



Collateral Information: Uses, Abuses, and Cautions

John A. Zervopoulos, Ph.D., J.D., ABPP, www.psychologylawpartners.com, Part One of a Two Part Series

Three important elements constitute competent forensic psychological evaluations: interviews of the parties; psychological testing of the parties; and information from collateral sources—interviews of third-parties and reviews of relevant records. While lawyers readily see the value of the first two elements, they may overlook the importance of useful collateral information to a reliable evaluation. In court-ordered child custody evaluations, an evaluator’s consideration of collateral sources may include interviews with the children’s teachers, co-workers, doctors, or therapists. The evaluator may also review school records, psychiatric or other medical records, reports of previous evaluations, and relevant legal documents. Without consideration of collateral sources, an expert’s opinion based on the evaluation will be compromised. Upon proper challenge, the court may then determine that the opinion testimony is unreliable and, thereby, inadmissible.

An evaluator’s use of collateral sources serves practical, professional, and legal ends. Practically, collateral information provides the evaluator a broader information base for a court’s referral question than just the evaluation participants’ often self-serving statements. As that base broadens, the “he said”/ “she said” quality of the parties’ dueling assertions fades. Evaluators may also

use collateral information to check their biases of either party as they consider perspectives of the referral problem from sources outside the litigation. This offers evaluators opportunities to consider different explanations of the interview or testing data during the evaluation’s course.

Using collateral information in a forensic evaluation also serves the evaluator’s professional ends. The American Psychological Association’s (APA) Guidelines for Child Custody Evaluations in Family Law Proceedings notes that “Psychologists strive to employ multiple methods of data gathering,” which may include documentation from schools and health care providers, and contacts with persons who may provide relevant information to address the evaluation’s referral question. The Texas psychology licensing board supports this notion when it requires that psychologists base their expert opinions and recommendations on information “sufficient to provide appropriate substantiation for each finding”—a broad notion that would be expected to include information beyond merely interviews and testing of the parties.

In addition, an evaluator’s use of collateral information serves legal ends. APA’s child custody guidelines also note that “Multiple methods of data gathering enhance the reliability and validity of psychologists’

eventual conclusions, opinions, and recommendations.” This statement echoes Daubert’s primary concern that experts’ opinions be relevant and reliable before the court will admit that testimony into evidence. In addition, the Texas Family Code notes that a basic element of a social study in conservatorship or possession of a child case is “the obtaining of information from relevant collateral sources.” Use of collateral information is a generally accepted method of forensic psychological evaluations.

In part two, next month’s column, we’ll look at the appropriate uses of collateral information by evaluators as well concerns of which lawyers should be aware when they gauge the quality of collateral information in psychological evaluations.

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From the President

The primaries for this year's elections were held March 2, 2010. By March 4, 2010, the Denton Record Chronicle had run an editorial criticizing the attorneys who participated in the elections for employing negative campaign tactics. I do not offer an opinion as to the character of any campaign run by any person in the election cycle, but the editorial was concerning because it encouraged this community to view lawyers in a negative light.

This is unfortunate, as many of us (including many who ran for office) are committed to the idea that the law is a helping profession. Our bar members donate in excess of a thousand hours each year to DCAP, have worked tirelessly to make our Adoption Day program a huge success, and work with Legal Aid of Northwest Texas to provide pro bono legal services to the poor. Our young lawyers have created the Kinship Fair, an incredible annual event that partners lawyers with CPS and CASA each fall to benefit families that are relative placements for children

removed from their homes by CPS. They also mentor pre-law students at UNT. Individual members serve segments of our community in many ways, including through their party activities, their church activities, participation in fundraising for Special Olympics and United Way, walking in the Susan G. Komen Three Day, and serving as directors for facilities such as the Child Advocacy Center, which provides a safe haven for our abused children, the youngest victims in society. It is a shame that the Record Chronicle chose to print only a negative editorial about what the writer perceived to be the bad acts of a few without balancing the scales by calling attention to the dedication of the many.

The bar association wants to combat negative images of attorneys. As part of that effort, we have a public relations committee designed to work to promote positive activities by our members. I hope you will all join me and the Board of Directors as we continue to brainstorm ideas for improving our community's perception of its lawyers. I welcome any suggestions on how to ensure



Darcy Loveless, President

our good achievements receive the recognition they deserve. I also challenge each of you to go forward, and in the next thirty days, ensure that at least one non-attorney in our community is told about a good, kind, decent act performed by a lawyer you know. If all 800 lawyers who receive this newsletter do that on a regular basis, it will be a start toward shifting public opinion.

I have been honored to serve as your DCBA president. I appreciate the opportunity to hold this position, and I know that I am leaving the bar association in good hands as I pass the gavel to Don White next month.

DCBA Officers

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Hugh Coleman
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Gina Hill, Theodore D. Ogilvie,
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Ryan, Joe Zellmer*

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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>

DCBA 2010-11 Membership Application

Required Information (for directory, membership, and website use)

Name: _____ Texas Bar Number: _____

Business Phone: _____ Facsimile: _____

Firm/Company: _____

Business Address (including City & Zip Code): _____

Email/Web Address: _____

Texas Board Certifications (TBLS): _____

Law School/Graduation Date: _____

If you are younger than 36.99 years old OR have practiced in Texas for less than 5 years, please check here: _____

How would you like to receive the Bar Newsletter? Please circle one: mail only email only mail and email

Primary Areas of Practice* (list two): _____

**Having two areas of practice listed in the web directory is included in the fee for bar membership. If you would like three to five areas of practice listed, there is an additional \$75.00 posting fee. Choose from the following:*

<i>Family Law</i>	<i>Worker Compensation</i>	<i>Entertainment</i>	<i>Collaborative Law</i>	<i>Appellate Corporate</i>
<i>Criminal Law</i>	<i>Immigration</i>	<i>Eminent Domain</i>	<i>Government</i>	<i>Property Tax</i>
<i>Personal Injury</i>	<i>Juvenile</i>	<i>Oil, Gas and</i>	<i>Municipal</i>	<i>Estate Planning/Wills/</i>
<i>Civil Law</i>	<i>Real Estate/</i>	<i>Mineral Law</i>	<i>Medical Malpractice</i>	<i>Trusts/Probate/</i>
<i>Education</i>	<i>Commercial Real Estate</i>	<i>Social Security</i>	<i>Business/Small Business</i>	<i>Guardianship</i>
<i>Employment</i>	<i>Corporate Finance</i>	<i>Elder Law</i>	<i>Mediation/Arbitration</i>	<i>Bankruptcy</i>
<i>Tax</i>	<i>Intellectual Property</i>	<i>Securities Law</i>	<i>Fiduciary Litigation</i>	<i>Copyright & Trademark</i>

Optional Information

Home Address: _____

Home Phone: _____ Birthdate: _____

Spouse's Name: _____ Number of Attorneys in Firm: _____

Date Licensed in Texas: _____

Other State Bar Admissions/Dates/License Numbers: _____

Do you speak a foreign language? _____ If yes, what language? _____

If you would like to post your photograph on the DCBA website, email your photo to Michelle Houston at mhouston@dentonbar.com. The website will be updated periodically throughout the membership year.

Application Certification

I, the undersigned, do hereby make application to the Denton County Bar Association for membership and, in making such application, I certify that I am validly licensed to practice law or am a law student of an accredited law school, that I promise to uphold and support the Bylaws of the association and the Texas Disciplinary Rules of Professional Conduct in all respects and to the best of my personal and professional ability, and that all information provided by me in this application is true and correct.

Signature of Applicant: _____ Date: _____

Application Submission

Please mail this application along with a check made payable to **Denton County Bar Association** in the amount of **\$195.00** or **\$150.00** (licensed in Texas less than two years) to DCBA at 512 W. Hickory, Suite 202, Denton, TX 76201. Please do not include Collaborative Law, Family Law, or Real Estate, Probate, and Trust Law Section dues with your DCBA payment. The DCBA membership year runs from May to May and our dues are not pro-rated.

If you have any questions about the DCBA, please call the Denton County Bar Association at 940-320-1500; Don R. White, Jr., President at 940-387-3518 or dwhite@hbwvlaw.com; or visit our website at www.dentonbar.com/membership.shtml.

Monthly Meetings

Collaborative Professionals

DCCP will meet at **12:00 PM** on Tuesday, **April 6** at Oakmont Country Club located at 1901 Oakmont Dr. in Corinth.

Family Law

Family Law will meet at **5:30 PM** on Monday, **April 26** at Giuseppe's located at 821 N. Locust St. in Denton.

GDCYLA

GDCYLA will meet at **11:45 AM** on Thursday, **April 1** at Roosters located at 113 Industrial in Denton.

GDCYLA will meet for happy hour at **7:00 PM** on Thursday, **April 8** at II Charlies located at 809 Sunset in Denton.

Paralegals

DCCA will meet at **12:00 PM** on Thursday, **April 22** at Oakmont Country Club located in Corinth.

REPTL

REPTL will meet at **12:00 PM** on Wednesday, **April 21** at Oakmont Country Club located at 1901 Oakmont Dr. in Corinth.

DCBA Interdisciplinary Social Study Training

What:

Training on what every attorney should know about mental health professionals (MHP) conducting evaluations, and what every MHP should know regarding professional requirements and legal expectations for evaluations.

Where:

Oakmont Country Club
1901 Oakmont Dr. in Corinth

When:

Friday, June 4, 2010
8:30 AM–4:00 PM

Registration:

To register and for more information, please visit the bar website at www.dentonbar.com. 6 hours of CLE for LPCs, LMFTs and Social Workers and 6 hours of MCLE for attorneys.

Advanced Family Law Mediation Training: Register Now

Where:

Wildwood Inn
2602 Lillian Miller
Denton, Texas 76210

When:

April 7–9, 2010

CLE:

24 hrs CLE/2 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. The fee includes CLE, three days of continental breakfast and lunches provided on site by the Wildwood Inn's four star restaurant. To register (seats are limited), contact Jkerestine@hbvwlaw.com, checks and credit cards are accepted.

Course Trainers:

Coye Conner and Julia Kerestine

Attorney Ad Litem Training for Child Abuse & Neglect Cases

What:

Training for attorney ad litem Speakers to include a panel of youth who have aged out of foster care. Luncheon Speaker will be Justice Harriet O'Neill on Permanent Judicial Commission for Children, Youth and Families (PJCCYF)

When:

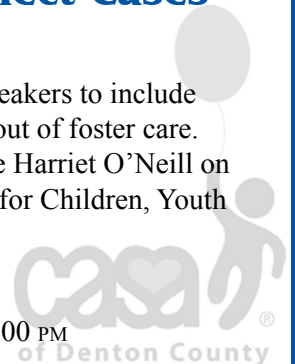
Friday, April 9, 2010, 9:00 AM–4:00 PM

Where:

Oakmont Country Club, 1901 Oakmont Dr. in Corinth

Registration:

To register and for more information, please contact Brenda Sweeten at bsweeten@casadenton.org or call 940-243-2272, ext. 104. CLE and CEUs will be available.



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, Texas 75076

Registration:

Helloooo! Have you registered for the Bench Bar yet? Well, you need to get on it because it is going to be the best ever!! This year we are doing a RETREAT! We will be spending the weekend at the gorgeous Tanglewood Resort. It is fancy fancy! The CLE that we are planning are fun and informative! And what would a DCBA function be without top notch entertainment? We will host a poker tournament (no buy in—just prizes for the winners), a luau on a nearby island, and sailing, to name just a few! The theme is Gilligan's Island, so don't miss the boat!

Name: _____

Address: _____

Phone Number: _____

Email Address: _____

_____ \$495 Current DCBA Member Rate

_____ \$445 Current DCBA Member Room-Share or Participating Attorney Spouse Rate

_____ \$695 Non-DCBA Member Rate (price includes Denton County Bar Dues for 2010)

_____ \$75 Guest Rate: Includes room with registrant, meals for Friday lunch and dinner; Saturday breakfast, lunch and dinner; and Sunday breakfast

_____ \$345 Payment Remainder for early-bird registers (if you paid before January 31, 2010)

_____ Total*

*Payments are currently being accepted in cash or check form only.

Please mail this completed registration form and payment to: Michelle Houston, Denton County Bar Association, 512 W. Hickory, Suite 202, Denton, Texas 76201. To be a sponsor, please contact Kimberly Killebrew at 972-436-8000 or Michelle Houston at 940-320-1500.

DCBA Long Range Planning

Don R. White, Jr., Hayes, Berry, White & Vanzant, LLP

Last year the entire Board for the Denton County Bar Association met for several days to iron out a vision for the Bar and what it took to make that vision a reality. Julia Kerestine led the Board in a planning session that resulted in our new mission statement and a strong long-range plan. Darcy has done a wonderful job of not letting us lose focus as we have gone through the year. Many of the ideas that

were discussed in that meeting and identified as long-range goals have begun to come to fruition. The new format of the Denton County Bench/Bar Conference was one of the ideas that arose out of that conference. We have also been looking at various locations and offices throughout the City for a new home for the Bar. It will be my plan sometime during the first few months of my Presidency to revisit the thoughts we all developed

at that conference and see if the group has any new thoughts. One of the items that was discussed at length at our first conference that I would like to explore further was the perception that our Bar Association is lacking in political import. Lawyers, as a profession, have been the subject of scorn through the countless rallying cries that we need to eliminate frivolous lawsuits that are repeated

DCBA continued on page 6.

Around the County

Saturday, April 10
7 until 10pm

ART GALA 2010

Live Auction with Rafe Foreman at 8pm

Colleen Drew
Richard Nunez
Olavidian
Manuel Sarmiento
Jack Lee
Gloria & Richard Gatti
Susan Williams
James Johnson
Wanda Grice
Mary Ellen Wehrli
David Terry
Linda Pomeroy
Julie Redmond
Bekah Jewel
Debbie Simms
CaroLynn Lord
Kiki Curry
Gene Colley
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DCBA continued from page 5.

over and over by officials running for elected office. Despite all the pro bono and volunteer work lawyers do, it is difficult to overcome such perceptions that are planted in the community every election cycle. Our bar association is not the only group with this concern; this was even a hot topic at the Bipartisan Health Care Conference at the end of February. Our bar association bylaws prohibit the Bar from endorsement of any candidate and this is probably a good thing. However, there are still some things we can do to make our Association more politically relevant. The public at large probably has very little chance to converse with our legislators and judges. However, as lawyers, we see these elected officials often, and we see first hand the impact of their decisions. I have thought about having a public relations campaign sponsored by the bar where the public is encouraged to contact lawyers in their community and ask them about their thoughts on judicial and legislative candidates for office. The public would NOT be encouraged to contact any particular attorneys. Then we as lawyers would need to be willing to take those calls and give people our opinions. If any of you have any thoughts on this subject, or have other ideas you wish to share, please do not hesitate to send me an email: dwhite@hbwvllaw.com.

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DENTON COUNTY BAR MEMBERS HEADSHOT SPECIAL

Now through *April 30, 2010*, we are extending this offer to all Denton County Bar members!

Regular Price - \$175
DCBA SPECIAL - \$75

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That's all Folks!

Windle Probate/Guardianship/Ad Litem Notebooks Still Available

Cost:

\$50.00

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Only a few notebooks are left, first come, first serve. Please visit the DCBA office at 512 West Hickory Street, Suite 202, Denton, Texas 76201. Please make checks payable to DCBA.

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DCBA in 2009-10

April Bar Luncheon

Date:

Friday, April 9, Noon
Meal included
0.5 CLE included

Location:

Oakmont Country Club
1901 Oakmont Drive
Corinth, Texas 76210

Program:

*Permanent Judicial Commission
for Children, Youth and Families
(PJCCYF)*

Speaker:

Justice Harriet O'Neill

May Bar Luncheon

Date:

Friday, May 7, Noon
Meal included

Location:

Oakmont Country Club
1901 Oakmont Drive
Corinth, Texas 76210

Program:

Business Meeting

Announcing

Pending permits to be issued by the City of Denton, the Denton County Courthouse will be undergoing a remodel beginning in late March or early April. Phase one will begin with Mental Health and the Law Library and is anticipated to take ninety days to complete. In an effort to continue service the Mental Health clerks will be temporarily relocated to suite 2441. The Law Library will be closed for a large portion of the remodel, librarians will be available to assist with online searches in suite 2442, and there will be no access to the print media during this time.