



Denton County Lawyer

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Fourth Annual Kinship Fair Helped 50 Area Kids

Story by Andrew J. Passons, Law Office of Mark Lewis

The 4th Annual Kinship Fair, held on October 24, 2009 at Pioneer Circle on the campus of Texas Woman's University, was a resounding success. Over 50 children and their families benefitted from this year's Kinship Fair.

The Kinship Fair Program is a joint project by the Greater Denton County Young Lawyers' Association (GDCYLA), Court Appointed Special Advocates of Denton County (CASA), and the Texas Department of Family and Protective Services (TDFPS). It supports families providing care to children who have been removed from their homes because of abuse and/or neglect. The Kinship Fair Program recognizes that

- there are abused and/or neglected Denton County children in need,
- the Kinship Families are doing their best to provide a safe and nurturing environment for these children, and
- the local community cares about and has resources available to meet the needs of the Kinship Families and Children.

While foster caregivers receive financial assistance for their efforts, the Kinship Families are not licensed foster placements and thus are currently ineligible for State-sponsored funding. The increased expenses associated with welcoming an additional child (or children,

as is often the case) into a family can be overwhelming, and it is not uncommon for the undue financial strain to eventually threaten the viability of the Kinship Placement.

The children and their families enjoyed beautiful weather as well as games, face painting, bounce house fun, food, prizes, and community information booths. The Kinship Families were also provided with necessities such as diapers, toiletries, clothing, school supplies, car seats, winter coats, blankets and bedding, dining coupons, and gift certificates.

On behalf of CASA and TDFPS, the GDCYLA would like to thank all of our generous sponsors, including: Texas Woman's University, the Practice 111 Group, CVS Pharmacy, Denton County CSCD, ARAMARK, Rustic Rides, TJ's Pizza, Wells Fargo, Community Partners, Tetrapak, Inc., and Child Abuse Prevention Society. Additionally, we would like to thank several local law firms for their generous donations, including: Loveless & Loveless, Wood, Thacker & Weatherly, P.C., Griffin & Jones, Law Office of Byron D. Brown, Law Office of Mark Lewis, The Maldonado Law Office, P.C., Russell L. Welch, Law Office of Steve Burgess, Marsh, Paine & Waddill, P.C., Roger Yale, Holmes, Diggs, Eames & Puhl, P.L.L.C., Hayes, Berry, White & Vanzant, L.L.P., Daniel K. Peugh,

L.L.C., Coffey, Stout & Peace, L.L.P., Sawko & Burroughs, P.C., Bowen Law Group, Hill & Hill, Law Offices of Tim Powers, Boswell & Moore, P.C., Gregory Family Law, P.C., Law Offices of Derek A. Adame, Lloyd Law Firm, and Law Office of Cynthia M. Burkett. Each of the listed firms donated \$250.00 or more for this year's Kinship Fair. We would also like to thank all other local law firms and businesses that donated funds to benefit the Fair. Without their contributions, it would not have been possible to provide the gifts and necessities for the children.



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From the President

We were honored at our October meeting by the presence of our State Bar President Roland Johnson. He gave us an update on statewide bar issues. At the forefront is the Supreme Court's request that the bar association formulate a recommendation as to whether lawyers should be required to disclose the existence of liability insurance, and if so, how the disclosure would occur.

To date, two task forces have looked at the issue and come up with varying opinions—one determined that there is not a duty to disclose the existence of liability insurance, but if one was to be imposed, it should be handled as an administrative matter on the State Bar website (much in the manner that your status to practice law is identified by colored dots). The other determined there is already a duty to disclose the non-existence of liability insurance as a material fact affecting representation, and that a disciplinary rule should be promulgated to set out the specifics of how the disclosure is required to occur.

The State Bar is in the process of gathering feedback so that they can formulate and make their own recommendation.

I would like our bar association to also take a position on this issue reflective of our members' opinions. At the bar lunch, I heard feedback from those members present, both on whether disclosure itself should occur and with various issues that arise with regard to the method of any such disclosure. I would like to hear more feedback from you to present to the bar board as we are deciding what our formal position is on this issue.

If any of you believe that disclosure of liability insurance should be mandated, I would particularly like to hear from you, because sentiment at the bar lunch appeared to be primarily against a mandate to disclose, and further, if a disclosure were mandated, many issues were brought up about whether there was a method that would practically accomplish this.

For those of you who would like to be heard on this issue, you can contact me by phone at 940-387-3776 or by email at darcy@cmloveless.com. Your State Bar representative is Mike Gregory, who is available to you by



Darcy Loveless, President

phone at 940-387-1600 or by email at mike@dentonfamilylaw.com. Mike is charged with compiling information from this district to take to the State Bar, so your feedback is also very important to him. You can email the State Bar President or participate in the blog on this issue by visiting www.texasbar.com. Roland Johnson made it clear to me that they are taking our feedback seriously, and I believe that the State Bar is going to use it all in a well-reasoned response to the Supreme Court, so I urge you to be heard and participate in the determination of this issue that affects us all.

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DCBA Membership Your DCBA Membership includes

- Free and discounted CLE programs
- Monthly luncheon & happy hour
- Networking opportunities
- Listing on the bar website, including photo, two practice areas, and a link to your website

Your DCBA Sections

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

For more information see our website: <http://dentonbar.com>

Monthly Meetings

Collaborative Professionals

DCCP will meet at **12:00 PM** on Tuesday, **December 1** at Oakmont Country Club located at 1901 Oakmont Dr. in Corinth.

Family Law

Family Law will host a Christmas Party on Thursday, **December 10**, and will be visiting law offices on the square.

GDCYLA

GDCYLA will meet at **11:45 AM** on Thursday, **December 3** at Pizza Inn located at 501 W. University Dr. in Denton.

GDCYLA will not meet for happy hour due to the holiday season.

Paralegals

DCPA will meet at **5:30 PM** on Thursday, **December 8** at Johnny Carino's located at 1516 Centre Place Dr. in Denton for a Christmas Social.

REPTL

REPTL will meet at **12:00 PM** on Wednesday, **December 16** at Oakmont Country Club located at 1901 Oakmont Dr. in Corinth.

Denton Bar Annual Christmas Party

Date and Time:

Friday, December 4, 2008
5:00–8:00 PM

Location:

Wood, Thacker & Weatherly
400 West Oak Street, Suite 310
Denton, Texas 76201

Activities:

Food, beverages, and Holiday Cheer will be provided by DCBA, Griffin & Jones, and Wood, Thacker & Weatherly. All are invited. To RSVP and for more information, please contact Michelle Houston at mhouston@dentonbar.com.



Michelle Houston Recognized for Five Years of Service to DCBA



At our October meeting, I was proud to be able to recognize our full-time bar association employee, Michelle Houston, for all of the hard work she has invested in us in the last five years. Yes, that is right, it has been five years since Michelle started working for us in 2004. In that time, she has worked tirelessly to manage the bar and DCAP office, coordinate the various events we do as a bar, has attended those events, and, as the President changes every year, she has provided us with a consistent, smiling “face of the bar” that is seen by the public, our bar members, and the State Bar. I want to thank Michelle again for all the effort she puts forth each and every day she comes to work. I appreciate her dedication, and know that the bar board and our bar members equally appreciate the qualities she brings to our bar association as its Executive Director.

-Darcy Loveless, President of DCBA

2010 Bench Bar Conference Save the Date

When:

May 21-23, 2010

Where:

Tanglewood Resort
Lake Texoma

Registration:

Contact Michelle Houston for more information at mhouston@dentonbar.com.

Making Sense of Computer-Based Test Reports

John A. Zervopoulos, Ph.D., J.D., ABPP, jzerv@psychologylawpartners.com

Ms. Smith, defendant's lawyer preparing to depose opposing counsel's psychologist expert, expressed concern as she read the detailed psychological descriptions in the plaintiff's evaluation report. She noted that the psychologist interviewed the plaintiff twice, administered the MMPI-2, and also talked with the plaintiff's spouse. No one else was interviewed, and no relevant records were reviewed. Nevertheless, the report's descriptions of the plaintiff seemed both too specific and too generic—and too artfully phrased. Ms. Smith's consulting expert agreed and suspected the problem's source. When reviewing the subpoenaed records, the consulting expert confirmed his suspicion: the psychologist had essentially copied, without attribution, several statements into her evaluation report from a computer-based test interpretation (CBTI) of the plaintiff's MMPI-2 test results. When told of this finding, Ms. Smith suspected that the psychologist had cherry-picked and plagiarized CBTI statements—a professional, if not ethical, indiscretion. Then Ms. Smith asked her consulting expert two questions: First, may a psychologist rely on a CBTI as the primary tool in a psychological evaluation? Second, is a CBTI report valid and reliable just because it was computer-generated?

Ms. Smith's first question addresses the role of tests in generally accepted forensic psychological evaluations. Such evaluations reflect contributions from three primary

sources: examinee interviews; psychological testing of the examinee; and collateral information about the examinee from other people and from record reviews. While each source contributes to valid evaluation conclusions, evaluation conclusions may be compromised if the evaluator overemphasizes one source at the expense of the other two. For example, an evaluator who depends solely on examinee interviews cannot gauge whether the examinee has offered reliable statements, self-interested pronouncements, or a combination of both.

Likewise, evaluators misuse testing when they depend solely on test results to establish their expert opinions, even if they interpret the tests correctly. At best, psychological test interpretations compare examinees' answers with answers from selected groups of people studied during and after the test's development. For evaluation conclusions, experts still must connect the litigant's test profile with her life circumstances—information gathered from the other evaluation components. The court's concern centers on this litigant and her capacities and circumstances in this case, not on unnamed research subjects. Ms. Smith's first concern is well-placed: a psychologist cannot rely on a CBTI as the primary tool in a psychological evaluation at the expense of good interviews or adequate information from collateral sources.

Ms. Smith's second question about

whether a CBTI is valid and reliable just because it was computer-generated raises another concern. Computers are useful tools to score and interpret psychological tests. Computers enable more accurate scoring than hand-scoring methods. Computers also may draw from research literature databases to develop more descriptive profiles than psychologists, only using textbooks and journal articles, may generate on their own. Further, computers may produce more consistent test interpretations because the same results, time after time, will generate the same profiles unaffected by a psychologist's biases toward a particular examinee or case issue.

But CBTIs do not, by themselves, provide legally relevant and reliable psychological profiles of examinees. CBTIs, camouflaged by digital auras of precision and accuracy, may present evidentiary problems of which lawyers should be aware. For example, a psychologist may obtain a CBTI report of an MMPI-2 profile from one of several companies. Some companies produce reports that are more research-based than others, and some meld clinical impressions with research findings without noting the differences in the interpretive narrative. In addition, these companies may treat the algorithms that produce their profile interpretations as proprietary information that they will resist disclosing—a possible Daubert-Robinson concern if experts are challenged to show the quality of the sources of their opinions.

Further, CBTI reports, often several pages long, consist of descriptive narratives that purport to compare an examinee's test answers and profile with group profiles of research subjects who scored similarly. But a CBTI report's narrative, at best, only raises hypotheses about the examinee, not definitive statements. For example, while an examinee with an elevated depression score may share characteristics with research subjects who earned a similar score, the examinee may be depressed for different reasons; as a result, some computer report statements will fit the examinee, others may not. Or the examinee, despite the score, may not actually be depressed—a false positive classification.

Finally, an expert invoking certain CBTI narrative statements to support her opinion must show why those statements fit the litigant in the litigant's life situation, and why other unchosen narrative statements do not. The competent evaluator will reference information from the examinee interviews, from collateral information, and from relevant research or professional writings to address this issue. An expert's failure to show such fit may be grounds for a relevance objection or for a Daubert-Robinson motion to exclude testimony based on the expert's unsupported selective reliance on the CBTI narrative.

Ms. Smith has asked the right questions, and her consulting expert has prepared her for a thorough deposition. Will opposing counsel be as prepared?

John A. Zervopoulos, Ph.D., J.D., ABPP is a forensic psychologist and lawyer who directs Psychologylaw Partners, a national forensic consulting service. He can be contacted at 972-458-8007 or online at www.psychologylawpartners.com.

Court Advisory Committee Report

Article by Deen A. Reecer, Shelton & Reecer, LLP

The Courts Advisory Committee is designed to act as a liaison between the Bar and the Courts to improve the efficiency of the Bar and Courts for the benefit of both. Additionally, the Courts Advisory Committee oversees the redrafting and approval of Local Rules when deemed necessary and appropriate by the Courts and/or the Executive Board of the Denton County Bar Association (DCBA). The Vice President of the DCBA chairs the committee while members are selected amongst Bar volunteers. Bar members Ray Williams and Gary Kollmeier serve on the Committee at this time.

Currently, the Committee is overseeing revisions to the Denton County Standing Order Regarding Children, Property and Conduct of the Parties which has been in effect since 2007. You may view the current Standing Order at http://dentoncounty.com/dept/District_Clerk/Acrobat/DCSORCPCP.pdf. (No substantive changes have

been made since 2007 although new judges' signatures have been added). Bar member and Family Law Specialist Charla Conner was asked by some of our district judges to put together an ad hoc committee to address various issues regarding certain provisions of the Standing Order, including the geographic restriction language and general inconsistencies in the injunctive language. Ms. Conner and Bar member Andrew Passons are working to propose changes and additions to the Standing Order to remedy the inconsistencies and problematic language. A proposal has been forwarded to the District Court Judges for their review and comments. Once received, the ad hoc committee intends to present the proposed changes to the Family Law Section for review before a final version is put into place.

Should you have questions or suggestions for the Courts Advisory Committee, you may email me at dreecer@sheltonreecer.com.



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James L. (Jim) Young

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Vacation Letters & Change of Addresses to the Courts

Effective immediately, the process for submitting vacation letters and change of address forms to both the Denton County and district courts has changed. You should no longer submit these notices to court administrators as they will not be able to put them in the system.

Attorneys practicing in the county courts, should submit their vacation letters and change of address forms to Bobbie Moore, Statutory County Court Administrator.

Attorneys practicing in district courts, should submit their vacation letters and change of address forms to the District Clerk's office. You can also visit the district court website, <http://dentoncounty.com>, to submit your vacation schedule for an entire year.

When you send these notices please make sure that you include your state bar number.

Thank You

*Judge Jim Crouch, Administrative Law Judge,
Statutory County Courts*

Judge Lee Gabriel, Administrative Law Judge, District Courts

Denton County Property Records at Your Fingertips

Attention ATTORNEYS:

Title Resources of North Texas is opening its abstract plant to attorneys for non-insured, informational-purposes-only property research. Choose full service, assisted service or do-it-yourself research. Searches are available for current owner, names, deed, foreclosures, liens, historical title, mineral rights, document retrievals and more.

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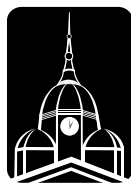
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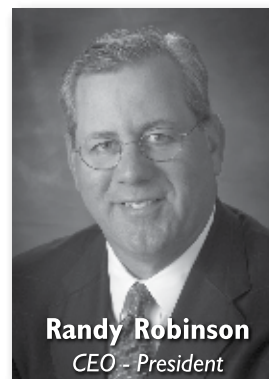


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DCBA in 2009-10

December Bar Luncheon

Date:

Friday, December 4, Noon
Meal included
0.5 CLE included

Location:

Oakmont Country Club
1901 Oakmont Drive
Corinth, Texas 76210

Program:

*Financial Decision-Making in
Divorces*

Speaker:

Devona Simpson and Ronnie
McClure

January Bar Luncheon

Date:

Friday, January 8, Noon
Meal included
0.5 CLE included

Location:

Oakmont Country Club
1901 Oakmont Drive
Corinth, Texas 76210

Program:

Pattern Jury Charges

Speaker:

Grace Weatherly

Condolences

DCBA would like to express our
condolences to Tom Whitlock on
the passing of his wife, Barbara E.
Whitlock, on November 14, 2009.

Announcing

**DCBA/DCAP offices will be
closed for the holidays:**

December 24-25

**December 28 -
January 2**

