. Nichol (2010) stated that judges are giving consideration to the issue of equal access to justice to the poor but “primarily in law day speeches....or in law school graduation homilies....Not in their rulings. *It is almost as if Justice Earl Warren, upon studying the horrors of educational apartheid, decided to take a couple of school superintendents to lunch or talk to the local Rotary Club, rather than pen Brown v. Board of Education* (p. 331, *emphasis added*). Nichol concluded that judges have created the current system of dispute resolution and made it so complicated and difficult that lay Americans cannot use it and have left it the “obligation of others” to “repair their work” (p. 331).

## Unauthorized Practice of Law

In certain administrative proceedings, a non-lawyer may act on behalf of an individual, but in a “court of law,” only a lawyer can represent another individual. In addition, only a lawyer can provide “legal advice.” Anyone giving legal advice that is not a lawyer is guilty of the “unauthorized practice of law.” Frequently, individuals will seek help from their local District, County or Small Claims Court clerks in obtaining access to the legal system. The clerks frequently have to tell the individual that they cannot give legal advice because they are prevented from doing so “by law.” Legal secretaries, legal assistants and paralegals across the nation are faced with the same dilemma: an individual calls the office wishing to speak with a lawyer and when none is available he/she poses a question to the person on the phone. The person may know the answer, but may be precluded from sharing the information.



### Equal Access to Justice – Possible Solutions

Nichol (2010) believed that “The Due Process Clauses of the Fifth and Fourteenth Amendments demand...that those seeking to ‘settle their claims of right and duty through the judicial process must be given a meaningful opportunity to be heard’” (p. 354). Addressing the issue of equal access to justice through right to counsel will not be an easy avenue. However, Nichol believed that the ABA resolution pertaining to right of counsel outlined above would be a good place to begin (p. 355).

In some states of the United States, a non-lawyer may provide certain legal services, but those services are very specific in nature and usually involve some type of document preparation. However, the Province of Ontario, Canada has licensed “a second profession to offer legal services to the general public” (Medland, 2010, p. 12). In Bill 14, *The Access to Justice Act*, the regulatory authority of The Law Society of Upper Canada was expanded to regulate legal services provided by independent paralegals in the Province of Ontario (Paralegal Licensing, 2010, n.p.). A paralegal is a non-lawyer who has been trained, through education and/or experience, in the delivery of legal services. Paralegal fees can be half the fees charged by lawyers. The hope is that the licensing of paralegals will offer consumers an “affordable legal alternative” (Medland, p. 12). Now paralegals in Ontario, Canada may provide certain legal services to consumers without violating the auspice of the “unauthorized practice of law.” Those services include representing a client in small claims court, giving “legal advice concerning legal interests, rights or responsibilities with respect to a proceeding or the subject matter of a proceeding” (Paralegal Questions and Answers, 2010, n.p.).

### Conclusion

Legal consumers in the United States are

shackled by the fact that only a lawyer can represent another individual in a court of law and only lawyers can give legal advice. As cited by Nichol, until the legal system becomes easier to navigate by non-lawyers, some form of legislated provision of legal services for those individuals who are unable to afford representation in civil litigation must be mandated. For now, legal aid societies and organizations are an option for some individuals. However, with one lawyer to approximately 11,000 individuals qualified to receive legal aid in Texas (Hecht, 2010, n.p.), “equal access to justice” shall remain a “soapbox” issue, while lawyers, judges and legislators continue to watch and discuss, but fail to stop the water flowing through the “hole in the dike.”

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### ANNOTATED BIBLIOGRAPHIC GUIDE TO ACCESS TO JUSTICE RESOURCES

In addition to the references below, personnel at local courthouses may be able to direct individuals to forms and information regarding filing lawsuits “*Pro Se*” (on your own behalf) in Small Claims Courts, Justice of the Peace Courts, County Courts and/or District Courts. Keep in mind that the personnel are not able to advise an individual on how to proceed, which would constitute giving legal advice. Court personnel can only direct individuals to forms and information.

### Texas

State Bar of Texas. [www.texasbar.com](http://www.texasbar.com). Client Attorney Assistance Program (CAAP), (800) 932-1900, (800) 204-2222, ext. 1790. The State Bar of Texas website has information available for the public. Information available



through the State Bar of Texas includes, assistance with finding a lawyer, disaster relief assistance, and education information to help teachers teach students about the law and information on consumer rights including landlord tenants, family law, making a will and the legal system in general. In addition, there is help for individuals who have issues with a lawyer they have hired but who has not adequately met the legal needs of the individual or with regard to issues pertaining to bills received from the attorney. These matters are handled through the Client Attorney Assistance Program (CAAP).

Texas Attorney General's Office. <https://www.oag.state.tx.us>. Assistance for consumer issues can be found through the Attorney General's Office. Links are provided through the consumer protection webpage for issues regarding car buying, new and used, car repairs, catalog and online sales, charitable giving, charitable raffles, credit cards, credit repair, debt collection, debt management, disaster scams, door-to-door sales, frauds and scams, healthcare, home buying, home remodeling/repair, consumer protection, identity theft, insurance, internet investments, securities, loans, lotteries, sweepstakes, Medicaid fraud, mortgage fraud, mortgages, moving and travel, nursing homes, prescription drugs, price gouging, product safety, rebates, spam, telemarketers, telephones and faxes, tenant rights, and utilities. Additional information provided through The Attorney General's Office relate to issues of child support and aging. Links are provided to the Texas Department of Licensing and Regulation, Internet Crime Complaint Center, and Child Support.

Texas Law Help.org. [www.texaslawhelp.org](http://www.texaslawhelp.org). This website offers information to Texans regarding civil litigation matters, including self-help resources

and organizations that provide assistance.

Texas Court System. [www.courts.state.tx.us](http://www.courts.state.tx.us). For individuals seeking information on how the Court System is organized in the State of Texas, this webpage contains a chart that shows the relationship of all of the courts of the Texas Court System. <http://www.courts.state.tx.us/links.asp>. This webpage contains a variety of links or references to legal additional websites throughout the Texas Court System including help for non-lawyers.

Texas State Law Library. [www.sll.state.tx.us](http://www.sll.state.tx.us). The Texas State Law Library is a public law library. While it serves the Court of Criminal Appeals, Supreme Court, Office of the Attorney General, and other state agencies, it is also open to the citizens of the state of Texas. The library is located in Austin, but some library services can be accessed through the website.

Texas Statutes and Legislative Process. [www.statutes.legis.state.tx.us](http://www.statutes.legis.state.tx.us). [www.capitol.state.tx.us](http://www.capitol.state.tx.us). These links provide access to Texas legal statutes (laws) and information on bills (future laws and/or rules) currently being considered by the Texas Legislature.

#### National

Better Business Bureau. <http://www.bbb.org>. The Better Business Bureau is a clearinghouse of information for consumers regarding businesses and charitable organizations. A consumer can check with the BBB prior to doing business with an unfamiliar organization or charity. Information is accessible online. A complaint regarding a business or charity can also be filed with the BBB.

Equal Opportunity Employment Commission (EEOC), [www.eeoc.gov](http://www.eeoc.gov), 800-669-4000, 800-669-6820 (TTY), Email: [info@eeoc.gov](mailto:info@eeoc.gov). Individuals who have issues regarding employment may contact the EEOC. It is not necessary

to obtain a lawyer prior to filing a complaint with the EEOC. The EEOC investigates complaints regarding discrimination based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. After the appropriate investigative process, the EEOC may file a lawsuit against an employer if an appropriate agreement cannot be reached between the employee and the employer.

Federal Trade Commission. [www.ftc.gov](http://www.ftc.gov). The Federal Trade Commission has information available for consumers who have problems or concerns regarding business and/or business practices on a national level. Free information is available to consumers regarding fraud prevention, deceptive trade practices and unfair business practices. Complaints can also be filed with the Federal Trade Commission.

Legal Services Corporation. [www.lsc.gov](http://www.lsc.gov). While this organization supports local legal aid efforts, it is a source for information and lists local legal aid organizations nationally for those seeking legal assistance.

National Veterans Legal Services Program. [www.nvlsp.org](http://www.nvlsp.org). "The voice of veterans' rights." NVLSP is independent of the U.S. government and acts on behalf of veterans with regard to the government. This is done through "advocacy and training, education and publications, and pro bono litigation."

Women's Protective Services, [www.wpslbc.org](http://www.wpslbc.org). The Women's Protective Services is a legal advocate for women and children suffering from domestic violence and sexual assault. Women's Protective Services provides legal advocacy or legal assistance for women, including obtaining protective orders and referrals to free legal assistance.

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# Tax Planning for Form 1040

Craig Hackler, Financial Advisor, Raymond James Financial Services, Inc., Member FINRA/SIPC

## What is tax planning for Form 1040?

If you are an individual taxpayer who completes federal income tax Form 1040, you should be aware of a number of tax-planning opportunities that could lower your tax bill. Topics you should review include your selection of a filing status, the tax calculation rules, available deductions and exemptions, available tax credits, year-end tax planning techniques, and year-end investment decisions. In addition, you should become familiar with the rules surrounding tax refunds, taxes owed, options when you can't pay your tax bill immediately, and IRS audits.

## What should you know about selecting a filing status?

Marital status is determined on the last day of the tax year (December 31 for most taxpayers). There are five possible filing statuses--unmarried, head of household, married filing jointly, married filing separately, and qualifying widow(er). The following rules apply:

### *Unmarried*

You can select unmarried as your filing status if you were unmarried as of the last day of the tax year and were not eligible to claim head of household status.

### *Head of household*

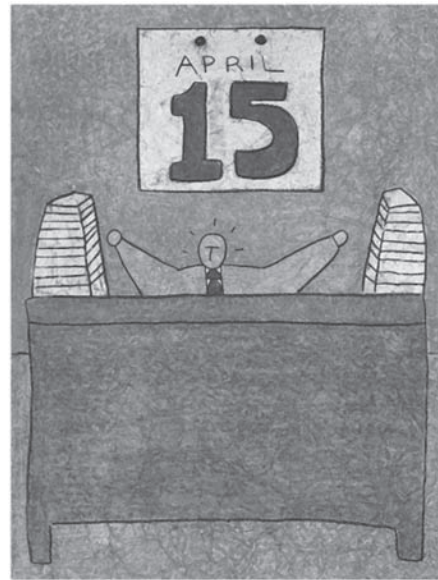
The head of household rules vary, depending on whether you are considered single (including divorced) or married.

### *Married filing jointly*

You and your spouse (or former spouse) can choose to file a joint return if you were married to each other through the last day of the tax year, even if you were living apart.

### *Married filing separately*

You can select married filing separately as your filing status if you are married



or if you are no longer married but were married to your former spouse up to and including the last day of the tax year (December 31 for most taxpayers).

### *Concept of the "marriage penalty"*

The marriage penalty refers to the inequitable result that can occur when a couple who files married filing jointly (MFJ) winds up with a tax liability that is greater than it would have been if they were unmarried and filing as unmarried individuals. This occurs when the tax code provides a standard deduction for MFJ filers in an amount that is less than twice the amount for unmarried filers, tax brackets that are wider but not twice as wide as those for unmarried filers, and other inequities. Whether spouses experience the marriage penalty depends on many factors including the distribution of earnings between them (some spouses may actually experience a "marriage bonus"). Spouses who earn relatively equal amounts are more apt to experience the penalty than spouses who earn disproportionate amounts.

The Economic Growth and Tax Relief Reconciliation Act of 2001, the Jobs

and Growth Tax Relief Reconciliation Act of 2003, the Working Families Tax Relief Act of 2004, and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 reduce, but do not completely eliminate, the marriage penalty by (1) increasing the MFJ standard deduction to twice the single standard deduction, and (2) widening the MFJ 15 percent tax bracket to twice as wide as the single 15 percent tax bracket. These changes are effective through 2012.

## What should you know about tax calculation?

If you file Form 1040, you must compute your adjusted gross income (AGI) and your taxable income before you can calculate your tax. Essentially, your AGI is your total income minus certain adjustments. Your taxable income is your AGI minus your itemized deductions (or standard deduction) and your exemptions. After finding your taxable income, you need to determine your income tax liability from the tax tables or tax rate schedules. This tax amount is then reduced by certain credits to which you may be entitled and increased by any other taxes you may owe. In terms of tax calculation and tax planning, the following taxes deserve particular note.

### *Alternative minimum tax (AMT)*

The purpose of the alternative minimum tax (AMT) is to ensure that taxpayers with substantial income will not escape federal income taxation entirely by employing certain exclusions, deductions, and credits. The federal income tax law gives special treatment to some kinds of income and allows special deductions and credits for some expenses. Taxpayers who benefit from the law in these ways may have to pay at least a minimum amount of tax through an additional tax--the AMT. By understanding the AMT, you may discover planning opportunities that will allow you to keep your AMT exposure to an absolute minimum.

### *Capital gains tax*

Currently, the highest marginal tax rate applicable to ordinary income is

35 percent, whereas the top long-term capital gains rate is generally 15 percent (which is substantially lower). Therefore, if you can generate net capital gains instead of ordinary income, you may save considerably on your taxes. You generate capital gains by selling capital assets (such as stocks). Certain dividends are also taxed at capital gains tax rates.

**Tip:** Under the 2003 Tax Act, the Tax Increase Prevention and Reconciliation Act of 2005 (2005 Tax Act), and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, long-term capital gains tax rates for most types of assets are 15 percent for taxpayers in tax brackets higher than 15 percent and 5 percent (zero percent in 2008-2012) for taxpayers in the 15 percent or 10 percent tax brackets. These rates are effective for sales or exchanges made on or after May 6, 2003 and before January 1, 2013. For sales and exchanges made prior to May 6, 2003, the long-term capital gains tax rates were 20 percent and 10 percent, respectively. Beginning in 2013, long-term capital gains tax rates will revert back to these pre-2003 Tax Act levels.

**Tip:** Also under the 2003, 2005, and 2010 Tax Acts, qualified dividends paid to individual shareholders from domestic corporations (and qualified foreign corporations) are taxed at long-term capital gains tax rates. These rates are effective for tax years beginning January 1, 2003 and before January 1, 2013. Prior to January 1, 2003, dividends were taxed at ordinary income tax rates, and will again be treated as ordinary income beginning in 2013.

#### **Self-employment tax**

Self-employed taxpayers are subject to a special tax- the self-employment tax. You must file Schedule SE if either of the following applies to you (or to your spouse if you file a joint return):

- You were self-employed and your net

earnings from self-employment were \$400 or more

- You had church employee income of \$108.28 or more

#### **What should you know about deductions and exemptions?**

The amount of federal taxable income is figured by taking your gross income and subtracting certain allowable adjustments, deductions and exemptions. A deduction may be defined as an expense that can be used to offset income. Taxpayers may subtract the greater of either their statutory standard deduction or the total of their itemized deductions. An exemption, by comparison, is a special type of deduction granted to individuals to relieve them from taxation on a certain portion of their income. In general, taxpayers are entitled to an exemption for themselves and for each of their dependents.

Knowledge of your available deductions and exemptions is an important part of your tax planning for Form 1040. If your adjusted gross income level lies above a certain specified amount, the tax benefits of some personal and dependent exemptions are phased out (but not in 2010 to 2012). In addition, certain deductions are only available to you if your expenses exceed a particular percentage of your adjusted gross income (but the overall limitation on deductions does not apply in 2010 to 2012).

#### **What should you know about tax credits?**

You may be able to reduce your income tax liability by taking advantage of certain credits for which you may qualify. There are a number of credits available, including the following:

- Child and dependent care tax credit
- Tax credit for the elderly and disabled
- General business tax credit
- Foreign tax credit
- Adoption tax credit
- Credit for qualified retirement savings contributions
- Earned income credit
- Credit for qualified rehabilitation expenditures
- Child tax credit

- Hope credit (renamed the American Opportunity tax credit for 2009 to 2012)
- Lifetime Learning credit

By becoming familiar with the various tax credits available (and the qualification rules), it may be possible for you to lower your tax liability.

#### **What should you know about year-end tax planning and year-end investment decisions?**

Year-end tax planning and investment decisions may often result in substantial tax savings. Tax planning primarily concerns the timing and the method by which your income is reported and your deductions and credits are claimed. The basic strategy for year-end planning is to time your income so that it will be taxed at a lower rate and to time your deductible expenses so that they may be claimed in years when you are in a higher tax bracket. Specific techniques may be utilized, including reviewing a year-end checklist of tax-saving strategies, performing a marginal tax rate analysis, shifting income, and postponing income and accelerating deductions (or vice versa). In a nutshell, you should try to:

- Recognize income when your tax bracket is low
- Pay deductible expenses when your tax bracket is high
- Postpone incurrence of income tax liability whenever possible

By using these methods, it may be possible for you to lower your overall taxes.

In terms of investment planning, investing in capital assets may help you to better control the timing of the recognition of some of your income. You usually have the flexibility to control when you recognize the gain or loss with respect to capital assets, because in most cases, you determine when to sell each asset. In some cases, however, shifting capital gain income to other taxpayers through gifting appreciated property may be appropriate for you. You should become familiar with the rules for year-end investment decision making.

What should you know about IRS issues, including refunds, taxes owed, options when you can't pay your tax bill, and audits?

After you have figured your total tax and your total payments, you must determine if you are due a tax refund or if you owe additional tax to the Internal Revenue Service.

### Refund

If you are owed a refund, you must inform the IRS of whether you want all of the refund sent back to you or if you want to apply all or part of it to your estimated tax for the following year. It is possible that your refund may be rerouted by the IRS to another agency if you sign a joint return and you (or your spouse) owe certain debts. For all of these reasons, it is important to do

some planning regarding your tax refunds.

### Tax owed

If it turns out that you owe additional money to the IRS, you should pay it with your tax return. If not, you will have to pay interest on any tax that is unpaid, and you may be subject to penalties. You should be aware of how to remit payment for taxes owed, how to file for an extension (although this will not relieve you of your obligation to pay your taxes on time), and what to do if you can't pay your tax bill on time. Installment agreements are possible, as is an offer in compromise.

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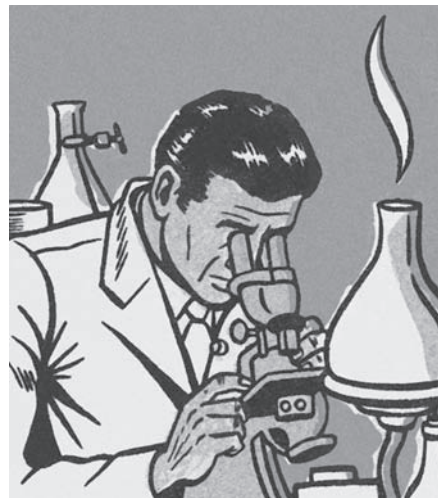
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## Let the Records Show . . .

By John A. Zervopoulos, Ph.D., J.D., ABPP

Ms. Jones, quickly flipping through a mental health expert's evaluation report her office had received a few days earlier, noted that the expert's conclusions and opinions did not favor the client her firm was representing. Puzzled, Ms. Jones then began to look for weaknesses in the evaluation. She recognized that the expert would base his testimony on generally accepted evaluation methods: interviews of the parties; psychological testing; contacts with third-parties who could provide relevant information; reviews of relevant records and documents. Yet she was concerned that the expert hid inadequate, even unreliable, analysis and reasoning—his decision-making path—behind those methods. The report, only a summary document, did not address the more specific concerns.

Ms. Jones needs to look under the evaluation's hood to understand better how the expert developed his opinions. Often, the evaluation report provides little



information about how the expert used the evaluation methods to develop his opinions. Reviewing the expert's evaluation records, however, will get Ms. Jones under the evaluation's hood and reveal how the expert developed his data, and what data the expert valued to inform his opinions.

Forensic evaluation records can reveal

key problems that an expert's report does not show. The records will expose the reliability of the expert's methods and data and the soundness of the expert's reasoning. Understanding these critical issues from both the legal and psychological perspectives will enable you to examine experts effectively—on direct or cross—and to present the court with compelling arguments about the quality of the expert's testimony. Because experts put their best foot forward in their reports, consider retaining a consultant to comb through an evaluation's underlying records in order to help you address the issues from both perspectives.

**First, the legal perspective.** *Robinson-Daubert* case law asserts that experts must support their testimony with reliable, trustworthy data derived from reliable methods. Further, the reasoning experts apply to data derived from their methods must be reliable—"conclusions and methodology are not entirely distinct from one another." *General Electric Co. v. Joiner*, 522 U.S. 136, 146 (1997). Reasoning flaws from the data cloud the reliability of the conclusions. *Merrell Dow Pharmaceuticals, Inc. v. Havner*, 953 S.W.2d 706, 714 (Tex. 1997). Use these legal principles to frame your analysis as your prepare your direct- or



cross-examination questions of the expert.

**Next, the psychological perspective.**

Reviewing an evaluation's records will yield benefits in two areas. First, records will reveal what methods the examiner chose, how she administered those methods, and how she applied the data from those methods to inform her opinions. Some well-written reports discuss an expert's evaluation methods and reasoning. Other reports cover up sloppy evaluation procedures that lead to suspect opinions. The evaluation report, no matter how comprehensive, is a summary document and, thus, won't detail this critical information adequately. A few examples of such information include:

- How many interview sessions were conducted?
- What was discussed in each interview session?
- Did the examiner administer the tests properly?
- From what source did the examiner interpret the tests: a computer print-out? the test manual? A certain book?
- What specific questionnaire information did the examiner choose to support her conclusions?
- What relevant information did the

examiner obtain from persons other than the examinees?

Second, reviewing evaluation records will reveal the expert's decision-making path—how the expert utilized data from the methods she employed to develop and inform her opinions. Lawyers often limit their inquiries by merely seeking to understand the content of an expert's methods—e.g., what is an MMPI-2; how did the expert apply information from a test profile to the examinee's situation, etc. The decision-making path analysis takes a different tack: it adds to information about the expert's reasoning process by focusing on *when* the examiner considered each piece of information from her various evaluation methods.

**Temporal sequence matters.** Tap into this principle by creating a simple, yet detailed, timeline of when the examiner conducted or administered each method. Consider a family law example (the technique also applies to evaluations conducted in other areas of the law). Suppose the examiner individually interviewed the father only twice at the evaluation's beginning and interviewed the mother once at the beginning and twice towards the evaluation's end. During the evaluation's course—after the father's last interview

but before mother's last two interviews—the examiner reviewed records and other collateral information that arguably cast the father in a poor light. And the examiner did not contact relevant third parties until two days before she filed the report; by then, she had begun writing. A timeline revealed what methods the examiner emphasized and how the examiner used her evaluation-developed data to inform her opinions and recommendations—her decision-making path. The examiner might have traveled a different decision-making path and developed different opinions had she used a more balanced interview strategy—alternating interviews of each parent throughout the evaluation—that would have allowed her to address important issues with each parent as she gathered the materials during the evaluation period.

Get underneath the evaluation's hood by examining the records on which the expert's evaluation report is based. You will understand more about the evaluation—from both the legal and psychological perspectives—and sharpen questions of experts in depositions and in court.

*John A. Zervopoulos, Ph.D., J.D., ABPP is a forensic psychologist and lawyer who is director of PsychologyLaw Partners.*

## Legislative Updates of the 82nd Texas Legislature Regarding Animal Law, Criminal Law and Department of Family and Protective Services

All changes became effective September 1, 2011 unless otherwise indicated.

### ANIMAL LAW UPDATES:

#### *offense for engaging in certain conduct relating to cockfighting*

House Bill 1043 relates to the creation of an offense for engaging in certain conduct relating to cockfighting.

SECTION 1. Chapter 42, Penal Code, is amended by adding Section 42.105 to read as follows:

#### Sec. 42.105. COCKFIGHTING.

##### (a) In this section:

- (1) "Bridle" means a leather device designed to fit over the head and beak of a cock to prevent the cock from injuring another cock.
- (2) "Cock" means the male of any type of domestic fowl.
- (3) "Cockfighting" means any situation in which one cock attacks or fights with another cock.
- (4) "Gaff" means an artificial steel spur designed to attach to the leg of a cock to replace or supplement the cock's natural spur.
- (5) "Slasher" means a steel weapon resembling a curved

knife blade designed to attach to the foot of a cock.

(b) A person commits an offense if the person knowingly:

- (1) causes a cock to fight with another cock;
- (2) participates in the earnings of a cockfight;
- (3) uses or permits another to use any real estate, building, room, tent, arena, or other property for cockfighting;
- (4) owns or trains a cock with the intent that the cock be used in an exhibition of cockfighting;
- (5) manufactures, buys, sells, barter, exchanges, possesses, advertises, or otherwise offers a gaff, slasher, or other sharp implement designed for attachment to a cock with the intent that the implement be used in cockfighting; or
- (6) attends as a spectator at an exhibition of cockfighting.

(c) It is an affirmative defense to prosecution under this section that the actor's conduct:

- (1) occurred solely for the purpose of or in support of breeding cocks for poultry shows in which a cock is judged by the cock's physical appearance; or
- (2) was incidental to collecting bridles, gaffs, or slashers.

(d) An affirmative defense to prosecution is not available under Subsection (c) if evidence shows that the actor is also engaging in use of the cocks for cockfighting.

(e) It is a defense to prosecution for an offense under this section that:

- (1) the actor was engaged in bona fide experimentation for scientific research; or
- (2) the conduct engaged in by the actor is a generally accepted and otherwise lawful animal husbandry or agriculture practice involving livestock animals.

(f) It is an exception to the application of Subsection (b) (6) that the actor is 15 years of age or younger at the time of the offense.

(g) An offense under Subsection (b)(1) or (2) is a state jail felony. An offense under Subsection (b)(3), (4), or (5) is a Class A misdemeanor. An offense under Subsection (b)(6) is a Class C misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the person has been previously convicted of an offense under that subdivision.

SECTION 2. This Act takes effect September 1, 2011.

***inclusion of pets, companion animals in protective orders***

Senate Bill 279 relates to the inclusion of pets and other companion animals in protective orders; and providing a penalty.

SECTION 1. Section 85.021, Family Code, is amended to read as follows:

Sec. 85.021. REQUIREMENTS OF ORDER APPLYING TO ANY PARTY. In a protective order, the court may:

- (1) prohibit a party from:
  - (A) removing a child who is a member of the family or household from:
    - (i) the possession of a person named in the order; or
    - (ii) the jurisdiction of the court; ~~or~~
  - (B) transferring, encumbering, or otherwise disposing of

property, other than in the ordinary course of business, that is mutually owned or leased by the parties; or

(C) removing a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code, from the possession of a person named in the order;

- (2) grant exclusive possession of a residence to a party and, if appropriate, direct one or more parties to vacate the residence if the residence:
  - (A) is jointly owned or leased by the party receiving exclusive possession and a party being denied possession;
  - (B) is owned or leased by the party retaining possession; or
  - (C) is owned or leased by the party being denied possession and that party has an obligation to support the party or a child of the party granted possession of the residence;
- (3) provide for the possession of and access to a child of a party if the person receiving possession of or access to the child is a parent of the child;
- (4) require the payment of support for a party or for a child of a party if the person required to make the payment has an obligation to support the other party or the child; or
- (5) award to a party the use and possession of specified property that is community property or jointly owned or leased property.

SECTION 2. Subsection (b), Section 85.022, Family Code, is amended to read as follows:

(b) In a protective order, the court may prohibit the person found to have committed family violence from:

- (1) committing family violence;
- (2) communicating:
  - (A) directly with a person protected by an order or a member of the family or household of a person protected by an order, in a threatening or harassing manner;
  - (B) a threat through any person to a person protected by an order or a member of the family or household of a person protected by an order; and
  - (C) if the court finds good cause, in any manner with a person protected by an order or a member of the family or household of a person protected by an order, except through the party's attorney or a person appointed by the court;
- (3) going to or near the residence or place of employment or business of a person protected by an order or a member of the family or household of a person protected by an order;
- (4) going to or near the residence, child-care facility, or school a child protected under the order normally attends or in which the child normally resides;
- (5) engaging in conduct directed specifically toward a person who is a person protected by an order or a member of the family or household of a person protected by an order, including following the person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the person; ~~and~~

- (6) possessing a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision; and
- (7) harming, threatening, or interfering with the care, custody, or control of a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code, that is possessed by a person protected by an order or by a member of the family or household of a person protected by an order.

SECTION 3. Subsection (a), Section 25.07, Penal Code, is amended to read as follows:

- (a) A person commits an offense if, in violation of a condition of bond set in a family violence case and related to the safety of the victim or the safety of the community, an order issued under Article 17.292, Code of Criminal Procedure, an order issued under Section 6.504, Family Code, Chapter 83, Family Code, if the temporary ex parte order has been served on the person, or Chapter 85, Family Code, or an order issued by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally:
  - (1) commits family violence or an act in furtherance of an offense under Section 22.011, 22.021, or 42.072;
  - (2) communicates:
    - (A) directly with a protected individual or a member of the family or household in a threatening or harassing manner;
    - (B) a threat through any person to a protected individual or a member of the family or household; or
    - (C) in any manner with the protected individual or a member of the family or household except through the person's attorney or a person appointed by the court, if the violation is of an order described by this subsection and the order prohibits any communication with a protected individual or a member of the family or household;
  - (3) goes to or near any of the following places as specifically described in the order or condition of bond:
    - (A) the residence or place of employment or business of a protected individual or a member of the family or household; or
    - (B) any child care facility, residence, or school where a child protected by the order or condition of bond normally resides or attends; ~~or~~
  - (4) possesses a firearm; or
  - (5) harms, threatens, or interferes with the care, custody, or control of a pet, companion animal, or assistance animal that is possessed by a person protected by the order.

SECTION 4. Subsection (b), Section 25.07, Penal Code, is amended by adding Subdivision (3) to read as follows:

- (3) "Assistance animal" has the meaning assigned by Section 121.002, Human Resources Code.

SECTION 5. This Act takes effect September 1, 2011.

## CRIMINAL LAW UPDATES:

### *prosecution and punishment of unlawful transport of a person*

House Bill 260 amended the heading to Chapter 20, Penal Code to read as follows:

## CHAPTER 20. KIDNAPPING, ~~[AND]~~ UNLAWFUL RESTRAINT, AND SMUGGLING OF PERSONS

Section 20.05, Penal Code, is amended to read as follows:

### Sec. 20.05. SMUGGLING OF PERSONS ~~[UNLAWFUL TRANSPORT]~~.

(a) A person commits an offense if the person intentionally uses a motor vehicle, aircraft, or watercraft to transport an individual with the intent to:

- (1) conceal the individual from a peace officer or special investigator; or
- (2) flee from a person the actor knows is a peace officer or special investigator attempting to lawfully arrest or detain the actor ~~[for pecuniary benefit transports an individual in a manner that:~~

~~(1) is designed to conceal the individual from local, state, or federal law enforcement authorities; and~~

~~(2) creates a substantial likelihood that the individual will suffer serious bodily injury or death].~~

(b) Except as provided by Subsection (c), an ~~[An]~~ offense under this section is a state jail felony.

(c) An offense under this section is a felony of the third degree if the actor commits the offense:

- (1) for pecuniary benefit; or
- (2) in a manner that creates a substantial likelihood that the transported individual will suffer serious bodily injury or death.

(d) It is an affirmative defense to prosecution under this section that the actor is related to the transported individual within the second degree of consanguinity or, at the time of the offense, within the second degree of affinity.

(e) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

### *expunction of records and files relating to a person's arrest*

House bill 351 and Senate Bill 462 relate to the expunction of records and files relating to a person's arrest. The bills eliminate the statute of limitations waiting period for dismissed cases and provides certain waiting periods on uncharged cases.

HB 351 and SB 462 amend Article 55.01 of the Code of Criminal Procedure by amended Subsections (a), (a-1), (b), and (c) and adding Subsection (a-2) to read as follows:

- (a) A person who has been placed under a custodial or



noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

- (1) the person is tried for the offense for which the person was arrested and is:
  - (A) acquitted by the trial court, except as provided by Subsection (c) ~~[of this section]~~; or
  - (B) convicted and subsequently:
    - (i) pardoned for a reason other than that described by Subparagraph (ii); or
    - (ii) pardoned or otherwise granted relief on the basis of actual innocence with respect to that offense, if the applicable pardon or court order clearly indicates on its face that the pardon or order was granted or rendered on the basis of the person's actual innocence; or
- (2) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court-ordered community supervision under Article 42.12 for the offense, unless the offense is a Class C misdemeanor, provided that [each of the following conditions exist]:
  - (A) regardless of whether any statute of limitations exists for the offense and whether any limitations period for the offense has expired, an indictment or information charging the person with the commission of a misdemeanor offense based on the person's arrest or charging the person with the commission of any felony offense arising out of the same transaction for which the person was arrested:
    - (i) has not been presented against the person at any time following the arrest, and:
      - (a) at least 180 days have elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a Class C misdemeanor and if there was no felony charge arising out of the same transaction for which the person was arrested;
      - (b) at least one year has elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a Class B or A misdemeanor and if there was no felony charge arising out of the same transaction for which the person was arrested;
      - (c) at least three years have elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a felony or if there was a felony charge arising out of the same transaction for which the person was arrested; or
      - (d) the attorney representing the state certifies that the applicable arrest records and files are not needed for use in any criminal investigation or prosecution, including an investigation or prosecution of another person;

or

- (ii) ~~[for an offense arising out of the transaction for which the person was arrested or,] if [an indictment or information charging the person with commission of a felony was] presented at any time following the arrest, was [the indictment or information has been] dismissed or quashed, and[: (i) the limitations period expired before the date on which a petition for expunction was filed under Article 55.02; or~~
- ~~[(ii)]~~ the court finds that the indictment or information was dismissed or quashed because the person completed a pretrial intervention program authorized under Section 76.011, Government Code, ~~[or] because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense, or because the indictment or information [it] was void; or~~
- ~~(B) prosecution of the person for the offense for which the person was arrested is no longer possible because the limitations period has expired [the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and~~
- ~~[(C) the person has not been convicted of a felony in the five years preceding the date of the arrest].~~
- (a-1) Notwithstanding any other provision of this article, a person may not expunge records and files relating to an arrest that occurs pursuant to a warrant issued under Section 21, Article 42.12 [Subsection (a)(2) (C), a person's conviction of a felony in the five years preceding the date of the arrest does not affect the person's entitlement to expunction for purposes of an ex parte petition filed on behalf of the person by the director of the Department of Public Safety under Section 2(c), Article 55.02].
- (a-2) Notwithstanding any other provision of this article, a person who intentionally or knowingly absconds from the jurisdiction after being released under Chapter 17 following an arrest is not eligible under Subsection (a)(2)(A)(i)(a), (b), or (c) or Subsection (a)(2)(B) for an expunction of the records and files relating to that arrest.
- (b) Except as provided by Subsection (c) ~~[of this section]~~, a district court may expunge all records and files relating to the arrest

of a person who has been arrested for commission of a felony or misdemeanor under the procedure established under Article 55.02 ~~[of this code]~~ if:

- (1) the person is:
  - (A) ~~[(1)]~~ tried for the offense for which the person was arrested;
  - (B) ~~[(2)]~~ convicted of the offense; and
  - (C) ~~[(3)]~~ acquitted by the court of criminal appeals or, if the period for granting a petition for discretionary review has expired, by a court of appeals; or

(2) an office of the attorney representing the state authorized by law to prosecute the offense for which the person was arrested recommends the expunction to the appropriate district court before the person is tried for the offense, regardless of whether an indictment or information has been presented against the person in relation to the offense.

- (c) A court may not order the expunction of records and files relating to an arrest for an offense for which a person is subsequently acquitted, whether by the trial court, a court of appeals, or the court of criminal appeals, if the offense for which the person was acquitted arose out of a criminal episode, as defined by Section 3.01, Penal Code, and the person was convicted of or remains subject to prosecution for at least one other offense occurring during the criminal episode.

HB 351 further amends Article 55.02 of the Code of Criminal Procedure by amending Section 1 and adding Section 1a to read as follows:

Sec. 1. At the request of the defendant and after notice to the state, the trial court presiding over the case in which the defendant was acquitted, if the trial court is a district court, or a district court in the county in which the trial court is located shall enter an order of expunction for a person entitled to expunction under Article 55.01(a)(1)(A) ~~[article 55.01(a)(1)(a)]~~ not later than the 30th day after the date of the acquittal. Upon acquittal, the trial court shall advise the defendant of the right to expunction. The defendant shall provide to the district court all of the information required in a petition for expunction under Section 2(b). The attorney for the defendant in the case in which the defendant was acquitted, if the defendant was represented by counsel, or the attorney for the state, if the defendant was not represented by counsel, shall prepare the order for the court's signature.

Sec. 1a. (a) The trial court presiding over a case in which a defendant is convicted and subsequently granted relief or pardoned on the basis of actual innocence of the offense of which the defendant was convicted, if the trial court is a district court, or a district court in the county in which the trial court is

located shall enter an order of expunction for a person entitled to expunction under Article 55.01(a)(1)(B)(ii) not later than the 30th day after the date the court receives notice of the pardon or other grant of relief. The person shall provide to the district court all of the information required in a petition for expunction under Section 2(b).

(b) The attorney for the state shall:

- (1) prepare an expunction order under this section for the court's signature; and
- (2) notify the Texas Department of Criminal Justice if the person is in the custody of the department.

(c) The court shall include in an expunction order under this section a listing of each official, agency, or other entity of this state or political subdivision of this state and each private entity that there is reason to believe has any record or file that is subject to the order. The court shall also provide in an expunction order under this section that:

- (1) the Texas Department of Criminal Justice shall send to the court the documents delivered to the department under Section 8(a), Article 42.09; and
- (2) the Department of Public Safety and the Texas Department of Criminal Justice shall delete or redact, as appropriate, from their public records all index references to the records and files that are subject to the expunction order.

(d) The court shall retain all documents sent to the court under Subsection (c)(1) until the statute of limitations has run for any civil case or proceeding relating to the wrongful imprisonment of the person subject to the expunction order.

The Bill further amends Section 2(a), Article 55.02 of the Code of Criminal Procedure to read as follows:

(a) A person who is entitled to expunction of records and files under Article 55.01(a)(1)(B)(i) or 55.01(a)(2) ~~[55.01(a)]~~ or a person who is eligible for expunction of records and files under Article 55.01(b) may file an ex parte petition for expunction in a district court for the county in which:

- (1) the petitioner was arrested; or
- (2) the offense was alleged to have occurred.

Section 3(c), Article 55.02 of the Code of Criminal Procedure is amended to read as follows:

(c) When the order of expunction is final, the clerk of the court shall send a certified copy of the order to the Crime Records Service of the Department of Public Safety and to each official or agency or other governmental entity of this state or of any political subdivision of this state named in [designated by the person who is the subject of] the order. The certified copy of the order must be sent by secure electronic mail, electronic transmission, or facsimile transmission or otherwise by certified mail, return receipt requested. In sending the order to a governmental entity named in the order [designated by the person], the clerk may elect to substitute hand delivery for

certified mail under this subsection, but the clerk must receive a receipt for that hand-delivered order.

HB 351 and SB 462 amend Article 55.02 of the Code of Criminal Procedure to read as follows:

Sec. 4. (a) If the state establishes that the person who is the subject of an expunction order is still subject to conviction for an offense arising out of the transaction for which the person was arrested because the statute of limitations has not run and there is reasonable cause to believe that the state may proceed against the person for the offense, the court may provide in its expunction order that the law enforcement agency and the prosecuting attorney responsible for investigating the offense may retain any records and files that are necessary to the investigation.

(a-1) The court shall provide in its expunction order that the applicable law enforcement agency and prosecuting attorney may retain the arrest records and files of any person who becomes entitled to an expunction of those records and files based on the expiration of a period described by Article 55.01(a)(2)(A)(i)(a), (b), or (c), but without the certification of the prosecuting attorney as described by Article 55.01(a)(2)(A)(i)(d).

(a-2) In the case of a person who is the subject of an expunction order on the basis of an acquittal, the court may provide in the expunction order that the law enforcement agency and the prosecuting attorney retain records and files if:

- (1) the records and files are necessary to conduct a subsequent investigation and prosecution of a person other than the person who is the subject of the expunction order; or
- (2) the state establishes that the records and files are necessary for use in:
  - (A) another criminal case, including a prosecution, motion to adjudicate or revoke community supervision, parole revocation hearing, mandatory supervision revocation hearing, punishment hearing, or bond hearing; or
  - (B) a civil case, including a civil suit or suit for possession of or access to a child.

(b) Unless the person who is the subject of the expunction order is again arrested for or charged with an offense arising out of the transaction for which the person was arrested or unless the court provides for the retention of records and files under Subsection (a-1) or (a-2) [(a) of this section], the provisions of Articles 55.03 and 55.04 [of this code] apply to files and records retained under this section.

Finally, Section 5(a), Article 55.02 of the Code of Criminal Procedure is amended to read as follows:

- (a) Except as provided by Subsections (f) and (g), on receipt

of the order, each official or agency or other governmental entity named in the order shall:

- (1) return all records and files that are subject to the expunction order to the court or in cases other than those described by Section 1a, if removal is impracticable, obliterate all portions of the record or file that identify the person who is the subject of the order and notify the court of its action; and
- (2) delete from its public records all index references to the records and files that are subject to the expunction order.

#### DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES:

Senate Bill 221 relates to the Department of Family and Protective Services, including protective services and investigations of alleged abuse, neglect, or exploitation for certain adults who are elderly or disabled; and providing a criminal penalty.

SECTION 1. Subsection (a), Section 59.006, Finance Code, is amended to read as follows:

(a) This section provides the exclusive method for compelled discovery of a record of a financial institution relating to one or more customers but does not create a right of privacy in a record. This section does not apply to and does not require or authorize a financial institution to give a customer notice of:

- (1) a demand or inquiry from a state or federal government agency authorized by law to conduct an examination of the financial institution;
- (2) a record request from a state or federal government agency or instrumentality under statutory or administrative authority that provides for, or is accompanied by, a specific mechanism for discovery and protection of a customer record of a financial institution, including a record request from a federal agency subject to the Right to Financial Privacy Act of 1978 (12 U.S.C. Section 3401 et seq.), as amended, or from the Internal Revenue Service under Section 1205, Internal Revenue Code of 1986;
- (3) a record request from or report to a government agency arising out of the investigation or prosecution of a criminal offense or the investigation of alleged abuse, neglect, or exploitation of an elderly or disabled person in accordance with Chapter 48, Human Resources Code;
- (4) a record request in connection with a garnishment proceeding in which the financial institution is garnishee and the customer is debtor;
- (5) a record request by a duly appointed receiver for the customer;
- (6) an investigative demand or inquiry from a state legislative investigating committee;
- (7) an investigative demand or inquiry from the attorney general of this state as authorized by law other than the procedural law governing discovery in civil cases; or
- (8) the voluntary use or disclosure of a record by a financial institution subject to other applicable state or federal law.



SECTION 2. Section 411.114, Government Code, is amended to read as follows:

Sec. 411.114. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF FAMILY AND PROTECTIVE [AND REGULATORY] SERVICES. (a)(1) In this subsection:

- (A) "Child," "child-care facility," "child-placing agency," and "family home" have the meanings assigned by Section 42.002, Human Resources Code.
  - (B) "Elderly person" has the meaning assigned by Section 48.002, Human Resources Code.
  - (C) "Maternity home" has the meaning assigned by Section 249.001, Health and Safety Code.
  - (D) "Person with a disability" means a disabled person as defined by Section 48.002, Human Resources Code.
  - (E) "Ward" has the meaning assigned by Section 601, Texas Probate Code.
- (2) The Department of Family and Protective Services shall obtain from the department criminal history record information maintained by the department that relates to a person who is:
- (A) an applicant for a license, registration, certification, or listing under Chapter 42, Human Resources Code, or Chapter 249, Health and Safety Code;
  - (B) an owner, operator, or employee of or an applicant for employment by a child-care facility, child-placing agency, family home, or maternity home licensed, registered, certified, or listed under Chapter 42, Human Resources Code, or Chapter 249, Health and Safety Code;
  - (C) a person 14 years of age or older who will be regularly or frequently working or staying in a child-care facility, family home, or maternity home while children are being provided care, other than a child in the care of the home or facility;
  - (D) an applicant selected for a position with the Department of Family and Protective Services, the duties of which include direct delivery of protective services to children, elderly persons, or persons with a disability;
  - (E) an employee of, an applicant for employment with, or a volunteer or an applicant volunteer with a business entity or person that contracts with the Department of Family and Protective Services to provide direct delivery of protective services to children, elderly persons, or persons with a disability, if the person's duties or responsibilities include direct contact with children, elderly persons, or persons with a disability;
  - (F) a registered volunteer with the Department of Family and Protective Services;
  - (G) a person providing or applying to provide in-home, adoptive, or foster care for children in the care of the Department of Family and Protective Services and other persons living in the residence in which the child will reside;
  - (H) a Department of Family and Protective Services employee who is engaged in the direct delivery of protective services to children, elderly persons, or persons with a disability;

- (I) an alleged perpetrator in [a person who is the subject of] a report the Department of Family and Protective Services receives alleging that the person has abused, neglected, or exploited a child, an elderly person, or a person with a disability, provided that:
    - (i) the report alleges the person has engaged in conduct that meets the applicable [statutory] definition of abuse, neglect, or exploitation under Chapter 261, Family Code, or Chapter 48, Human Resources Code; and
    - (ii) the person ~~[who is the subject of the report]~~ is not also the victim of the alleged conduct;
  - (J) a person providing child care for a child who is in the care of the Department of Family and Protective Services and who is or will be receiving adoptive, foster, or in-home care;
  - (K) through a contract with a nonprofit management center, an employee of, an applicant for employment with, or a volunteer or an applicant volunteer with a nonprofit, tax-exempt organization that provides any service that involves the care of or access to a child [children], an elderly person [persons], or a person [persons] with a disability; or
  - (L) an applicant for a child-care administrator or child-placing agency administrator license under Chapter 43, Human Resources Code.
- (3) The Department of Family and Protective ~~[and Regulatory]~~ Services is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:
- (A) a volunteer or applicant volunteer with a local affiliate in this state of Big Brothers/Big Sisters of America;
  - (B) a volunteer or applicant volunteer with the "I Have a Dream/Houston" program;
  - (C) a volunteer or applicant volunteer with an organization that provides court-appointed special advocates for abused or neglected children;
  - (D) a person providing, at the request of the child's parent, in-home care for a child who is the subject of a report alleging the child has been abused or neglected;
  - (E) a volunteer or applicant volunteer with a Texas chapter of the Make-a-Wish Foundation of America;
  - (F) a person providing, at the request of the child's parent, in-home care for a child only if the person gives written consent to the release and disclosure of the information;
  - (G) a child who is related to the caretaker, as determined under Section 42.002, Human Resources Code, and who resides in or is present in a child-care facility, family home, or maternity home, other than a child described by Subdivision (2)(C), or any other person who has unsupervised access to a child in the care of a child-care facility, family home, or maternity home;
  - (H) an applicant for a position with the Department of Family and Protective ~~[and Regulatory]~~ Services, other than a position described by Subdivision (2)(D), regardless of the duties of the position;
  - (I) a volunteer or applicant volunteer with the Department of Family and Protective ~~[and Regulatory]~~ Services, other

than a registered volunteer, regardless of the duties to be performed;

- (J) a person providing or applying to provide in-home, adoptive, or foster care for children to the extent necessary to comply with Subchapter B, Chapter 162, Family Code;
  - (K) a Department of Family and Protective [~~and Regulatory~~] Services employee, other than an employee described by Subdivision (2)(H), regardless of the duties of the employee's position;
  - (L) a relative of a child in the care of the Department of Family and Protective [~~and Regulatory~~] Services, to the extent necessary to comply with Section 162.007, Family Code;
  - (M) a person, other than an alleged perpetrator in [~~the subject of~~] a report described in Subdivision (2)(I), living in the residence in which the alleged victim of the report resides;
  - (N) a contractor or an employee of a contractor who delivers services to a ward of the Department of Protective and Regulatory Services under a contract with the estate of the ward;
  - (O) a person who seeks unsupervised visits with a ward of the Department of Protective and Regulatory Services, including a relative of the ward; [~~or~~]
  - (P) an employee, volunteer, or applicant volunteer of a children's advocacy center under Subchapter E, Chapter 264, Family Code, including a member of the governing board of a center; or
  - (Q) an employee of, an applicant for employment with, or a volunteer or an applicant volunteer with an entity or person that contracts with the Department of Family and Protective Services and has access to confidential information in the department's records, if the employee, applicant, volunteer, or applicant volunteer has or will have access to that confidential information.
- (4) Subject to Section 411.087, the Department of Family and Protective [~~and Regulatory~~] Services is entitled to:
- (A) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subdivision (2) or (3); and
  - (B) obtain from any other criminal justice agency in this state criminal history record information maintained by that criminal justice agency that relates to a person described by Subdivision (2) or (3). Law enforcement entities shall expedite the furnishing of such information to Department of Family and Protective [~~and Regulatory~~] Services workers to ensure prompt criminal background checks for the safety of alleged victims and Department of Family and Protective [~~and Regulatory~~] Services workers.
- (5) The Department of Family and Protective [~~and Regulatory~~] Services may not use the authority granted under this section to harass an employee or volunteer. The executive commissioner of the Health and Human Services Commission [~~Board of Protective and Regulatory Services~~] shall adopt rules to prevent the harassment of an employee or volunteer through the request and use of criminal records.
- (6) Criminal history record information obtained by the Department of Family and Protective [~~and Regulatory~~] Services under this subsection may not be released to any person except:
- (A) on court order;
  - (B) with the consent of the person who is the subject of the criminal history record information;
  - (C) for purposes of an administrative hearing held by the Department of Family and Protective [~~and Regulatory~~] Services concerning the person who is the subject of the criminal history record information; or
  - (D) as provided by Subdivision (7).
- (7) The Department of Family and Protective [~~and Regulatory~~] Services is not prohibited from releasing criminal history record information obtained under this subsection to:
- (A) the person who is the subject of the criminal history record information;
  - (B) a child-care facility, child-placing agency, family home, or maternity home listed in Subdivision (2) that employs or is considering employing the person who is the subject of the criminal history record information;
  - (C) a person or business entity described by Subdivision (2) (E) or (3) who uses or intends to use the services of the volunteer or employs or is considering employing the person who is the subject of the criminal history record information; [~~or~~]
  - (D) an adult who resides [~~residing~~] with an alleged victim of abuse, neglect, or exploitation of a child, elderly person, or person with a disability and who also resides with the alleged perpetrator of that abuse, neglect, or exploitation if:
    - (i) the alleged perpetrator [~~person who~~] is the subject of the criminal history record information; and
    - (ii) [~~if~~] the Department of Family and Protective [~~and Regulatory~~] Services determines that the release of information to the adult is necessary to ensure the safety or welfare of the alleged victim [~~child, elderly person, or person with a disability~~] or the adult; or
  - (E) an elderly or disabled person who is an alleged victim of abuse, neglect, or exploitation and who resides with the alleged perpetrator of that abuse, neglect, or exploitation if:
    - (i) the alleged perpetrator is the subject of the criminal history record information; and
    - (ii) the Department of Family and Protective Services determines that the release of information to the elderly or disabled person or adult is necessary to ensure the safety or welfare of the elderly or disabled person.
  - (b) The failure or refusal to provide a complete set of fingerprints or a complete name on request constitutes good cause for dismissal or refusal to hire, as applicable, with regard to a volunteer of or an employee or applicant for permanent or temporary employment with the Department of Family and Protective [~~and Regulatory~~] Services, or a facility, home, business, or other entity, if the volunteer

position, employment, or potential employment involves direct interaction with or the opportunity to interact and associate with children.

- (c) The Department of Family and Protective [and Regulatory] Services may charge an organization or person that requests criminal history record information under Subsection (a)(3) a fee in an amount necessary to cover the costs of obtaining the information on the organization's or person's behalf.

SECTION 3. Subsection (a), Section 142.018, Health and Safety Code, is amended to read as follows:

- (a) In this section, "abuse," "exploitation," and "neglect" have the meanings applicable through a rule adopted by the executive commissioner of the Health and Human Services Commission under [assigned by] Section 48.002(c) [48.002], Human Resources Code, except that if the executive commissioner has not adopted applicable rules under that section, the statutory definitions of those terms under Section 48.002(a), Human Resources Code, shall be used.

SECTION 4. Subsection (b), Section 40.0315, Human Resources Code, is amended to read as follows:

- (b) An investigator in the unit shall determine whether an elderly or disabled person who is the subject of a report made under Section 48.051(a) may have suffered from abuse, neglect, or exploitation as a result of the criminal conduct of another person. If the investigator determines that criminal conduct may have occurred, the investigator shall immediately notify:
- (1) the commission's office of inspector general if the disabled person who is the subject of the report resides in a state supported living center or the ICF-MR component of the Rio Grande State Center; and [or]
  - (2) the appropriate law enforcement agency, unless the law enforcement agency reported the alleged abuse, neglect, or exploitation to the department.

SECTION 5. Subdivisions (3) and (5), Subsection (a), Section 48.002, Human Resources Code, are amended to read as follows:

- (3) "Exploitation" means the illegal or improper act or process of a caretaker, family member, or other individual who has an ongoing relationship with an [the] elderly or disabled person that involves using, or attempting to use, the resources of the [an] elderly or disabled person, including the person's social security number or other identifying information, for monetary or personal benefit, profit, or gain without the informed consent of the elderly or disabled person.
- (5) "Protective services" means the services furnished by the department or by a protective services agency to an elderly or disabled person who has been determined to be in a state of abuse, neglect, or exploitation or to a relative or caretaker of an elderly or disabled person if

the department determines the services are necessary to prevent the elderly or disabled person from returning to a state of abuse, neglect, or exploitation. These services may include social casework, case management, and arranging for psychiatric and health evaluation, home care, day care, social services, health care, respite services, and other services consistent with this chapter. The term does not include the services of the department or another protective services agency in conducting an investigation regarding alleged abuse, neglect, or exploitation of an elderly or disabled person.

SECTION 6. Section 48.002, Human Resources Code, (b) is amended by adding Subsection (c) to read as follows:

- (c) Except as provided by Subsection (b), the executive commissioner by rule may adopt definitions of "abuse," "neglect," and "exploitation," as an alternative to the definitions of those terms under Subsection (a), for purposes of conducting an investigation under this chapter or Chapter 142, Health and Safety Code.

SECTION 7. Subsection (a), Section 48.006, Human Resources Code, is amended to read as follows:

- (a) Subject to the availability of funds, the department shall develop a community satisfaction survey that solicits information regarding the department's performance with respect to providing investigative and adult protective services. In each region, the department shall send the survey at least biennially [annually] to:
- (1) stakeholders in the adult protective services system, including local law enforcement agencies and prosecutors' offices;
  - (2) protective services agencies, including nonprofit agencies; and
  - (3) courts with jurisdiction over probate matters.

SECTION 8. Section 48.053, Human Resources Code, is amended to read as follows:

Sec. 48.053. FALSE REPORT; PENALTY. (a) A person commits an offense if the person knowingly or intentionally reports information as provided in this chapter that the person knows is false or lacks factual foundation.

- (b) An offense under this section is a Class A [B] misdemeanor.

SECTION 9. Subsection (a), Section 48.151, Human Resources Code, is amended to read as follows:

- (a) Not later than 24 hours after the department receives a report of an allegation of abuse, neglect, or exploitation under Section 48.051, the department shall initiate a prompt and thorough investigation as needed to evaluate the accuracy of the report and to assess the need for protective services, unless the department determines that the report:
- (1) is frivolous or patently without a factual basis; or
  - (2) does not concern abuse, neglect, or exploitation,

as those terms are defined by rules adopted by the executive commissioner under Section 48.002(c), except that if the executive commissioner has not adopted applicable rules under that section, the statutory definitions of those terms under Section 48.002(a) shall be used [48.002].

SECTION 10. Section 48.152, Human Resources Code, is amended to read as follows:

Sec. 48.152. INVESTIGATION. (a) An investigation by the department or a state agency shall include an interview with the elderly or disabled person, if appropriate, and with persons thought to have knowledge of the circumstances. If the elderly or disabled person refuses to be interviewed or cannot be interviewed because of a physical or mental impairment, the department shall continue the investigation by interviewing other persons thought to have knowledge relevant to the investigation.

(b) The investigation may include an interview with an alleged juvenile perpetrator of the alleged abuse, neglect, or exploitation.

(c) The department or state agency may conduct an interview under this section in private or may include any person the department or agency determines is necessary.

SECTION 11. Section 48.1522, Human Resources Code, is amended to read as follows:

Sec. 48.1522. REPORTS OF CRIMINAL CONDUCT TO LAW ENFORCEMENT AGENCY. (a) Except as provided by Subsection (b), if during the course of the department's or another state agency's investigation of reported abuse, neglect, or exploitation a caseworker of the department or other state agency, as applicable, or the caseworker's supervisor has cause to believe that the elderly or disabled person has been abused, neglected, or exploited by another person in a manner that constitutes a criminal offense under any law, including Section 22.04, Penal Code, the caseworker or supervisor shall:

- (1) immediately notify an appropriate law enforcement agency, unless the law enforcement agency reported the alleged abuse, neglect, or exploitation to the department; and
- (2) provide the law enforcement agency with a copy of the investigation report of the department or other state agency, as applicable, in a timely manner.

(b) If during the course of the department's investigation of reported abuse, neglect, or exploitation a caseworker of the department or the caseworker's supervisor has cause to believe that a disabled person who is a resident or client of a state supported living center or the ICF-MR component of the Rio Grande State Center has been abused, neglected, or exploited by another person in a manner that constitutes a criminal offense under any law, including Section 22.04, Penal Code, in addition to the report to the appropriate law enforcement agency required by Subsection (a), the caseworker shall immediately notify the commission's office of inspector general and promptly provide the commission's office of inspector general with a copy of the department's investigation report.

SECTION 12. Subsections (a) through (e), Section 48.154, Human Resources Code, are amended to read as follows:

(a) The department or another state agency, as appropriate, shall have access to any records or documents, including client-identifying information, financial records, and medical and psychological records, necessary to the performance of the department's or state agency's duties under this chapter. The duties include but are not limited to the investigation of abuse, neglect, or exploitation or the provisions of services to an elderly or disabled person. A person, ~~[or]~~ agency, or institution that has a record or document that the department or state agency needs to perform its duties under this chapter shall, without unnecessary delay, make the record or document available to the department or state agency that requested the record or document.

(b) The department is exempt from the payment of a fee otherwise required or authorized by law to obtain a financial record from a person, agency, or institution or a medical record, including a mental health record, from a hospital or health care provider if the request for a record is made in the course of an investigation by the department.

(c) If the department or another state agency cannot obtain access to a record or document that is necessary to properly conduct an investigation or to perform another duty under this chapter, the department or state agency may petition the probate court or the statutory or constitutional county court having probate jurisdiction for access to the record or document.

(d) On good cause shown, the court shall order the person, agency, or institution who ~~has~~ [denied access to] a requested record or document to allow the department or state agency to have access to that record or document under the terms and conditions prescribed by the court.

(e) A person, agency, or institution who has a requested record or document is entitled to notice and a hearing on a ~~[the]~~ petition filed under this section.

SECTION 13. Subsection (d), Section 48.203, Human Resources Code, is amended to read as follows:

(d) Except as provided by Section 48.208, if ~~[if]~~ an elderly or disabled person withdraws from or refuses consent to voluntary protective services, the services may not be provided.

SECTION 14. Section 48.204, Human Resources Code, is amended to read as follows:

Sec. 48.204. AGENCY POWERS. A protective services agency may furnish protective services to an elderly or disabled person with the person's consent or to a relative or caretaker of an elderly or disabled person on behalf of the elderly or disabled person with the relative's or caregiver's consent or, if the elderly or disabled person lacks the capacity to consent, without that person's consent as provided by this chapter.

SECTION 15. Section 48.208, Human Resources Code, is amended by amending Subsections (e), (e-2), (f), and (h) and adding Subsection (i) to read as follows:

(e) The emergency order expires on the earlier of ~~[at]~~ the



end of the 10th day after ~~[72 hours from]~~ the date ~~[time]~~ the order is rendered ~~or the end of the 10th day after the date the person was removed to safer surroundings if the emergency order was rendered subsequent to the removal of the person to safer surroundings in accordance with Subsection (h), unless:~~

- (1) the emergency order terminates as provided by Subsection (e-1);
- (2) the 10-day ~~[72-hour]~~ period ends on a Saturday, Sunday, or legal holiday in which event the order is automatically extended to 4 p.m. on the first succeeding business day; or
- (3) the court extends the order as provided by Subsection (e-2).

(e-2) The court, ~~after notice and a hearing,~~ may extend an emergency order issued under this section for a period of not more than 30 days ~~after the date the original emergency order for protective services was rendered. The court, after notice and a hearing and for good cause shown, may grant a second extension of an emergency order of not more than an additional 30 days. The court may not grant more than two extensions of the original emergency order.~~ An extension order that ends on a Saturday, Sunday, or legal holiday is automatically extended to 4 p.m. on the first succeeding business day. The court may modify or terminate the emergency order on petition of the department, the incapacitated person, or any person interested in the person's [his] welfare.

(f) Any medical facility, emergency medical services provider, or physician who provides treatment to or who transports [treating] an elderly or disabled person pursuant to an emergency order under Subsection (d) or an emergency authorization under Subsection (h) [this chapter] is not liable for any damages arising from the treatment or transportation, except those damages resulting from the negligence of the facility, provider, or physician.

(h) If the department cannot obtain an emergency order under this section because the court is closed on a Saturday, Sunday, or legal holiday or after 5 p.m., the department may remove or authorize an appropriate transportation service, including an emergency medical services provider, to remove the elderly or disabled person to safer surroundings, authorize medical treatment, or authorize [order] or provide other available services necessary to remove conditions creating the threat to life or physical safety. The department must obtain an emergency order under this section not later than 4 p.m. on the first succeeding business day after the date on which protective services are provided. If the department does not obtain an

emergency order, the department shall cease providing protective services and, if necessary, make arrangements for the immediate return of the person to the place from which the person was removed, to the person's place of residence in the state, or to another suitable place.

(i) If the department's removal of a person from the person's place of residence under this section results in that residence being vacant, the department shall notify the appropriate law enforcement agency of the vacancy to facilitate the law enforcement agency's monitoring of the residence.

SECTION 16. Subsections (a) and (b), Section 48.405, Human Resources Code, are amended to read as follows:

(a) If the employee requests a hearing, the department or its designee shall:

- (1) set a hearing;
- (2) give written notice of the hearing to the employee; and
- (3) designate an administrative law judge [a hearings-examiner] to conduct the hearing.

(b) The administrative law judge [hearings examiner] shall make findings of fact and conclusions of law and shall promptly issue an order regarding [to the commissioner or the commissioner's designee a proposal for decision as to] the occurrence of the reportable conduct.

SECTION 17. Subsection (c), Section 48.405, Human Resources Code, is repealed.

SECTION 18. The change made by this Act to Section 48.053, Human Resources Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 19. The change in law made by this Act to Section 48.405, Human Resources Code, applies only to a hearing requested on or after the effective date of this Act. A hearing requested before the effective date of this Act is governed by the law in effect when the hearing was requested, and the former law is continued in effect for that purpose.

SECTION 20. This Act takes effect September 1, 2011.



## TEXAS PARALEGAL DAY—OCTOBER 23, 2012

The State Bar of Texas was the first bar association in the United States to create a separate division for paralegals. The Paralegal Division of the State Bar of Texas (the "Division") was created on October 23, 1981, and has been in existence for 31 years.

In honor of the many contributions made by the paralegal community and the Paralegal Division, the Senate of the State of Texas adopted Proclamation No. 1144, recognizing October 23rd as Texas Paralegal Day.

**Please join in the celebration of Texas Paralegal Day on October 23, 2012.**

# Scruples

## The Ethics of Correspondence to Clients

Ellen Lockwood, ACP, RP

**M**ost paralegals spend much of their time corresponding with clients, via email and hard copy letters. Of course, properly identifying yourself as a paralegal in all correspondence is required, but paralegals should also carefully consider the contents of your correspondence. If the correspondence is only a transmittal letter sending documents or other materials to a client there should not be any issues. Even if the transmittal letter includes instructions, such as to sign a document in the presence of a notary, or to review a deposition transcript, sign, and return the errata sheet, such standard correspondence is acceptable for a paralegal to send over the paralegal's signature.

Sometimes the correspondence contains updates regarding the matter being handled for the client. While it is appropriate for a paralegal to send this type of correspondence to the client, it is strongly recommended that such correspondence be previously drafted and approved by the attorney. Not only does standardized correspondence reduce the risk of leaving out important points, it also reduces the likelihood that there will be a miscommunication due to different writing styles and other variables.

Client correspondence that includes instructions or recommendations in addition to matter updates should always be either standardized and approved by the attorney, or approved by the attorney each time this type of correspondence is sent.



Although instructions and recommendations are not legal advice, clients will rely on this information for their future actions and therefore the attorney should approve the text of the correspondence.

Correspondence to clients forwarding agreements for the client to review and approve is sometimes a special situation. Before sending this type of client correspondence, paralegals should verify that the attorney has reviewed and approved the agreement. It is best if the attorney has previously discussed the agreement with the client but regardless, the correspondence should include a conspicuous statement that if the client has any questions or concerns regarding the agreement, he should contact the attorney.

If the correspondence includes legal advice, the correspondence should come directly from the attorney and not the paralegal. Although paralegals may draft correspondence including legal advice, paralegals should not sign such correspondence, even by permission. Even if the correspondence makes clear that the legal advice is coming from the attorney

and not the paralegal, it is still inappropriate for a paralegal to sign such correspondence.

As stated above, the best way to minimize errors, misstatements, and misunderstandings is to use standardized language, drafted and approved by the attorney, for frequently used client communications. This will also increase paralegal, legal assistant, and attorney efficiency and productivity.

Of course, any standardized language must be revised for the current matter. The next best option would be to have the attorney approve the correspondence before the paralegal sends it to the client.

While paralegals may handle much of the correspondence to clients, they must be sure it is proper for a paralegal to send that type of correspondence and seek attorney review and approval of correspondence when appropriate.



*Ellen Lockwood, ACP, RP, is the Chair of the Professional Ethics Committee of the Paralegal Division and a past president of the Division. She*

*is a frequent speaker on paralegal ethics and intellectual property and the lead author of the Division's Paralegal Ethics Handbook published by West Legalworks. You may follow her at [www.twitter.com/paralegaletics](http://www.twitter.com/paralegaletics). She may be contacted at [ethics@txpd.org](mailto:ethics@txpd.org).*

## 2012–2013 Board of Directors



2012–2013 Board of Directors

### PRESIDENT

#### Joncilee Miller Davis, ACP



Joncilee has been a member of the Paralegal Division since 1998. She has previously served the Division as District Two Membership Committee

Subchair, Membership Committee Chair, District Two (2) Director, Public Relations Committee Chair, and President-Elect. Employed as a full time paralegal for Fee Smith Sharp & Vitullo in Dallas, Texas, Joncilee's civil litigation practice areas include insurance defense, including wrongful death cases. She has previously worked in the fields of intellectual property law, appellate law, family law, criminal law, commercial litigation, and toxic tort.

Joncilee attended Texas A&M University and obtained her degree in Political Science, with a double minor in History and Sociology. Following her

graduation, Joncilee worked as an assistant probation officer for the Dallas County Felony Criminal Courts. Some of the attorneys at the courthouse discussed her becoming a paralegal, and loving the idea, she attended Southeastern Paralegal Institute and obtained her Paralegal Certificate with Honors. She also received her Master of Science degree Magna Cum Laude from Amberton University in Human Relations and Business.

Joncilee received certification as a Certified Paralegal from NALA in 1998 and the Advanced Paralegal Certification in Trial Practice in 2007.

Joncilee is a charter member of the North Texas Paralegal Association. Having been a member since 2001, she has served in the following capacities: President (2003-2005), First Vice President – Membership (2001-2002), Second Vice President – Education and Elections (2009 – present), Publications Committee Chair (2008-2009), and Parliamentarian (2006). She is also a charter member of the College of the State Bar of Texas, Paralegal Division. In 2005, she was honored with being elected to the Kaplan Education Alumni Hall of Fame. Joncilee was voted as one of Paralegal Gateway's 2012

Paralegal Superstars.

As President, Joncilee's passion is to energize and rejuvenate Division members by re-igniting their passion for their paralegal career. She hopes to provide members with opportunities to learn new skills or sharpen their existing skills.

### PRESIDENT ELECT

#### Misti Janes



Misti has worked at Underwood, Wilson, Berry, Stein & Johnson, P.C since May 2000. Misti works for Sally Holt Emerson and Christopher

K. Wrampelmeier as a paralegal in the practice area of family law.

Misti is a graduate from the paralegal studies program at Amarillo College. Beginning August 2012, she will be teaching the family law class at Amarillo College.

Misti is board certified in family law by the Texas Board of Legal Specialization.



Misti is a member of the Texas Panhandle Paralegal Association, Panhandle Family Law Association, Family Law Section of the State Bar of Texas, and the Paralegal Division of the State Bar of Texas. She currently serves as the 2012-2013 President-elect of the Paralegal Division.

Misti was the District 7 director of the Paralegal Division from 2007 to 2011. She has been on the Paralegal Committee for the Family Law Section of the State Bar of Texas since 2009.

Misti is married to Lex Janes with 3 children; Mariah 18, Jakob 12, and Samuel 8.

## TREASURER

**Erica Anderson, ACP**



Erica is proud to serve the Paralegal Division of the State Bar of Texas as Director of District 7. Erica is a senior litigation paralegal with the law

firm of Mullin Hoard & Brown, LLP in Amarillo, Texas. She primarily works on high-volume litigation matters involving director and officer fraud and liability, accounting, appraisal and attorney malpractice, and banking matters.

As a soon-to-be graduate of the Paralegal Studies program at Amarillo College, Erica began her career as a file clerk and worked diligently to become the lead paralegal on several matters. In January 2006, she earned her Certified Paralegal status from NALA, and in 2009, received notice that she had achieved the designation of Advanced Certified Paralegal in Trial Practice. In 2010, Erica was invited to be a CLE speaker at TAPS and continues to speak to other audiences.

A member of the Paralegal Division since 2004, she served as Membership Chair for three terms prior to being elected as District 7 Director (2008–2011). She also currently serves as Advisor to the Texas Panhandle Paralegal Association and has held several positions within that organization, including Public Relations Chair, Professional Development Chair,

TAPA Chair and President. With her memberships in these associations and in NALA, Erica is able to participate in a variety of ways to help develop the paralegal profession.

Erica and her husband, Rich, are raising two children, Rich and Libby.

## SECRETARY & DIRECTOR, DISTRICT 16

**Linda Gonzales, CP**

Linda is pleased to serve as District 16



Director and Secretary for the Paralegal Division of the State Bar of Texas. This is her second term as District 16 Director and has truly enjoyed it. She has been

employed with the law firm of Ray, Valdez, McChristian & Jeans, P.C. since 1993, and is the paralegal for the senior partner, Jeff Ray. Linda is also a part-time instructor in the paralegal program at El Paso Community College since 2006, and is also on the Advisory Board.

Linda graduated from the University of Texas at El Paso with a B.A. degree in Languages. She obtained her NALA certification in 1997. She has been a member of the Paralegal Division since 1997. Linda has also been a NALA member since 1997, and is actively involved in her local association, the El Paso Paralegal Association, and served as past President for two years, and past board member in various other positions.

Linda is from El Paso and is single, but has a niece and nephew that she adores and for whom she will do anything.

## PARLIAMENTARIAN & DIRECTOR, DISTRICT 3

**Allen Mihecoby, CLAS, RP®**

Allen is currently employed as the Manager, Law Department for the second largest railroad in the United States. His experience has been primarily with large firms and multinational corporations in various areas of law, including intellectual property, corporate, securities, real estate, and commercial litigation. He studied



Political Science at the University of Texas—Arlington, with a concentration in International Affairs and Pre-Law. In 1997 he graduated with an ABA-approved parale-

gal certificate from Southeastern Paralegal Institute. He has earned multiple certifications: NFPA's PACE Registered Paralegal (RP) and NALA's Certified Legal Assistant (CLA) designation both in 2002. In 2005 he earned NALA's Certified Legal Assistant Specialist Designation in Corporate and Business Law; in 2008 he earned the Advanced Certified Paralegal designation in Contracts Administration/Management; and in 2011 he earned the Land Use designation.

Allen has served the paralegal profession in national, state, and local capacities. He was recently elected to the post of District 3 Director, having previously served the Division and its members as District 3 CLE Sub-chair and as a member of District 2's TAPA Planning Committee. In 2011, Allen served as the Chair of the Professional Development Committee and was awarded an Outstanding Committee Chair award. He currently holds a seat on the State Bar of Texas' Standing Committee on Paralegals. Additionally, Allen holds associate memberships in the American Bar Association and the Tarrant County Bar Association. He is also a member of NALA, NFPA, the Metroplex Association of Corporate Paralegals (MACP), Fort Worth Paralegal Association (FWPA), Dallas Area Paralegal Association (DAPA), and a member of the Texas Center for Legal Ethics and a charter member of the State Bar College. In several of these organizations, Allen has been elected/appointed to leadership positions, including: NFPA's CLE Co-Coordinator and Assistant Pro Bono Coordinator, DAPA's President, Vice President of Programs and Ethics Chair, FWPA's First Vice President-Programs and Ethics Chair, Legal Assistants' of North Texas NALA Liaison and Ethics Chair, and MACP's Co-Chair/Ethics/Professional Development.



# PARALEGAL DIVISION 2012 ANNUAL MEETING

The 2012 Annual Meeting of the Paralegal Division of the State Bar of Texas was held on June 24, 2012 at The Houston Club in Houston, Texas. The Annual Meeting Committee was chaired by Rhonda Harshbarger, CP, and assisted by committee members: Jennifer Barnes, CP, Linda Carrette, CP, Ruth Conley, ACP, and Vanetta Murphree Peterson. The day's activities included keynote CLE presentation by Phillip Sanov and Kelley Smith, attorneys of The Lanier Law Firm, and a luncheon with more than ninety attendees.

The 2012 Annual Meeting luncheon, *Tradition of Championing Texas Attorneys*, was called to order by Susan Wilen, 2011-2012 President of the Paralegal Division. There were more than ninety attendees, including past PD Presidents Michele Boerder, CP (Dallas) and Debbie Oaks (Dallas). The keynote address at the 2012 Annual Meeting, *"The Evolving Role of the Paralegal"* was presented by two



Outgoing 2011–2012 Directors: Cheryl Bryan, Shannon Happney, Sunnie Palmer, Susan Wilen, Michele Brooks, Toya Walker

attorneys, Phillip Sanov and Kelley Smith, from The Lanier Law Firm in Houston. Mr. Sanov spoke on the many ways the legal profession has evolved since his admission to the Bar and Ms. Smith spoke to the many ways that the legal profession

will change in the future. Mr. Sanov recalled the practice of law in his early days as an associate and how things have evolved from selectric typewriters, dictaphones, and computers that did not even accommodate e-mail. Ms. Smith spoke to the anticipated changes in the practice of law where video-conferencing will replace depositions limited to one location, where

filing is done completely electronically, and where the newest technology will allow lawyers and paralegals to work from virtual offices instead of having to commute to a dedicated office. She also anticipated that law firms will be totally paperless, allowing for much greater freedom for legal personnel and greater ease in accessing information. It was a lively presentation peppered with memories and humor; a window into how much the legal field has changed in the past 30 years and how much it will change in the future.

Following the luncheon keynote speaker presentation, President Wilen recognized the following deserving recipients for their contributions to the Paralegal Division:

- The 2012 Exceptional Pro Bono Service Award: Elma Moreno (Lubbock)
- The Outstanding Committee Chairs: Lori Winter (Dallas), Membership Renewal CLE Audit Ad Hoc Committee and Patti Giuliano (San Antonio), Ambassador Program Ad Hoc Committee Chair
- Special Recognition Award: Cheryl



Joncilee Davis (Incoming President) receiving gavel from Susan Wilen (Outgoing President)



*Cheryl Bryan, 2011–2012 Treasurer, receiving a special award from Immediate Past President Susan Wilen.*



*Joncilee Davis, Sunnie Palmer, Laura Rogers and Toya Walker (clockwise)—during Annual Meeting Luncheon*

Bryan, ACP, TBLS-BCP (Beaumont) for her dedicated work as Paralegal Division Treasurer for 2008–2012.

The officers of the 2012–2013 Board of Directors were installed. They are:

President: Joncilee Davis, ACP  
 President-Elect: Misti Janes, TBLS-BCP  
 Secretary: Linda Gonzales, CP  
 Treasurer: Erica Anderson, ACP  
 Parliamentarian: Allen Mihecoby, CLAS, RP

The Incoming District Directors were installed and are:

District 1: Cindy Powell  
 District 2: Mariela Cawthon, CP, TBLS-BCP  
 District 3: Allen Mihecoby, CLAS, RP  
 District 4: Kristina Kennedy, ACP, TBLS-BCP  
 District 5: Kristy Ritchie  
 District 6: Deirdre Trotter, ACP  
 District 7: Erica Anderson, ACP  
 District 8: Laura Rogers, PLS  
 District 10: haron Wornick, CP  
 District 12: Pamela Snavely, CP  
 District 14: Mona Hart-Tucker, ACP  
 District 15: Cindy Curry, ACP, TBLS-BCP

District 16: Linda Gonzales, CP

Outgoing Directors Toya Walker, District 2, Michele Flowers Brooks, CP, District 4, Sheila Veach, CP, District 6, Cheryl Bryan, ACP, TBLS-BCP, District 10, Sunnie Palmer, District 12, and Shannon Watts, TBLS-BCP, District 14, were also recognized for their service to the Board of Directors. The final recognition was presented to 2011–2012 President Susan Wilen, R.N., a special plaque presented by incoming 2012–2013 President Joncilee Davis, CP. Ms. Davis talked about Ms. Wilen's dedication to the paralegal profession and the many hours of service she expended in the position as PD President.

Last, but certainly not least, the Paralegal Division would like to extend its sincere appreciation to our wonderful event sponsors:

#### **Gold Sponsors**

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- Orgain Bell & Tucker, LLP, Beaumont
- Ray, Valdez, McChristian & Jeans, El Paso

#### **Door Prize Sponsor:**

- TexasParent.com—Texas Cooperative Parenting Course

This Annual Meeting was a wonderful opportunity to make new friends, rekindle old friendships, and to expand our understanding of our profession and the law. We hope to see you next year at the Annual Meeting in Dallas. Mark your calendars for Friday, June 21, 2013!



The State Bar of Texas Paralegal Division,  
Exceptional Pro Bono Service Award Recipient, 2011–2012:

## Elma Moreno

By Lyla Elk and Deirdre Trotter

Now more than ever, those employed within the legal field are vital when it comes to filling in the “Justice Gap.” The State Bar of Texas Paralegal Division, Exceptional Pro Bono Service Award (“Award”) recipients represent some of the very best honorees, who have dedicated themselves to ensuring that the gap is filled, when it comes to supporting a fair and accessible justice system to those who would otherwise not have access to legal services.

When it comes to pro bono services, one person can make a difference. Elma Moreno, who is this year’s recipient of the Award, is definitely one of those individuals that has made a differ-

ence. Continuous effort is shown through her work history—from working for Legal Aid of NorthWest Texas (formerly West Texas Legal Services), to becoming the Coordinator for the Private Attorney Involvement Program, and now working as an office manager and paralegal at the Texas Tech University School of Law Clinical Programs. Throughout the years she has developed strong partnerships with local social service agencies, the legal community, and specialty bar associations in recruiting other individuals to volunteer their time and efforts to supporting pro bono services within the legal community. Elma continues to this day to provide ongoing support to clinic faculty and oversees the day-to-day operations of the clinical programs to ensure that their partnerships with Legal Aid of NorthWest Texas, the Internal Revenue Service SPEC division, and

other various social service agencies work together to provide and assist low-income individuals with assistance.

Elma, the third of seven siblings in her family, was born in Hillsboro, Texas and graduated from Petersburg High School in 1978. She went directly into the work force becoming a legal secretary in 1979. She’s married with two daughters, two granddaughters and another grandchild on the way.

In addition to her family life, she is a founding member of the TTU Latino/Hispanic Faculty and Staff Association. Elma is also currently a member of the following organizations having served in various capacities: Coalition of Community Assistance Volunteers; Legal Aid of NorthWest Texas Pro Bono Advisory Committee; South Plains College Paralegal Studies Advisory Committee; West Texas

Paralegal Association; and National Association of Pro Bono Professionals. She is a former member of the Texas Access to Justice Commission and the American Bar Association Standing Committee on Pro Bono and Public Service. Elma has been a member of the West Texas Paralegal Association since 2006, and has been a member of the Paralegal Division since 2009. Elma also serves as a Eucharistic Minister for Holy Spirit Catholic Church in Lubbock.

Since 1989, Elma has been actively involved in providing and coordinating pro bono legal services in West Texas, providing 258 hours of service from 2011 through May 2012!

She has been coordinating

pro bono projects for 23 years and has been an active volunteer for the past 11 years. Elma has contributed significant hours, demonstrated enthusiasm in her support for pro bono services, volunteered at legal aid clinics, volunteered in the Divorce Clinics and Divorce Night Court programs through Texas Tech School of Law, and is actively involved in the provision of Pro Bono services through the Coalition of Community Assistance Volunteers as a member, site coordinator, quality reviewer, and tax preparer. Her countless hours and volunteer efforts generate the reason why she was this year’s recipient.

Congratulations to Elma Moreno, this year’s Exceptional Pro Bono Service Award Recipient, for all of her hard work and dedication to providing assistance to those who could otherwise not afford it.



*Susan Wilen, 2011–2012 President, and Elma Moreno, Recipient*



# State Bar of Texas Paralegal Division



## *PD Mentor / Protégé Program*

Are you studying to be a paralegal, or are you new to the field?

Have you recently changed the type of law that you work in?

The Paralegal Division offers a mentor program to help you get started!

Participants receive direction and support on topics such as ethics, career advancement, and professionalism. Protégés also have access to valuable networking opportunities with other paralegals and the legal community through their mentor, as well as at state-wide and district Paralegal Division events.

### **Eligible PD members include:**

- Student members
- Active and Associate members with less than 3 years' work experience as a paralegal
- PD members changing the area of law on which they focus



*The mentor / protégé relationship can be very rewarding, with benefits extending long past the official end of the relationship.*

All of the PD mentors are Division members who have at least 7 years' experience working as a paralegal. Many of our mentors are also Division leaders and liaisons.

Mentors are located across the state and work in many areas of law.

*Protégés may be matched with a mentor who is not geographically close by; meetings may be held electronically based on the mentor and protégé's preferences.*

The mentoring program is a **free benefit** available to Paralegal Division members.

Join the PD today and let us match you with a mentor in your area of legal interest!

Visit **[www.txpd.org](http://www.txpd.org)** to learn more about membership and the Mentor/Protégé program.





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