



Texas Attorneys Not Eligible to Practice Law in Texas

The State Bar of Texas has posted a list of Texas attorneys that are not eligible to practice law on the State Bar of Texas website. To access the list, visit www.texasbar.com/ineligible.

Attorneys may be included on this list for various reasons, including non-payment of bar dues or occupational

taxes as well as other administrative or disciplinary reasons. Inactive or non-practicing attorneys are also included on this list, as they are not eligible to practice law in Texas.

Since attorneys change or update their status frequently, the list is refreshed daily. The State Bar of Texas sends

reminder emails about this list on a quarterly basis.

If you have any questions, or need assistance accessing the information, please email ineligible@texasbar.com, or call Kathy Holder at (800) 204-2222, ext. 1383

Name Change Approved by Members and State Bar of Texas

The Legal Assistants Division, State Bar of Texas (LAD) is pleased to announce that its membership and the Board of Directors of the State Bar of Texas (SBOT) approved LAD's name change from "Legal Assistants Division" to "Paralegal Division." Additionally, the SBOT Standing Committee on Legal Assistants will now be called "SBOT Standing Committee on Paralegals." A new definition has been approved to reflect the use of the term "paralegal" exclusively in lieu of "legal assistant."

The newly re-named Paralegal Division has been working on this change for over ten years by way of open forums, surveys, and meetings with its members and members of the SBOT. The Standing Committee on Paralegals and Paralegal Division

will soon begin working with the SBOT's Texas Disciplinary Rules of Professional Conduct Committee for the development of annotations to the new definition of "paralegal." Clarifying the definition of paralegals will assist courts in awarding attorneys fees and make clear the types of tasks paralegals handle. In the long run, these changes will increase the level of professionalism and in turn, increase protection of and aid in the delivery of legal services to the public.

A national trend over the last several years has indicated preference for the term "paralegal" to the exclusion of "legal assistant." The National Association of Legal Assistants adopted "Certified Paralegal" as an alternative to "Certified Legal Assistant" for the designation granted

upon passage of its certifying exam. In August 2003, the American Bar Association House of Delegates voted to change the name of its Standing Committee on Legal Assistants to the Standing Committee on Paralegals. Many paralegal associations across the country, including several here in Texas, have changed their names to reflect this trend—El Paso Association of Legal Assistants became El Paso

Paralegal continued on page 3.

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From the President



DCBA Officers

President, *Brian T. Cartwright*

Immediate Past President,

David S. Bouschor, II.

President-Elect, *L. James Ashmore*

Vice President, *Tiffany Haertling*

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Hugh Coleman

CLE Director, *Dena A. Reecer*

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Duane L. Coker, David B. Fox,

David P. Housel, Jr., Darcy E. Loveless,

Dena A. Reecer, Don R. White, Jr.

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Courts Committee, *Tiffany Haertling*

Library Board of Governors,

David P. Housel

Social Committee, *Duane L. Coker*

Fee Arbitration, *Darcy E. Loveless*

CLE Committee, *Dena A. Reecer*

Newsletter, *David B. Fox*

Internet/Web Page, *Don R. White, Jr*

ADR/Settlement Week,

David S. Bouschor, II.

Pro Bono, *Tiffany Haertling*

Photography, *Hugh Coleman*

DCBA Membership

Your DCBA Membership includes

- Free and discounted CLE programs
- Monthly lunch and happy hours
- Networking opportunities

Your DCBA Membership offers

- Family Law Section
- Real Estate, Trust, and Probate Law Section
- Criminal Law Section
- Denton County Trial Lawyer's Assoc.
- Greater Denton County Young Lawyers Association

I'm not sure where 2005 is going, but I know one thing—we have been busy making a difference in Denton County.

As part of our Hurricane Katrina relief efforts, we raised \$10,000.00 to donate to a local charity! After careful consideration, our Board of Directors decided to donate this money to the local United Way. Your DCBA stipulated, however, that the money could only be used to assist with local efforts to help victims of Hurricanes Katrina and Rita who have been displaced into our community. It cannot be used for any other purpose, program, or area. We wanted to make sure that our dollars were being spent to help our community get through these devastating natural disasters, and we now know that it will.

The culmination of our efforts came to fruition on Saturday, October 22, 2005, when the DCBA presented a check for \$10,000.00 to the United Way at the Hurricane Relief Benefit Banquet at Merritt Buffalo Ranch. We issued a press release in conjunction with our presentation and requested that the names of our generous donors be printed in the Denton Record Chronicle. Denton County attorneys have stepped up to the plate and it seemed appropriate that our community knows who they are.

For those of you who may not have seen the article, I would like to list the following contributors and thank them for their generous donations and for making this project such a huge success:

Hayes, Berry, White & McMurray; Mike Griffin; Coffey, Stout, & Peace; Crosbie & Moraine; Loveless & Loveless; Jane Thacker; Gregory



Brian T. Cartwright, President

& Conner; Darcy Loveless; Byron Brown; Sherry Shipman; Wood, Thacker & Weatherly; Judge Bruce McFarling; Brad Freeman; Judge Joe Bridges; Duane L. Coker; David S. Bouschor, II.; Jerry Cobb; Herb Prouty; Russell Welch; William Phillips, Jr.; Bob Morris; David Housel, Jr.; Peggy Moore; McCreary & Associates; Byron Berry; Sue Tejml; Lars Isaacson; George Hopkins; Hugh Coleman; Camille Milner; Tom Keever; Michelle Houston; Jim Ashmore; Dena Reecer; Brian Cartwright; Tiffany Haertling; Gray Shelton; Rick Hagen; Judge Vicki Isaacks; Judge David Garcia; Thomas Keever; Lee Ann Breadding; and Judge Darlene Whitten.

Don't forget that our next meeting is Friday, November 4, 2005 at 12:00 PM at the Oakmont Country Club. See you there!

Looking for a DCAP application?

Please visit
www.dentonbar.com
and download yours today!

Denton Young Lawyers Assist Teen Court

The Greater Denton Young Lawyers Association (GDYLA) is participating in an ongoing project this year with Teen Court.

Teen Court is a program that provides an alternative to the standard court process for teenagers accused of committing Class C misdemeanors

Rather than go before a normal judge or jury to face a fine, they plead

guilty, and go to Teen Court for punishment. The punishment is an amount of community service hours to be determined by their peers. The jury consists of teens that have been through the program before, and the defense and prosecution is also done by teens.

The GDYLA is helping with the program by providing attorneys who will serve as judges for these cases

and as mentors to the teens working as defense counsel and prosecution by helping with admission of evidence and structuring arguments. Teen Court is held every other Tuesday at the Denton Municipal Court.

For further information, email John Rentz (John.Rentz@dentoncounty.com) or J. R. Moore (moojoh3810@yahoo.com).

Paralegal continued from page 1.

Paralegal Association and Houston Legal Assistants Association became Houston Metropolitan Paralegal Association.

This is a long-awaited moment for the Paralegal Division in an attempt to take the profession into the

future and eliminate the confusion that has developed between the two terms—"Legal Assistant" and "Paralegal"—that were once thought to be synonymous terms. However, since society's movement to do away with the term "secretary" and utilize the term "assistant," more distinction

between the titles has become necessary.

For more information, contact the Paralegal Division at pd@txpd.org or on the web at www.txpd.org.

REPTL Section Meeting

Date:

Wednesday, November 16
12:00 PM

Topic & Speaker:

To be announced

Location:

Luby's in Denton

Family Law Section Meeting

Date:

Monday, November 28
5:30 PM for snacks
6:00 PM for program

Topic & Speaker:

Divorce Finances, Kathryn
Hunteman and Micah Lints,
Merrill Lynch

Location:

Hannah's Off the Square

Collaborative Law Section Meeting

Date:

Monday, November 7
12:00 PM

Topic & Speaker:

To be announced

Location:

To be announced

Happenings

Justices Visit and Present CLE

On October 7th, three Justices from the 2nd Court of Appeals in Fort Worth spent the day in Denton. The Justices—Lee Ann Dauphinot, Bob McCoy, and Sue Walker—traveled to Denton to hear oral arguments appealed to their Court from one of the Courts here in Denton County.

Prior to hearing the arguments, which included appeals from both civil and criminal cases, the Justices presented a talk for continuing legal education at the DCBA monthly luncheon. The presentation, which covered recent interesting decisions by the Court, was very well attended.

Oral arguments were heard in the Ceremonial Courtroom, which normally houses County Court at Law Number Two.



After oral arguments, the DCBA held a reception for them at the Office of Duane L. Coker and Associates.

DCBA Aids Hurricane Victims

The Denton County Bar Association donated \$10,000.00 towards the local relief efforts for the victims of both Katrina and Rita who have been displaced and have needs within our community.

Our donation was presented to the United way on Saturday, October 22 at the Hurricane Relief Benefit Banquet

at Merritt Buffalo Ranch coordinated by Corner Stone Weddings and Event Specialists.

	Denton County Bar Association	Date <u>10/22/2005</u>
Pay to the order of <u>United Way of Denton County</u> \$ <u>10,000</u>		
<u>Ten Thousand Dollars and no/100's</u> Dollars		
	<u>Brian Cartwright, DCBA President</u> Non-Negotiable	

Local Attorney Wins North American Sailing Championship

DCBA Director, Duane L. Coker, participated in the Hobie 33 North American Championship Regatta on Lake Texoma on October 21-23 as a crew member on the *Mauri Pro Sailing*. This officially sanctioned one-design event drew professional, Olympic medal-winning, and amateur sailors from all over the world.

The crew of *Mauri Pro Saling* took first place in four of the six weekend races to win their resounding victory. “We sailed in extremely varied wind

and weather conditions,” said owner and skipper Juan Mauri. “Duane was an important part of our success this regatta. We are proud to have him as part of our crew.”

Duane is an avid racer and has competed in many local mixed-fleet working sails and national one-design spinnaker regattas.

Mauri Pro Sailing leads the fleet as they complete a downwind leg of the fourth race and secure their position for the Hobie 33 North American Championship.



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The State Bar of Texas is accepting applications for 2005 membership in the Pro Bono College. Attorneys who have exceeded expectations in pro bono legal services to the poor by performing a minimum of 75 hours of eligible pro bono service are encouraged to apply.

Benefits include:

- **Certificate** signed by the President of the State Bar and Chief Justice of the Supreme Court,
- **Subscription** to the *LegalFront* newsletter published by Texas Lawyers Care (TLC) providing information on legal services to the poor issues statewide

- **Training** in substantive poverty law issues at TLC's annual Poverty Law Conference when registered at the reduced tuition rate
- **Recognition** at the State Bar Annual Meeting, and
- **Membership** of exceptional attorneys who have demonstrated a desire to help address the vast unmet legal needs of the poor by providing access to the justice system.

Join the thousands of Texas attorneys who are proud members of the Pro Bono College by completing a membership application today.

Ask Judge Bob

Excerpted from the column written by Justice Bob McCoy of the 2nd Court of Appeals.

Getting to Know the Judge

County Criminal Court No. 1 Judge Sherry Hill's three non-legal goals:

- Add instrument rating to my pilot's license.
- Learn to fly fish.
- Learn Italian.

Ask Judge Bob

Judge Bob, Is the granting of a legislative continuance automatic?

No, it is not mandatory in cases where the party opposing the continuance proves that a substantial existing right will be defended or abridged by the delay. *In re Ford Motor Co.*, 165 S.W.3d 315, 319 (Tex. 2005).

Judge Bob, Is there any other property which is afforded the same protection from seizure as a homestead?

Yes, according to § 41.001 of the Texas Property Code, "one or more lots used for a place of burial of the dead" are afforded the same protection.

Ask Caesar

Caesar, a while back you said that if a person learns they have a "dangerous dog" they may have to purchase liability insurance for the dog. How does a person "learn" that they own a dangerous dog?

According to § 822.042(g) of the Texas Health and Safety Code, a dog owner "learns" that they own a



dangerous dog when

1. they know the dog has made an unprovoked attack (under certain circumstances)
2. receives notice that a justice court, county court, municipal court, or animal control authority has found that the dog is a "dangerous dog."

Other restrictions on a "dangerous dog" may be found in § 822.042-.043 of the Texas Health and Safety Code.

Items of Interest Opinion Testimony

"The trier of fact is also afforded considerable discretion in evaluating opinion testimony on the issue of damages. The fact that [the witness] testified as an expert is not controlling. It is well established in this State that opinion testimony does not establish any material fact as a matter of law." *KW Const. v. Stephens & Sons Concrete*, 165 S.W.3d 874, 887 (Tex. App.—Texarkana 2005, no pet. h.).

Virtual Representation

"Under Texas jurisprudence, an appeal can generally only be brought by a named party to the suit. The doctrine of virtual representation is an exception to the general rule. An appellant is a deemed party under virtual representation when

1. it is bound by the judgment
2. its privity of estate, title, or interest appears from the record
3. there is an identity of interest between the appellant and a party to the judgment.

The most important consideration is whether the appellant will be bound by the judgment." *In re Estate of Head*,

165 S.W.3d 897, 901 (Tex. App.—Texarkana 2005, no pet. h.).

When a Hole is Taxable.

"We must decide whether salt dome caverns created to store liquid hydrocarbons may be appraised and taxed separately from the surface land above them.... Unquestionably, a huge storage facility constructed aboveground to hold millions of barrels of hydrocarbons would be taxable as an 'improvement.' We find no logical reason to assess such facilities differently when it is more practical to build them below." *County App. Dist. V. Coastal Liquids Part.*, 165 S.W.3d 329, 330, 336 (Tex. 2005).

Fraud

"Extrinsic fraud is fraud that denies a losing party the opportunity to fully litigate at trial all the rights or defenses that could have been asserted.... Intrinsic fraud, by contrast, relates to the merits of the issues [that] were presented and presumably were or should have been settled in the former action." *Browning v. Proston*, 165 S.W.3d 336, 347-48 (Tex. 2005).

Affidavits Needed

"When a plaintiff files a petition alleging professional negligence by a design professional, the plaintiff must contemporaneously file an affidavit of a third-party design professional setting forth at least one negligent act, error, or omission claimed to exist and the factual basis for each claim." *Palladian Bldg. Co. v. Nortex Foundation Designs*, 165 S.W.3d 430, 31 (Tex. App.—Fort Worth 2005, no pet. h.).

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DCBA in 2005-06

November Bar Luncheon December Bar Luncheon

Time:

Noon, Friday, November 4
Meal included

Place:

Oakmont Country Club
1200 Clubhouse Drive
Corinth, Texas 76210

Program:

Technology for Lawyers

Speakers:

To be announced

Time:

11:45, Friday, December 2
Meal included

Place:

Oakmont Country Club
1200 Clubhouse Drive
Corinth, Texas 76210

Program:

To be announced

Speakers:

To be announced