



TADC

e-Update

The Texas Association of Defense Counsel, Inc.



FROM THE PRESIDENT

Clayton E. Devin, Macdonald Devin, P.C., Dallas

During the past few weeks, TADC joined with the Texas chapters of the American Board of Trial Advocates and the Texas Trial Lawyers Association in submitting a joint statement in opposition to proposed changes in the American Bar Association's disciplinary rules, which would have allowed non-lawyer investors to own and manage law firms.

The ABA proposal was not well publicized, and the comment period was inadequate to address issues of such importance to the profession. This week, several sources within the ABA structure have advised that the proposed rule changes have effectively been withdrawn. There has been no official announcement from the ABA, and we do not expect one. For the time being, it appears that the ABA Commission has tabled its proposal.

While TADC's positions on issues affecting our profession and our clients are often at odds with those of TTLA and even TexABOTA, I think the organizations' joint efforts to address this threat to our practices evidences that we are more alike than different. Thanks to TTLA President Jeffrey Simon, TexABOTA President Guy Choate, and our own Mike Hendryx and David Chamberlain for their leadership.

The TADC 2016 Spring Meeting was recently held in Nashville, Tennessee. The program included presentations by Federal District Judge Xavier Rodriguez, Retired District Judge Robert

Dinsmoor and many talented trial lawyers. Thanks to Program Co-Chairs Chantel Crews, with Ainsa Hutson Hester & Crews LLP in El Paso, and Trey Sandoval, with Mehaffy Weber, PC in Houston for their hard work on behalf of the membership.

The TADC Summer Seminar is coming up July 6-10, 2016 at the Omni Plantation Resort on Amelia Island, Florida. Program Co-Chairs Arlene Matthews with Crenshaw, Dupree & Milam, L.L.P. in Lubbock and Slater Elza with The Underwood Law Firm, P.C. in Amarillo have put together a great cast of speakers including District Judge Les Hatch and Jacksonville, Florida Attorney and Florida Defense Lawyer Association officer Jill Bechtold. Amelia Island is a perfect family destination for the summer with activities for everyone. Come enjoy the beach and earn 8.25 hours of CLE! [**REGISTER TODAY!**](#)

The 2016 West Texas Seminar, held jointly with the New Mexico Defense Lawyers Association, will be at the Inn of the Mountain Gods in Ruidoso, New Mexico on July 29-30, 2016. This is a great opportunity to escape the summer heat and earn CLE for both Texas AND New Mexico. This is an affordable seminar designed with young lawyers in mind. Practitioners and Judges from Texas and New Mexico will deliver an outstanding program. [**REGISTER TODAY!**](#)

Your TADC Committees continue to meet monthly via teleconference to monitor and plan activities. If you know of potential legislative issues of concern, programming you would like to see, ideas on TADC publications and e-correspondence, or have membership development suggestions, please contact me or the TADC office.

Welcome to our new members who joined since the last E-update. You are what continues to make the TADC strong!

Jacob M. Borchers, Macdonald Devin, P.C., Dallas
Amanda Catlin, Macdonald Devin, P.C., Dallas
Stephen R. Darling, Hoblit Darling Ralls Hernandez & Hudlow, LLP, San Antonio
James R. Edwards, Brock Person Guerra Reyna, PC, San Antonio
Bryan C. Garcia, Garcia Law Group LLC, Albuquerque, NM
Michael Keller, Macdonald Devin, P.C., Dallas
Mark R. Lapidus, Lapidus Knudsen PC, Houston
Brandy R. Manning, Long-Weaver, Manning, Antus & Antus LLP, Midland
Douglas McLallen, Sr., Anderson, Lehrman, Barre & Maraist, LLP, Corpus Christi
Jon Andrew Norman, Brackett & Ellis, P.C., Fort Worth
Bradley Reeves, Coats Rose, PC, Houston
Cynthia A. Smith, Lotz & Associates, PC, San Antonio

Philip Tarpley, Norton Rose Fulbright US LLP, Houston
Sarah Vida, Macdonald Devin, P.C., Dallas
Jamie Richards Whitney, Richards Whitney, P.C., Austin

Thank you for your membership and participation. I hope to see you at our Summer Seminar or another event in the near future.

REGISTER TODAY

2016 TADC Summer Seminar

July 6-10, 2016

Omni Plantation Resort – Amelia Island Florida

*A program for the practicing trial lawyer
offering 8.25 hours CLE, with 1.5 hours ethics*

Topics Including:

- ~ The Law on Voir Dire*
 - ~ Appellate Issues for the Trial Lawyer*
 - ~ Maximizing the Effects of Written Discovery*
 - ~ A Defense Counsel's Guide to the Reptile Strategy*
- ...and much more!*

REGISTRATION [HERE](#) OR REGISTER ONLINE WWW.TADC.ORG

CALENDAR OF EVENTS

June 18, 2016

Dallas Young Lawyers Bootcamp with TADC as a co-host

George Allen, Sr. Courts Building - Dallas, Texas

July 6-10, 2016

TADC Summer Seminar

Omni Plantation - Amelia Island, Florida

Slater Elza and Arlene Matthews, Program Co-Chairs

[Registration Material](#) or register online at www.tadc.org

July 29-30, 2016

TADC/NMDLA West Texas Seminar

Inn of the Mountain Gods - Ruidoso, New Mexico

Bud Grossman, Program Chair

[Registration Material](#) or register online at www.tadc.org

August 5-6, 2016

Budget and Nominating Committee Meeting

Stephen F. Austin, Intercontinental - Austin, Texas

September 21-25, 2016

TADC Annual Meeting

Worthington Hotel - Fort Worth, Texas

George Haratsis & Brittani Rollen, Program Co-Chairs

Registration Material to be mailed in Mid-July

LEGAL NEWS - CASE UPDATES

Case Summaries Prepared by Monika Cooper, Shannon, Gracey, Ratliff and Miller, L.L.P., Fort Worth

[In Re Travelers Property Company of America, No. 05-15-01114-CV \(Tex. App. Dist. 5, 03/15/2016\)](#)

On a Petition for Mandamus, the Court of Appeals considered the denial of a Motion to Transfer Venue filed by Travelers Property Casualty Company of America, et al. The Court of Appeals vacated the trial court's Order denying Travelers' Motion to Transfer Venue and instructed the trial court to comply with the Court's opinion. Travelers' filed their Motion to Transfer Venue

based on the mandatory venue provision concerning inmate litigation. TEX. CIV. PRAC. & REM. CODE ANN. § 15.09. At the time of the Petitioner's filing, he was incarcerated in a facility operated by the Texas Department of Criminal Justice in Fannin County. The Court considered the burden of the Petitioner and the shifting of that burden to Travelers along with other necessary elements to determine the location of venue and the date the cause of action accrued. [READ THE OPINION HERE](#)

[In Re Stacey Bent, No. 14-1006 \(Tex. 04/01/2016\)](#)

On a Petition for Mandamus the Supreme Court of Texas again addressed what the courts should outline, if they rule in favor of a Motion for New Trial. The Relators sued USAA for various causes of action regarding their claims, including claims which were untimely paid concerning their home which was damaged by Hurricane Ike. After winning at the trial court level, the Relators were still unhappy and filed a Motion for New Trial, which the lower court granted. The Texas Constitution guarantees that the right to trial by jury "shall remain inviolate." TEX. CONST. art. I, § 15. Though a jury's finding should be inviolable, it does not mean that it cannot be over-turned by the trial court. However, the court's bases for ordering a new trial needs to satisfy the facial requirements set forth in *Columbia* and *United Scaffolding*. [READ THE OPINION HERE](#).

[Lira v. Greater Houston German Shepherd Dog Rescue, Inc., No. 14-0964 \(Tex. 04/01/2016\)](#)

In a per curiam opinion, the Texas Supreme Court found that "Monte Carlo" the Dog, was considered personal property and a private rescue organization could not use the city's ordinance to terminate the owners' rights. Monte Carlo escaped from his owners' yard and was picked up by animal control. Due to his great personality, animal control did not want to euthanize Monte, so he was tendered to the Greater Houston German Shepherd Dog Rescue. The Liras diligently searched for Monte Carlo and were told Monte Carlo had not been picked up or located. After Monte Carlo was given to the German Shepherd Rescue, the Liras learned of his whereabouts and requested that he be returned to them. The German Shepherd Rescue informed the Liras their ownership rights were terminated by the city of Houston's ordinance. As a result, the German Shepherd Rescue's refusal to surrender Monte Carlo, the Lira's filed suit. The Supreme Court agreed the trial court held correctly that Monte belonged to the Liras and reversed the judgment of the court of appeals. [READ THE OPINION HERE](#)

[Entergy Gulf States Louisiana, LLC v. United States Environmental Protection Agency, No. 15-30397 \(5th Cir. 03/17/2016\)](#)

In a reverse FOIA suit, the Sierra Club filed a Motion to Intervene pursuant to FED. R. CIV. PROC. 24(a)(2). The Sierra Club sent two FOIA requests to the EPA seeking information obtained from

Entergy Gulf States Louisiana. When Entergy provided the information to the EPA, they designated much of the response as confidential business information (“CBI”), which is subject to FOIA exemption 4. When confidential business information is requested thru a FOIA request the producing party (Entergy) must substantiate their CBI designation to the satisfaction of the governmental entity. Due to many months of negotiations and agreements between the EPA and Entergy, the production of the requested information was being continuously delayed. As a result of the continued agreements between Entergy and the EPA, the Sierra Club filed a Motion to Intervene in the suit. The 5th Circuit addresses the necessary elements the Intervenor must demonstrate to show it has an adverse interest to the parties in the suit. [READ THE OPINION HERE](#)

[Anderson v. Archer, No. 03-13-00790-CV \(Tex. App. Dist. 3rd 03/02/2016\)](#)

The Third District again confirms its prior holdings that there is no cause of action for tortious interference with one’s inheritance rights. The Archers, Cross-Appellants, attempt to argue Texas has recognized a common-law tort for interfering with inheritance. The Archer’s attempt to argue three reasons why there is a cause of action for interfering with inheritance. Their three arguments surround the Texas Supreme Court opinion in *Pope v. Garrett*, 147 Tex. 18, 211 S.W.2d 559 (Tex. 1948); the Tex. Estates Code § 54.001; and the theory that tortious-interference with inheritance is merely a subset of tortious interference with a contract, or prospective contract or business relationship. Read the opinion as to why their arguments fail. [READ THE OPINION HERE](#)

THANKS TO TADC CORE SPONSOR

