



GDCYLA and Family Law Section's First Evidence Workshop

By Cameron Cox, Sawko & Burroughs, P.C., www.dentonlawyers.com.

What happens when you combine 36 attorneys, 24 exhibits, 5 witnesses, 2 wigs, 2 district court judges, and 1 wild fact pattern? You get the first ever Greater Denton County Young Lawyers Association (GDCYLA) & Family Law Section Evidence Workshop hosted by the Honorable Judge McFarling on March 25th!

The Workshop was a great success thanks to Judges Bruce McFarling and Jonathan Bailey! They provided excellent feedback and candid discussions on many of the evidentiary issues currently being addressed by the courts, as well as common evidentiary mistakes made by attorneys. They really helped us answer the question: "How do I get this statement and document into evidence?"

While the answer may seem easy, this Workshop showed that it is often difficult and problematic to authenticate and admit documents into evidence.

The key issues presented were authenticating electronic media and electronic messages through various witnesses, as well as overcoming the ever-present hearsay rule in documents and exceptions to hearsay. The evidence included Facebook account statements and photos, statements made by opposing parties on Twitter, emails sent between parties and non-party witnesses, phone records, text messages, bank records, business records affidavits, prior inconsistent testimony given in a deposition, as well as police and arrest records.

In addition to the Judges, the

participants made this first annual workshop insightful and a great learning experience for all! We would like to thank all of those that took a few hours out of their Friday to participate. We hope you found the workshop both enjoyable and insightful.

The GDCYLA plans to make this the GDCYLA & Family Law Section's Evidence Workshop a bi-annual event. We would like to include other areas of law and more of our local judiciary in future events. Currently, we are planning on hosting another workshop sometime in September or October of 2011. Details will be provided as a more specific date and time are established. For any questions, interests, or ideas on this or future Workshops, please email Cameron Cox (ccox@dentonlawyer.com), Andrew Passons (andrew@dentonfamilyattorneys.com), Alyson Gregory Richter (arichter@taberestes.com), or Brook Stuntebeck (lbs@nakfamilylaw.com).

DCBA Kick Off Party

When:
June 3, 2011

Where:
WinStar Casino for
Fun! Fun! Fun!



Details:

We will have buses leaving from the Courthouse at noon where we will eat bagged lunches and conduct our CLE On Wheels. Complimentary Concert to see Darius Rucker (member's ticket is Free; Guest ticket is \$40). Two shifts of buses will take us back, the first at 8:30 PM and the second after the concert. Discounted DCBA room rates are available at \$179 for that Friday.

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From the President

Welcome to a new Bar year! As I take office as your new President this month, we will hit the ground running. We have many programs and fun activities coming up in the next year that will provide you with opportunities to get involved. This month we look forward to our 2nd annual Bench Bar Conference at the beautiful Tanglewood resort at Lake Texoma. This event promises to be a huge success. June 3rd is our annual Kick-Off party, and this year we will travel by bus to WinStar where we will enjoy golf, the casino, snacks and drinks, along with a concert by Darius Rucker! We will have many other social events throughout the year, including happy hours and our annual Christmas party.

In addition to our social activities, we have many opportunities to volunteer and get involved in worthwhile and beneficial programs. The Bar is instrumental in the Denton County ADR Program (DCAP). Many of you volunteer to mediate cases for DCAP on a regular basis, and thanks to you, DCAP mediates over 200

low income cases every year. Each November, the Bar collaborates with the Texas Department of Family and Protective services and CASA of Denton County to assist families in adopting children previously placed with the Department for Denton County Adoption Day. We also recently assisted our veteran's with our Texas Lawyers for Texas Veterans program. Our members volunteer regularly to accept cases through Legal Aid of Northwest Texas, as well as judge Moot Court competitions for the Pre-Law program at UNT and mentor their students.

This year I would like to propose a mentor-protégé program for our members to assist newly-licensed lawyers or lawyers making a significant change in their practice (such as beginning a new solo practice) to build relationships with more experienced lawyers. I believe that a program of this sort will foster more collegiality within the local Bar and the profession at large. I also believe that this program will work to highlight our professionalism to the public. In short, I believe it will make all of us better lawyers and better



Dena A. Reecer, President

able to serve our clients' best interests. It follows along with our Mission: "... to preserve high standards of integrity, honor and courtesy within the legal profession; promote positive relations among the judiciary, legal profession, and community; advance the professional interests and education of its members; and facilitate the effective administration of justice, while maintaining the historic collegiality of the association and its members." More details to follow soon....

I look forward to working with and serving you this upcoming year. Please visit our website, www.dentonbar.com, to get up to date information, review the programs and services offered by the Bar, and review all the benefits to membership. See you at Bench Bar II!

DCBA Officers

President, Don R. White, Jr.
Immediate Past President,
Darcy Loveless
President-Elect, Dena A. Reecer
Vice President, Duane L. Coker
Treasurer, Theodore D. Ogilvie
Secretary, Amie Peace
CLE Director, Patricia L. Ryan

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Patricia L. Ryan, John Rentz, Joe
Zellmer*

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Andrew M. Lloyd
Social Committee, Travis Biggs
CLE Committee, Patricia L. Ryan
Communications Committee,
*Amie Peace and
Andrew M. Lloyd*
Fee Dispute, John Rentz
Pro Bono, Cynthia Burkett
Membership, Joe Zellmer

Awards, Don R. White, Jr.
Planning Committee,
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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 **9:00 am** on Friday, **May 6**, at Duane Coker's Home, 931 Emerald Sound Blvd. in Oak Point for their Spring Retreat and social.

Family Law

Family Law will meet at **12:00 pm** on Thursday, **May 19**, in the Central Jury Room, 1450 E. McKinney St. in Denton.

Paralegals

DCPA will meet at **12:00 pm** on Thursday, **May 26**, at Oakmont Country Club, 1901 Oakmont Dr. in Corinth.

GDCYLA

GDCYLA will gather for their monthly:

- Meeting at **11:45 am** on Thursday, **May 5**, at Frilly's North, 1925 Denison St. in Denton.
- Happy Hour at **5:00 pm** on Thursday, **May 12**, at Roosters, 113 Industrial St. in Denton.

REPTL

REPTL will meet at **11:45 pm** on Wednesday, **May 18**, at Oakmont Country Club, 1901 Oakmont Dr. in Corinth.

My Dear Guests, We are the Denton County Bar Association, your host. Welcome to....



May 20-22, 2011
Tanglewood Resort
and Conference Center
Pottsboro, TX

\$495

Members

\$695

Non-members

pay online @ <http://services.dentonbar.com>

The Registration Fee for the Conference Attendee includes:

1. Accommodations at the beautiful Tanglewood Resort on Lake Texoma on Friday and Saturday nights for you and your spouse or guest
2. Friday lunch and dinner, Saturday breakfast, lunch and dinner, and Sunday breakfast for yourself
3. 7.5 hours CLE, including 2.5 hours of Ethics
4. Receptions and entertainment indicated on the conference schedule

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Please contact -

Kimberly P. Killebrew

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(940) 320-1500

Golf Scramble—Friday morning. If you are interested, contact Andrew Passons or Joe Zellmer.

Denton County Bar Association 2011-2012 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: _____

List All Other Degrees: _____

How would you like to receive the Bar Newsletter, please select one: mail only email only mail and email

If you are younger than 37 years OR have practiced in Texas for less than 5 years, please check here

Primary Areas of Practice* (select 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:

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

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 By-Laws of the Association and the Texas Disciplinary Rules of Professional Conduct in all respects and to the best of my personal and professional ability, 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, Criminal Law or Real Estate, Probate, and Trust Law section dues with your DCBA payment. The DCBA membership year runs from May to May.

If you have any questions about the DCBA, please call the Denton County Bar Association at 940-320-1500; Dena Reecer, President at 940-382-3168, dreecer@sheltonreecer.com or visit our website at www.dentonbar.com/membership.shtml.

2011 Kinship Fair Benefit Concert Raises Money for Kids and Families

By Andrew Passons, Lewis & Passons, P.C., www.dentonfamilyattorneys.com.

The 2011 Kinship Fair Benefit Concert was held on April 1st at Dan's Silverleaf in Denton. Brian "Beerman" Houser was great, as always, leading off the bill. Local band *Western Giants* followed with a strong set. GDCYLA's own Mike Upshaw and his band, *The Hope Trust*, followed with a fantastic performance, and the unique sounds of *RTB2*

closed out the performances. We were able to raise close to \$1,500.00 for the Kinship Fair, and we appreciate everyone who donated their time and money to this great event.

GDCYLA would like to thank all the bands for donating their time and talent to support this worthy cause. Big thanks go out to Dan Mojica and the staff at Dan's Silverleaf for

offering his fantastic venue for the concert! Don't forget that the 2011 Kinship Fair is scheduled for October 22, 2011 at TWU's Pioneer Circle. If you are interested in helping out with the Kinship Fair in any way, please contact Andrew Passons by email at andrew@dentonfamilyattorneys.com or Mike Upshaw by email at MUpsshaw@minorandjester.com.

Hone Your B(ad) S(cience) Detector

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

Assessing the reliability or quality of psychological testimony is often difficult. Questions raised of a psychological evaluation report illustrate the point: Did the evaluator's methodology adequately address the referral question? Did the evaluator properly interpret test results? Did the evaluator's language—traumatized, emotionally abused, demoralized—accurately describe the examinee's emotional state? Are the evaluator's opinions "based on information and techniques sufficient to provide appropriate substantiation for each finding?"

To help lawyers and judges address these questions adequately, Daubert/Robinson caselaw offers several scientific-

oriented "considerations" or factors. Nevertheless, the task remains difficult. The factors are "nonexhaustive"; others may apply, and not every one named may apply to a given opinion or its supporting materials. Further, research indicates that judges shy from the more complex factors (e.g., the known or potential error rate or whether the theory or technique has been or can be tested—falsifiability) and tend to rely more on the traditional general acceptance, peer review, and publication factors to assess the reliability or quality of psychological testimony and materials.

As a result, lawyers and judges may understandably focus on an evaluation's test results—viewed as "objective" scientific data—to

address the evaluation's reliability or quality. Continuing legal education sessions offering sophisticated test construction principles and scale-by-scale interpretation information to distinguish good from bad tests are quite popular. Nevertheless, lawyers still find themselves in unfamiliar territory when questioning experts on testing issues. After all, psychologists, not lawyers, were trained in test construction, administration, and interpretation. Further, social study evaluations—usually conducted by non-psychologists—do not generally include psychological testing, resulting in opinions that are mainly supported by clinical interviews of the examinees and by collateral contacts, methods vulnerable to examiner biases.

Around the County

Concerns about the abilities of judges and lawyers to test the evidentiary reliability of expert testimony through science's prism are not new. In his Daubert dissent, then-Chief Justice Rehnquist noted that he did not believe that judges' evidentiary gatekeeping responsibilities imposed on judges "either the obligation or the authority to become amateur scientists in order to perform that role." As an example, Rehnquist wrote that he was "at a loss to know what is meant when it is said that the scientific status of a theory depends on its 'falsifiability'...." The confusion that lawyers and judges often experience when planning and conducting Daubert/Robinson hearings attests to Rehnquist's concerns.

Nevertheless, Daubert-based rules for testing the legal reliability and admissibility of expert evidence are required in Texas and Federal courts. How, then, should lawyers and judges approach their assessments of the legal reliability and quality of mental health testimony? Must they become amateur scientists to manage such testimony competently?

Developing effective direct- or cross-examinations to test the legal reliability, admissibility, and

quality of expert testimony can be a significant challenge, depending on the complexity of the testimony and its underlying supporting materials. Retaining a consulting expert to assist with this task can be very helpful. Even so, lawyers and judges should adopt a mindset that challenges each assertion by an expert—in a report or in testimony—for the assertion's validity. To get to the heart of the reliability of expert testimony, demand of the expert—on direct- or cross-examination—answers to the following question: "How do you know what you say you know?" This question-by-question mindset strips the expert's testimony, layer by layer, and exposes the quality (good or poor) of the methods and reasoning that support the expert's testimony.

In a recent *Newsweek* column, science writer Sharon Begley lamented the teaching of "Bad Science—BS, if you will." Her column's title illustrated her concern: Wanted: BS Detectors: What science ed should really teach. Begley faulted teachers who cram children's heads with science facts and fail to teach simple statistical principles. She emphasized that science is a systematic approach to understanding

what counts as evidence rather than merely an accumulation of scientific facts. Begley asserted, as a result, that the most useful skill to teach is the habit of asking oneself and others, How do you know? Daubert and Robinson caselaw emphasize the same B(ad) S(cience)-detecting approach that requires experts to support their assertions: "Nothing in either Daubert or the Federal Rules of Evidence requires a district court to admit opinion evidence which is connected to existing data only by the ipse dixit (unproven assertion) of the expert." *General Electric Co. v. Joiner*, 522 U.S. 136, 146 (1997).

Hone your BS-detector by challenging each expert assertion with the question, "How do you know what you say you know?" It makes scientific sense and legal sense. And it will shed light on the quality of the methods and reasoning that support each of the expert's assertions.

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.



WILLS FOR HEROES

WHEN:
July 16, 2011

VOLUNTEERS NEEDED:

Volunteer DCBA attorneys will be drafting wills and other standard probate documents to assist our first responders. We still need volunteer attorneys, paralegals, and notaries to assist. Please contact Kristen Pannell at 972-464-4584 or at KPannell@efaprocessing.com if you are interested in volunteering.

From our Sponsors



STATE BAR OF TEXAS ANNUAL MEETING SAN ANTONIO 2011

WHEN:
June 23-24, 2011

WHERE:
Grand Hyatt, San Antonio & Henry
B. Gonzalez Convention Center

REGISTER:
For more information and to register, please visit the State
Bar website at www.texasbar.com/annualmeeting.

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DCBA in 2011-12

May Bar Luncheon

Date:

Friday, May 6, Noon
Meal included

Location:

Oakmont Country Club
1901 Oakmont Drive
Corinth, Texas 76210

Program:

*Business Meeting and
CLE on Medical Malpractice*

Speaker:

Colleen Dunbar

June Bar Luncheon

Date:

Friday, June 3, 11:30
Boxed lunches

Location:

Meet at the Courthouse to
get on the bus for our CLE
On Wheels during our trip to
WinStar.

Program:

TBA

Condolences

DCBA would like to express our condolences to Dominick Marsala and family, on the passing of his step-father, Bruce Vosper, on March 25, 2011.

DCBA would like to express our condolences to Camille Milner and family, on the passing of her grandfather, James Mann, on April 4, 2011.

DCBA would like to express our condolences to the Jackson family, on the passing of Barbara Jackson on April 11, 2011.

DCBA would like to express our condolences to Andrew Passons and family, on the passing of his Grandmother, Edith Passons, on April 11, 2011.