



## Twelve Children Get 'Forever Families' at the Second Annual Adoption Day

Story by Amie Peace, Coffey, Stout & Peace, LLP

This is the second year for Denton County Adoption Day. It was a tremendous success.

November is National Adoption Month and Denton County Adoption Day is a part of the nationwide effort to celebrate families that are welcoming new members from foster care and to draw attention to the continuing need for foster and adoptive homes.

This year the Denton County Bar Association (DCBA) received recognition from Congressman Michael Burgess, Mayor Mark Burroughs, Senator Jane Nelson, Darcy Loveless, President of DCBA, and State Representative Myra Crownover in the form of Proclamations which declared November 20, 2009 as Denton County Adoption Day.

Adoption Day was a huge success due to the efforts of DCBA members and volunteers from other organizations. Twelve children were adopted into eight families on that day. The children and their families had a wonderful time.

The second floor of the Denton County Courthouse was transformed from a subdued set of courtrooms to a vibrant Cruizone. Each child received a goodie bag, a handmade quilt, teddy bears, books, a monogrammed piece

of jewelry with their new name and adoption day inscribed, and a savings bond. There was a gourmet buffet of food as well as cake for the families to enjoy following the adoptions while the children played games and had their faces painted.

This event is the result of a partnership between DCBA, Texas Department of Family and Protective Services and Court Appointed Special Advocates with the assistance of Former Judge Vicki Isaacks, Judge Carmen Rivera-Worley, Judge Lee Gabriel, Judge Bruce McFarling, Judge Jake Collier, Judge L. Dee Shipman, Judge Doug Robison, and Judge Margaret Barnes, City Councilman Joe Mulroy, Walter Eagleton Photography, First People's Jewelers, Louellen Coker of Content Solutions, Denton Quilt Guild, Access 1st Capital Bank, CBS Mechanical Inc., Frisco Bar Association, Lynn Eason of Divine Inspirations Professional Make-up Artistry, Gary Ray's Creative Signs & Displays, Giuseppe's Italian Restaurant, Michelle Houston of Arbonne International, Neal, Ashmore & Killebrew, Newland Real Estate, Pro-Tow Wrecker Service, Robert Ramirez Campaign for Probate Judge, Lone Star Community of the Society for Technical Communication, Graphic

Products, LP, and the Abby Inn.

This is a project that our Bar Association should be very proud of. We were an instrumental part in giving these children the ultimate gift—a forever family.



### What's Inside

<i>From the President.....</i>	<i>2</i>
<i>From the Sections.....</i>	<i>3</i>
<i>For Your Practice.....</i>	<i>4</i>
<i>From our Sponsors.....</i>	<i>6</i>
<i>Announcements .....</i>	<i>8</i>



# From the President

January is a time for change. My firm evaluates the last year, and whether there are new policies and procedures we can adopt that will help us practice law in a more efficient, profitable, and cost-effective manner.

In case you want to make some changes, but are having trouble getting started, I thought I would review the top five areas I see firms struggling with. You should be able to start a productive discussion in your firm with these five topics.

## Client Service

If our clients feel we are not focused on serving them, they will go elsewhere. Remind yourself and your staff that, although the client may not always be right, the client is the thing you must find, obtain, and retain in order to successfully run your law firm. Prompt everyone in your office to be pleasant, even when difficult clients are part of your case load. Make it a point to praise your staff if you receive compliments about them. Your staff is the face of your office.

## Contract for Services

Annually reviewing your contract ensures it still meets your needs.

- Does it adequately describe your fee structure?
- Does it explain what services you will provide?
- If you have changed your practice, have you revised your contract appropriately?

If you charge flat fees, this is a perfect time to evaluate the actual time spent on those services and make sure your flat fee balances the need to be cost-effective for your client with the need to provide a reasonable profit for you.

## Send Bills

If you are dependent on hourly billing, are you writing down all of your time? Although I have never received a complaint from a client for not billing, failing to write down everything done in a day leads to a huge loss in billable hours over time. If you do a lot of work remotely, make sure you have a system in place to record those billable hours by remotely accessing your billing program, emailing the time in, or recording it on your iPhone. Then



*Darcy Loveless, President*

remember to make sure the time was put into your billing system before you print your final bills.

## Record Billable Hours

If you are one of the many local firms that does not send bills every month, make this your number one new year resolution. It may be that there are some representations in which monthly billing is undesirable, but in work that is paid hourly, it is just mandatory.

Not only does billing allow you to transfer money you have earned from your client's trust account to your operating account, it ensures you are meeting your duty to balance said trust account and inform your client about activity in his or her case. If

## DCBA Officers

**President,** *Darcy Loveless*  
**Immediate Past President,**  
*Hugh Coleman*  
**President-Elect,** *Don R. White, Jr.*  
**Vice President,** *Dena A. Reecer*  
**Treasurer,** *Duane L. Coker*  
**Secretary,** *Theodore D. Ogilvie*  
**CLE Director,** *Joe Zellmer*

## DCBA Directors

*Travis Biggs, Cynthia Burkett,  
Gina Hill, Theodore D. Ogilvie,  
Amie Peace, John Rentz, Patricia  
Ryan, Joe Zellmer*

## DCBA Committee Chairs

**Courts Committee,** *Dena Reecer*  
**Library Board of Governors,**  
*Gina Hill*  
**Social Committee,** *Travis Biggs*  
**CLE Committee,** *Joe Zellmer*  
**Communications Committee,**  
*Patricia L. Ryan and  
Amie Peace*  
**Fee Dispute,** *John Rentz*  
**Pro Bono,** *Cynthia Burkett*  
**Membership,** *Amie Peace*  
**Awards,** *Darcy Loveless*

**Planning Committee,** *Don R.  
White, Jr.*  
**Local Rules,** *Dena Reecer*

## 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>*

# From the Sections

you are just getting started sending regular bills, one major key to success is to set aside the same day each month and do billing on that day, no matter what.

## Close Files

If you have not closed files in a while, this is a good time to make sure you go through that process. You can clear away last year's clutter and make room for this year's challenges. You should review every file to make sure that all of the work (including closing documents and final letters) has been completed. This will let you find anything that accidentally slipped through the cracks in 2009 and, hopefully, remedy it before it becomes a problem.

I wish all of you an efficient, profitable 2010 along with a long list of satisfied clients.

## Monthly Meetings

### Collaborative Professionals

DCCP will meet at **12:00 PM** on Tuesday, **January 5** at Oakmont Country Club located at 1901 Oakmont Dr. in Corinth.

### Family Law

Family Law will meet at **5:30 PM** on Thursday, **January 14**, location to be announced.

### GDCYLA

GDCYLA will meet at **11:45 AM** on Thursday, **January 7** at Rudy's located at 520 S Interstate 35 in Denton.

GDCYLA will meet for happy hour at 5:30 PM on Thursday, **January 14** at Sweetwater located at 115 N. Elm St. in Denton.

### Paralegals

DCPA will meet at **12:00 PM** on Thursday, **January 28** at Oakmont Country Club located at 1901 Oakmont Dr. in Corinth.

### REPTL

REPTL will meet at **12:00 PM** on Wednesday, **January 20** at Oakmont Country Club located at 1901 Oakmont Dr. in Corinth.

## GILLIGAN'S ISLAND A Three Day TOUR

DCBA'S 2010  
BENCH BAR CONFERENCE  
May 21-23, 2010



### Where:

Tanglewood Resort & Conference Center  
290 Tanglewood Cir, Pottsboro, TX 75076

### Registration:

This years cost is \$445 for members who register before January 31st, \$495 for members who register later, and \$695 for any non-member or guest. Please make a \$100 deposit by January 31st to reserve your spot. For a complete form or to be a sponsor, please contact your conference chair and cruise director, Kim Killebrew, at [kpk@nakfamilylaw.com](mailto:kpk@nakfamilylaw.com) or at 940-436-8000. Please make checks payable to Denton County Bar Association.

## Advanced Mediation Training in Family Law Save the Date

### Where:

Wildwood Inn  
2602 Lillian Miller  
Denton, Texas 76210

### When:

April 7-9, 2010

### CLE:

24 hrs CLE/ 3 hrs Ethics

### Registration:

\$450.00, DCAP will provide a \$100 refund to those who complete the course and sign up for 4 mediations during the next DCAP Mediation year. RSVP to [Jkerestine@hbvwlaw.com](mailto:Jkerestine@hbvwlaw.com).

### Course Trainers:

Coye Conner and Julia Kerestine

## How Qualified is Qualified?

John A. Zervopoulos, Ph.D., J.D., ABPP, [jzerv@psychologylawpartners.com](mailto:jzerv@psychologylawpartners.com)

Ms. Smith, dad's lawyer in a child custody case involving sexual abuse allegations against him, sat down to prepare her cross-examination of the psychologist and his evaluation. Quickly, she assumed that the court would find the psychologist's doctoral level training and board certification sufficient to qualify him as an expert under Rule 702 of the Texas Rules of Evidence.

But Ms. Smith was troubled. After reviewing her case with her consulting expert, Ms. Smith saw that she would need to ask sharper questions about the psychologist's qualifications. Noting the evaluation's methods, statements in the report, and conclusions, Ms. Smith and her consultant suspected that the psychologist's qualifications and experiences did not fit the subject matter of his planned testimony.

How qualified is qualified? Ms. Smith understood that Texas courts do not offer a bright-line test to address the question. Like other evidentiary inquiries, an appellate court will review the trial judge's acceptance of a witness's qualifications only for a clear abuse of discretion—"whether the trial court acted without reference to any guiding rules or principles." *E.I. du Pont de Nemours and Co. v. Robinson*, 923 S.W.2d 549, 558 (Tex. 1995). So to organize her thinking about expert qualifications and to clarify the issue to the court, Ms. Smith's consulting expert suggested she invoke three sources: Texas caselaw, regulations from the Texas psychology licensing board, and professional ethics codes and professional guidelines.

The first source, Texas caselaw,

offers guidelines to address questions about whether experts are qualified to testify about specific issues before the court. In an important Texas Supreme Court case, the Court held that "the expert's expertise goes to the very matter on which he or she is to give an opinion." *Broders v. Heise*, 924 S.W.2d 148, 153 (Tex. 1996). The focus is on the "fit" between the subject matter at issue and the expert's competence to testify about the matter. *Id.* A key example of the Court's holding: a medical doctor is not automatically an expert in every medical issue merely because he or she holds a medical school degree or has achieved certification in a medical specialty. *Id.* (read "psychology" for "medical"). But the Court also noted that the holding does not mean that only a neurosurgeon can testify about the cause of death from a brain injury, or even that an emergency room physician could never so testify. *Id.* The trial court's primary concern is that the expert's opinion about the specific issue is reliable and relevant—more likely if the "fit" is established. *Id.*

The second source Ms. Smith should use to organize her thinking about expert qualifications and to clarify the issue at trial is the Texas State Board of Examiners of Psychologist's *Rules and Regulations*. Several provisions, which the Board may use to discipline psychologists who violate them, echo Texas caselaw's expert testimony "fit" requirements. For example, "Licensees provide only services for which they have the education, skills, and training to perform competently." Also,

"Licensees who engage in forensic services must have demonstrated appropriate knowledge of and competence in all underlying areas of psychology about which they provide such services."

The third source at Ms. Smith's disposal to address expert qualifications lies in the American Psychological Association's (APA) *Ethical Principles of Psychologists and Code of Conduct* (Ethics Code) as well as in professional forensic guidelines. APA's Ethics Code reads that "psychologists provide services ... only within the boundaries of their competence, based on their education, training, supervised experience, consultation, study, or professional experience." Further, APA's *Guidelines for Child Custody Evaluations in Family Law Proceedings* state that "psychologists strive to gain and maintain specialized competence" when conducting child custody evaluations. And APA Division 41's *Specialty Guidelines for Forensic Psychologists* states that "forensic psychologists provide services only in areas of psychology in which they have specialized knowledge, skill, experience, and education."

Trial courts will more likely highlight the "fit" requirement in a particular discipline the more specialized the subject matter of the testimony. For example, trial courts will likely qualify a clinical child psychologist who, based on reliable methods, offers an opinion about whether a child is experiencing debilitating anxiety—diagnostic methods underlying this opinion are skills most clinical child psychologists

## Library Board Committee Report

Article by Gina Hill, Hill and Hill

DCBA is thrilled to welcome Holly Gerber as the newest addition to the Denton County Law Library. Ms. Gerber joined the staff of the law library, which is located on the second floor of the Denton County Courthouse, this past October. Ms. Gerber has a Masters degree in library science from Texas Woman's University as well as a Masters in teaching. Her bachelor's degree is in psychology from Texas Tech. We are very lucky to have two full-time law librarians on staff.

Ms. Gerber will be attending the American Library Association's mid-winter meeting which is being held in Boston, Mass. She will be there to learn about automating our library. She and head librarian Kathleen Bransford are very excited about updating and modernizing our library. They hope to barcode each volume and create a computerized catalogue. Ms. Bransford will also be attending a conference next year when she travels to Waco to participate in

the Southwestern Association of Law Libraries conference in April of 2010.

Currently our law library has nine computer terminals with internet access and word processing capabilities. Three of the computers are equipped with Westlaw and two have LexisNexis. There are copiers that may be used for \$0.25 per copy and copy cards are available for purchase from the librarians. Faxes can be received or sent from the library for a fee. The fax number is 940-349-2131. CDs and DVDs are available for purchase for \$1.00 each. They accept cash or local checks for payment.

A lawyer's lounge is located inside the law library for our use. Coffee is provided and a phone is available for local calls. The lawyer's lounge and a conference room

may be reserved by contacting the librarians at 940-349-2130.

Both Ms. Bransford and Ms. Gerber encourage all attorneys to make use of our law library. They also encourage us to request any items that would help us in our practice.

Please do not hesitate to contact me if you have any questions or concerns regarding the law library and I will do my best to help you. You may reach me by phone at 940-381-3688 or by email at [gina@ehillandhill.com](mailto:gina@ehillandhill.com). My hope is that you all will discover all the valuable resources we have here in our law library.



*Qualified continued from previous page.* have the expertise to apply and interpret. But courts should not qualify a child psychologist to offer an opinion about whether evaluation data in the case is sufficient to support an allegation that a child was sexually abused if the psychologist, even if board certified, lacks adequate skill, training, or experience with abuse cases or knowledge of the professional

literature in that area.

If Ms. Smith can show that the psychologist's qualifications and experiences did not "fit" the subject matter of his planned testimony (sexual abuse allegations in a child custody case), she may use the three source structure to support her argument to the court that absent "fit," an expert opinion is "mere speculation" that cannot "assist

the trier of fact" a matter relevance addressed by Texas Rule of Evidence 702 as well as by Rules 401 and 402.

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](http://www.psychologylawpartners.com).

# From our Sponsors

**James L. (Jim) Young**

**MEDIATION • ARBITRATION**

*General Counsel & Corporate  
Generalist – 24 Years*

*Insurance & Reinsurance, Publishing,  
General Commercial*



**An Experienced Navigator... Charting The  
Course Through Risk To Resolution<sup>SM</sup>**



6600 LBJ Freeway, Suite 175 • Dallas, Texas 75240  
Direct (214) 723-7860 • [www.outsourcegc.com](http://www.outsourcegc.com)  
[JYoung@risk-navigator.com](mailto:JYoung@risk-navigator.com)  
[www.risk-navigator.com](http://www.risk-navigator.com)

*Available Statewide*

## 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.

Call **940-381-1006** today for details or a tour of our abstract plant.

We are also a full-service title insurance company.



Fax: **940-382-8827** [www.trnt.net](http://www.trnt.net)  
1112 Dallas Drive, Suite 402, Denton, TX 76205



## YOUR FIRST CHOICE IN INVESTMENT & TRUST BANKING

- WILLS & TRUSTS
- INVESTMENT MANAGEMENT
- RETIREMENT ACCOUNTS



**CAROL MILLS CHRISTIAN**  
VICE-PRESIDENT

**Downtown Denton**

400 WEST OAK • 940-349-5444

[www.F-S-B.com](http://www.F-S-B.com)

DENTON • CORINTH • GAINESVILLE  
VALLEY VIEW • LAKE KIOWA

Member FDIC

**First  
State Bank**

# From our Sponsors

BUSINESS ★ HOME ★ AUTO ★ HEALTH

## INSURANCE

with a *personal touch*

★ All types of court bonds including Guardian and Probate

★ Insurance coverages for your clients

★ Accurate and efficient



[www.rameyking.com](http://www.rameyking.com)

**DENTON**  
(940) 382-9691

**DALLAS**  
(940) 243-4400  
metro

**FORT WORTH**  
(817) 431-1141

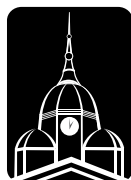
Build your future on our foundation

- Competitive fixed rates for as long as 40 years
- Low down payment
- Over one hundred years of banking experience

Purchase - Refinance - Construction



[www.F-S-B.com](http://www.F-S-B.com)



## ACCESS 1<sup>ST</sup> CAPITAL BANK

*Bringing Community Back to Banking*

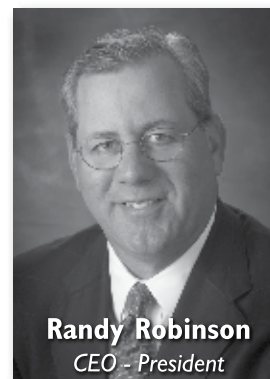
Denton County's  
**FIRST PRIME PARTNER BANK**  
for IOLTA accounts

*Unlimited FDIC Coverage for IOLTA Accounts\**

**COMMUNITY PEOPLE Who Know OUR COMMUNITY!**

NE Corner of Eagle Dr. & Carroll Blvd. • Denton, TX • **940.382.3962**

[www.access1stcapitalbank.com](http://www.access1stcapitalbank.com)



**Randy Robinson**  
CEO - President



\* Temporary Liquidity Guaranty Program

## DCBA in 2009-10

### 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

### February Bar Luncheon

**Date:**

Friday, February 5, Noon  
Meal included  
0.5 CLE included

**Location:**

Oakmont Country Club  
1901 Oakmont Drive  
Corinth, Texas 76210

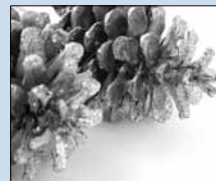
**Speaker:**

Speaker provided by the Real Estate, Probate and Trust Law Section, in conjunction with the full-day Probate, Guardianship and Ad Litem Seminar

### Condolences

DCBA would like to express our condolences to Tom Jester on the passing of his daughter, Angie Jester Sahm, on November 30, 2009.

### Announcing



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

**January 1-2, 2010**

**January 18, 2010**