



Denton County Lawyer

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Free Legal Clinic for Denton County Veterans

By Mike Gregory, Gregory Family Law, www.gregoryfamilylaw.com.

For those of you who might not have had the great honor of serving in the U.S. Marine Corps, *Semper Fidelis* is Latin for *Always Faithful*. Are we always faithful to those who have served in the military? According to the U.S. Department of Veterans Affairs (VA), there were approximately 107,000 veterans homeless each night last year and approximately twice that many experienced homelessness over the course of the year. Veterans, by some counts, account for 23% of all homeless people in America.

In 1781, President George Washington uttered words that are still true today: *The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive the Veterans of earlier wars*

were treated and appreciated by their nation.

The Denton County Bar Association, with the assistance of Legal Aid of NorthWest Texas, will hold a free legal advice clinic for Denton County Veterans on Saturday, November 6, 2010, from 9:00 AM to noon, in the Fellowship Building of First United Methodist Church of Denton at South Locust and East Sycamore Streets, two blocks south of the Old Courthouse Square.

Legal Aid of NorthWest Texas will screen veterans for financial eligibility, which for this event is 200% of the federal poverty guidelines. Our paralegal volunteers will screen the veterans to determine their legal needs and have them complete the applicable law specific form. Our volunteer lawyers will provide pro bono legal

advice.

Despite the best intentions and tireless efforts of veteran groups and social service providers, too many of our service members cannot find or afford the help they need and they deserve. For Texas Lawyers, our expertise in the law can be a lifeline. We know the difference a lawyer can make in the real life issues for families, for consumers, for tenants, and for those in need of social services with nowhere else to turn.

We need volunteer attorneys and paralegals to staff the veteran clinic. We already have sixteen attorneys and nine paralegals who have volunteered. We especially need help with legal advice on bankruptcy issues and tax issues. Please contact Joe Zellmer by phone at 940-383-2674, or by email at jfz@zellmerlaw.com.

Our veterans need us. We owe them a duty to be *Always Faithful* and grateful for their service. Let's show them we care as we join the statewide Texas Lawyers for Texas Veterans initiative to serve those who have served us so well.

Free Legal Advice Clinic for Denton County Veterans

Date:

Saturday, November 6, 2010 9:00 AM–12:00 PM

Location:

Fellowship Building of First Methodist Church
201 S. Locust St., Denton, TX 76201

Details:

Volunteer attorneys and paralegals to staff the veteran clinic are still needed. Please contact Joe Zellmer at 940-383-2674 or by email at jfz@zellmerlaw.com for more information.



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From the President

The Turn.....

How many times have you been representing a client and dealing with opposing counsel and the task seems impossible to complete. Then another attorney gets involved and the opposition becomes easier to deal with. Does this mean the new attorney has superior negotiation skills to you or has mastered the art of persuasion? Perhaps or perhaps not.

As many of you know my first career was in sales. I studied hours on the subject with regard to techniques of overcoming objections and closing the sale. Zig Ziglar was one of my favorite authors. He says "You can have everything in life you want if you will just help enough other people get what they want."

I am amazed at how frequently I reach back to the tools I learned in my prior career to assist in the resolution of some issue or lawsuit. One of those tools is called The Turn, or the turnover, and typically involves a "turnover man" or lady. The idea is very simple, if you aren't getting the job done, then perhaps it

has nothing to do with your skills or your knowledge, but everything to do with your personality. Not that your personality is bad, but it just conflicts with the other person. People tend to make judgments about others from the impressions they receive. Those perceptions about a person could be totally wrong, yet they are still there impeding progress or resolution. In a turnover situation, a new person is brought in to deal with the customer or the opposition. Sometimes just a change of face can help the parties reach their desired objectives.

We see this to a certain extent in mediation. There the new face is the mediator, a person with no prior experience with the parties and who is not an advocate for either side. I'm convinced that is one of the reasons mediation is so successful, that change of face, of personality and of perspective.

This same method can also work in a firm environment, where you have other attorneys that you can bring in on the file to assist you. Or if you are a solo practitioner, you could bring in co-counsel to assist on the case.

So next time you are in a situation



Don R. White, Jr., President

where it seems nothing you do helps, remember it is not personal. Your goal is to assist your client in getting what they want. So instead of giving up, consider bringing in a new personality.

October events include our luncheon on October 1, the UNT Tailgate party and game on October 9, as well as the GDCYLA Kinship Fair on October 16. I look forward to seeing you there.

Also watch out for the little ghouls and goblins on Halloween!

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DCBA Sections

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

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.

For more information see our website: www.dentonbar.com.

Upcoming Events & CLE

Monthly Meetings

Collaborative Professionals

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

Family Law

Family Law will meet at **12:00 PM** on Thursday, **October 21** at the Central Jury Room, 1450 E. McKinney St. in Denton.

GDCYLA

GDCYLA will meet at **11:45 AM** on Thursday, **October 7** at Buffalo Wild Wings, 1400 S. Loop 288 in Denton.

GDCYLA will meet for happy hour at **5:00 PM** on Thursday, **October 14** at The Abbey Inn, 101 W. Hickory St. in Denton.

Paralegals

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

REPTL

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



4th Annual Kure for Kat

5K Run/1 Mile Walk

Saturday, October 9, 2010
South Lakes Park, Denton, Texas

7:00 AM Registration, 8:15 AM 5K Starts, 8:30 AM 1 Mile Walk Starts

Katherine Dickens, daughter of Denton County ADA Michael Dickens, began having seizures at four months of age, and was diagnosed with Mitochondrial Disease (MD) just under a year later.



Supporting the Kure for Kat 5K Run/Walk not only supports MD research, but also increases awareness and provides support for children and adults affected by this disorder. Sponsorships from businesses and individuals are needed to ensure that UMDF continues research and services for those affected.

The male and female winners of the 5K will receive a free night at any Omni Hotel, and there will be a prize drawing for all participants. Please contact Maggie Dickens at 940-382-2434 or kureforkat@yahoo.com for more information. You may register online at www.umdff.org/kureforkat.

This Race will be Chip Timed!

Denton County Adoption Day

Date:

Friday, November 12
9:00 AM–12:00 PM

Location:

2nd Floor, Denton County Courts Building
1450 E. McKinney St, Denton, TX 76209

Details:

We are accepting donations and volunteers. If you are interested in participating, please contact Michelle Houston at 940-320-1500 or at mhouston@dentonbar.com. For more information, please visit us on facebook at www.facebook.com/dentoncountyadoptionday.



GDCYLA 5th Annual Kinship Fair

Date:

Saturday, October 16, 2010
11:00 AM–2:00 PM

Location:

Pioneer Circle
Texas Woman's University

Details:

Kinship Fair provides abused and/or neglected kids and their families with a fall festival-style atmosphere, with food, games, and goodies. If you are interested in volunteering your time or donating goods, services, or money to support the Kinship

Fair, please contact Andrew Passons, andrew@dentonfamilyattorneys.com or Mike Upshaw at mikeupshaw@gmail.com.



DCAP Shadow Sees the Light

By Michael Wolman, Mediation Student Shadow.

Hands-on alternative dispute resolution training typically comes with a very high premium and many organizations that offer opportunities for Alternative Dispute Resolution (ADR) and pre-law students to get real world experience typically do not facilitate a robust interaction between the student and the mediation itself. Denton County Alternative Dispute Resolution Program (DCAP), however, offers a very organic line of communication between student and staff without compromising the mediation. This creates a very unique educational environment. As a student, I felt lucky to have had an opportunity to shadow mediators at DCAP. My experience at DCAP has helped me shape a very positive view of the Denton County Bar Association (DCBA) and alternative dispute resolution in general.

The attorneys I shadowed truly seemed to enjoy their time at DCAP. They interacted with the friendly staff in a very casual and frank manner. While each attorney does not frequent the DCAP office on a daily basis everyone appeared very comfortable with each other. I believe the parties involved in mediations could sense this and were put at ease by the lack of tension or confusion between the mediating attorneys and the DCAP staff.

There is a need for experienced alternative dispute resolution in north Texas and the mediators at DCAP provide this to the community. It appeared that the mediating attorneys clearly understood the good deed they were performing by empowering

members of the community in and around Denton to have a hand in the outcome of their dispute. Many of the parties involved in the mediations I shadowed were clearly intimidated by the cost and rigid administration of the court system and the cost of litigation was typically more than many could bear. The parties were often outwardly thankful to have an opportunity to work through DCAP in lieu of litigation.

I was also impressed by the conduct of the attorney mediators. Many of the mediations became emotionally draining or escalated. The mediators handled the tension with appropriate levels of sympathy and compassion while still remaining impartial. Allowing students to shadow and see the attorneys' level responses to conflict is a great benefit. I can only hope to have the same demeanor in any future mediations I

Allowing students to shadow and see the attorneys' level responses to conflict is a great benefit. I can only hope to have the same demeanor in any future mediations I conduct.

conduct.

Through personal experience and all other accounts, mediation shadowing through DCAP has been a very unique educational experience and provides countless real world examples of scenarios covered in the



Michael Wolman

classroom. In between interactions with the parties, I found the attorneys very candid about their insights into the mediation they are facilitating. They allow you to ask questions and ensure that your understanding of the mediation, parties and procedures is clear. This type of exposure is perhaps the richest of any educational curriculum I have encountered.

As a future mediator I felt incredibly fortunate to have been given the opportunity to shadow at DCAP. The attorneys and staff were great to work with. Their benefit to the community can be seen in the care and diligence they show to the parties involved in the mediation and to those shadowing.

Reset?

By Phillip Mack Furlow, Philip Mack Furlow, P.C., www.furlowlegal.com.

Sometimes our smart phones freeze up and are not so smart. When they do we have to go through a procedure to reset our phones. Whether by taking the battery out of your Blackberry or pressing a series of buttons on your iPhone, sometimes you just need to reset the device so it will work properly.

Sometimes I think we need to hit a reset button for us as well. Maybe it is because I am getting older. Or maybe it is because society demands that we be more litigious. But lately, it seems that the cases are harder, more demanding, more... well, litigious. I really enjoy dealing with my fellow members of the Denton Bar because it just seems like things get done with less fanfare and drama. With the increase stress in law practice I ask the question... "What did you do for your summer vacation? Did you come back refreshed? Reset, so you can deliver top notch services to your clients?"

Personally, I love to backpack the high country and canoe great rivers. This summer we went to the Weminuche Wilderness (WW) and backpacked over 30 miles mostly

above timberline. In the WW my iPhone does not work. There are no emails, no text messages, no place to plug in your laptop. In the WW it is you, your crew, and nature. I find after a few days in the WW that I can breathe better (even at 12,000 feet elevation). It may take a few days but my hearing and my senses are keener. Clearing my mind from all the details, the distractions, the constant bombardment of communications with clients, other lawyers, and the courts is really refreshing.

Many experts recommend that we take a two week vacation at least once a year. It is really hard to pull that off in law practice. And if we can pull that off, we want to stay connected. Going to a great location but staying connected can be fun but it is no vacation. Last year I took a vacation to Galveston and took my laptop. Billed over 20 hours while I was on vacation. Talked to lawyers and clients over the course of the week. I was not refreshed. The reset never occurred.

A group of five neuroscientists took a trip on the San Juan River in Utah this summer with the goal of



“understanding how heavy use of digital devices and other technology changes how we think and behave, and how a retreat into nature might reverse those effects.” (*Your Brain on Computers: Outdoors and Out of Reach, Studying the Brain*, by Matt Richtel, New York Times, August 15, 2010.)

The article echoes something I have thought for many years. Getting out where you are disconnected from technology and the inherent flurry of activity that goes with it is good for your mind, your soul, and your practice. Next time you take a little time off, try to really take time off and turn off the laptop and the smartphone. Disconnect and reset yourself.

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Tailgating & Mentoring Party

Saturday, October 9, 3:00–6:00 PM.
Located at the Mean Green Village.
Co-sponsored with the DCBA, a chance for area attorneys to sign up to mentor pre-law students. DCBA members who sign up to be mentors receive a free membership in the UNT Kid Zone for the 2010 season!

Make a Difference Day

Saturday, October 23, 8:00 AM–12:00 PM.
Go to www.unt.edu/volunteer for more details.

Moot Court Simulation

Tuesday, December 7, 12:30–8:00 PM
Silver Eagle Suite. Volunteers are still needed. Please contact Kimi King at 940-565-4984.

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Evaluating Evaluation Reports – Part Two

By John A. Zervopoulos, Ph.D., J.D., ABPP; www.psychologylawpartners.com.

Last month's column, the first in a three-part series, began with Ms. Jones, mom's lawyer, confused about a psychological evaluation report of her client in which the evaluator did not adequately support his surprising recommendations. Ms. Jones's misgivings about the report was summarized by a key concern: *How can lawyers critique evaluation reports?*

We offered Ms. Jones three questions to size-up the quality of evaluation reports. First, what is the purpose of the expert's report? Second, how should the report be organized? Finally, what components should the report include? To address the first question, our last column emphasized that Ms. Jones may begin to critique her client's evaluation report by gauging how well the evaluator used the examination's purpose, defined by specific referral questions from the court or the lawyers, to guide the evaluation's inquiry and to frame the opinions and recommendations. Evaluations unframed by specific referral questions may lead to evaluator "fishing expeditions" that improperly invade the examinee's privacy and lead to an investigation beyond the evaluation's intended scope. Such practices should raise evidentiary challenges of relevance.

How the report should be organized is the second question that Ms. Jones should address to size-up the report's quality. A well-organized report is characterized by how well it addresses the evaluation's

referral questions—a legal issue that invokes both relevance and reliability concerns. An expert, like an arithmetic student, is required "to show his work": what he did, and how he developed his opinions. This follows Texas psychology licensing board demands as well as admissibility requirements.

The Texas licensing act for psychologists charges psychologists to "include all information that provides the basis for their findings in any report in which they make findings or diagnoses about an individual." 22 Tex. Admin. Code §465.16 (c) (1). Legally, the court may find inadmissible the "unproven assertions" of even a credentialed expert. *Gammill v. Jack Williams Chevrolet, Inc.*, 972 S.W. 136, 146 (Tex. 1998).

Thus, the report's organization offers several windows through which Ms. Jones may gauge the professional quality and legal reliability of the expert's work. For example, a reliable report reflects the clarity of the expert's positions. *Kelly v. State*, 824 S.W.2d 568, 573 (Tex. Crim. App. 1992). Does the expert's writing provide a clear understanding of the problem addressed and the recommendations offered? Does the expert unduly rely on abstract concepts like self-esteem, attachment, or emotional trauma without explaining more concretely how those concepts apply to relevant concerns about the litigant?

The expert's report is also a window into the reliability of the

An expert, like an arithmetic student, is required "to show his work": what he did, and how he developed his opinions.

expert's evaluation methods. Did the evaluator use standard psychological tests to address the referral questions, or did he base his opinions on poorly-developed tests or on subjectively-interpreted drawings by the examinee? Did the evaluator use sufficient information from collateral sources and records to inform his opinion, or did he merely list competing "he said, she said" narrations of the litigants' complaints?

The expert's report is also a window into the reliability of the expert's reasoning from the data to the social science-based conclusions. For example, does the data sufficiently support the conclusion that Ms. Jones's client is depressed? Does the expert inappropriately rely solely on test scores to reach this conclusion as if those scores could be validly interpreted apart from the litigant's life concerns? If Ms. Jones's client is depressed, does the evaluation data support a conclusion that the examinee's parenting abilities are significantly compromised by her depression?

Finally, the expert's report is a window into the reliability of the expert's reasoning from the conclusions to the expert's opinions and recommendations. For instance,

From our Sponsors

although many depressed adults may be adequate parents, do the evaluation's social science-based conclusions sufficiently support a legal opinion that the court should modify the custody of the children of Ms. Jones's client? Bear in mind that while Texas's "best interest of the child" standard is undefined legally, evaluators may have their own notions about the standard's meaning, informed from years of counseling with troubled families, from strongly-held advocacy positions, or from personal biases. Make sure that you understand how the evaluator's "best interest" definition colors his opinions and recommendations.

Our next column will look at our third question to gauge the quality of forensic reports: What components should a competent forensic evaluation include?

John A. Zervopoulos, Ph.D., J.D., ABPP is a forensic psychologist and lawyer who directs PsychologyLaw Partners, a forensic consulting service. He can be contacted at 972-458-8007 or by email at jzerv@psychologylawpartners.com.

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DCBA in 2010-11

October Bar Luncheon

Date:

Friday, October 1, Noon
Meal included

Location:

Oakmont Country Club
1901 Oakmont Drive
Corinth, Texas 76210

Program:

Technology in the Courtroom

Speaker:

Rick Hagen

November Bar Luncheon

Date:

Friday, November 5, Noon
Meal included

Location:

Oakmont Country Club
1901 Oakmont Drive
Corinth, Texas 76210

Program:

TBA

Speaker:

TBA

Announcing

Congratulations to Brook Stuntebeck on the birth of her daughter Alexandria Brook on August 17, 2010.



To view last month's Business Meeting minutes, please visit www.dentonbar.com.