



The Mongoose Index

Issue 10
April 2012

Click on the **Orange** Issue # to see that *Mongoose*

Newsletter -

Insanity in the Courthouse: District Clerk Jason Murray Should Resign

Summary: Summarizes the problems facing Galveston County District Clerk Jason Murray and call on him to resign.

Galveston County Finally Has E-filing

Summary: E-filing of lawsuits and pleadings is finally working for the Galveston County Clerk and District Clerk.

Issue 11
May 2012

Newsletter -

Fees For Judicial Appointments Must Be In an Order and Reported: Harris County Court Scandal in 1990's Resulted in Supreme Court Order That is Largely Ignored

Summary: The fees for amicus attorneys, court appointed mediators, custody evaluations, etc. in private cases are not being reported keeping us from knowing who is getting a lot of money in the courts.

Campaign Finance Reports Are On-Line

Summary: Texas Tribune's web site shows who contributes how much for any Texas politician.

Wonder Who is Getting Appointed?

Summary: Summarizes how to find out how many appointments a particular attorney is receiving from each judge.

Courthouse Tales -

Woman Arrested for Threatening Judge Bonnie Hellums

Summary: After being denied financial support from her ex-husband, Julia Taylor sent threatening texts to Judge Hellums allegedly claiming to have hired a hit man.

Attorney Arrested Outside of Judge Hellums' Courtroom

Summary: Attorney Gregory Josefsberg was arrested on March 20, 2012 for "causing a ruckus" outside of the 247th District Court, however, Josefsberg and Christina Garza (spokeswoman for the sheriff's office) accounts of the incident are quite different.

Appeals Court Justice Barred From Brazoria County Cases

Summary: Judge Jim Sharp has been barred from Brazoria cases after allegations of him using his position to skirt the law for a friend's daughter who was arrested for shoplifting.

Issue 12

June 2012

Newsletter -

Event TODAY to Honor Our Hardworking Court Clerks

Summary: Event honoring Galveston County District and County Clerks.

Judge Hellums Must Change Her Policies

Summary: Judge Hellums acts are wrong and unfair when it comes to doing what is best and protecting children as well as her reasoning for dismissing cases because of missed entry dates.

Patricia Grady to Seek Election for Galveston County District Clerk

Summary: Patricia Grady is seeking the Republican nomination for Galveston County District Clerk.

Courthouse Tales -

308th Amicus of the Year Jared Woodfill Faces \$30 Million Lawsuit (Probably Frivolous Lawsuit Abuse Republicans Hate So Much)

Summary: Jared Woodfill, chairman of the Harris County Republican Party, is facing a collection lawsuit for nearly \$30 million from a New York law firm for a loan he defaulted on two years ago.

Lawyer Found Guilty for Exposing Himself on Airline Flight Also Groped Female Clerk and DA!

Summary: Leonard Julius Sawyerr pleads guilty to exposing himself to two females on a flight and will serve up to 90 days in prison and a \$5000 fine on each account.

Verdict for Widow of Cop Who Died During Three Way Sex

Summary: Georgia woman awarded \$3 million over her husband's heart attack, finding that his doctor should have warned the Atlanta cop against strenuous activity like the three-way sex he was having at the time he died.

Attorney Created Fake Law Firm and Stole \$9 Million (Allegedly)

Summary: An attorney, Anthony Chiofalo, who had been suspended, is accused of writing checks totaling \$9 million to a fictitious law firm to steal from the company where he worked.

Issue 13

August 2012

Newsletter -

Judge Hellums Must Change Her Policies or Leave Office

Summary: Judge Hellums should follow the law and her moral obligations, or there will be a campaign to remove her from office.

Galveston County District Clerk Nominees: Kinard v. Wilson

Summary: Jason Murray resigned as Galveston County District Clerk, and Doryn Glenn will not be seeking election. The two nominees are Democrat Latonia Wilson, former District Clerk, and Republican John Kinard, retired FBI agent.

How to Venue Shop in Galveston County Family Courts

Summary: Judge Radcliffe works two days a week as a judge in the 306th and the remaining time as an attorney. When Judge Radcliffe takes cases that are in the 306th, the case is automatically transferred, and this policy should change.

Useful Guide to Houston Area School Districts & Calendars

Summary: Link to Houston School Districts web sites and calendars.

Mini-History Lesson: The White Rose

Summary: Summary of The White Rose: a courageous group of students from Germany who opposed Hitler during WWII.

Issue 14

October 2012

Newsletter -

Alyssa Lemkuil is New Associate Judge

Summary: Alyssa Lemkuil is New Associate Judge for 308th District Court.

"Galveston County's Dirty Little Family Court Secrets"

Summary: Galveston County Judge Christopher Dupuy is accusing District Court Judge Jan Yarbrough and her part-time Associate Judge Suzanne Schwab Radcliffe of impropriety in a way that is itself totally improper and now Judge Dupuy has held Associate Judge Radcliffe in contempt.

My Letter to Galveston County Judges and County Commissioners

Summary: Outlines the problems with allowing a judge to practice as an attorney in the same court they work for.

Issue 14a

October 2012

Newsletter -

Judge Dupuy's Email That Is NOT True (except for the little part that is true about Judge Radcliffe should not be both judge and attorney in the same county).

Summary: This newsletter contains the email sent by Judge Dupuy about Judge Radcliffe.

Issue 15

November 6, 2012

Newsletter -

How to Make Sense of Election Night

Summary: Summarization on how to understand National polls and predictions, the Electoral College, Swing States, and what to expect from the election.

Ex Parte Communications Between a Judge and an Amicus Attorney are Unethical and Criminal

Summary: Explains the Texas Family Code and why it is illegal for a judge and an amicus to discuss cases privately.

Sidebar -

"F-bomb" Dropped in Courtroom After the Judge Had Left Yields 4 Months in Jail

Summary: Upset Pro Se litigant's civil case dismissed after he was late to court lands himself in jail for four months after cursing judge despite judge no longer being present.

Issue 16

November 12, 2012

Newsletter -

Examples of Judges "Protecting" Others

Summary: Summarizes two situations where judges were not protecting the right people for the right reasons.

Harris County Election Results

Summary: Summarizes the results for the Presidential election, the Houston Courts of Appeals, the 24th District Court, Sheriff, and County Attorney as well as discusses changing demographics and future elections.

Galveston County Shows How Not to Run an Election

Summary: Galveston County shows complete incompetence when it came to managing the Election Day voting centers.

Judge Dupuy, are you kidding me?

Summary: Judge Dupuy sends out nasty social media post about Obama's election win.

Sidebar -

Home Schooling and Child Support

Summary: Summarizes how long child support is paid and describes how home schooling is treated in Texas.

Issue 17

December 2012

Newsletter -

The Ideal Family Law Judge

Summary: Describes what an ideal family law judge should be like while appreciating what current judges are doing right to help families and children.

Thought-Provoking Article on Romance, Marriage, and "Hedonic Adaptation"

Summary: Provides link to article on how marriages change after only 24 months.

401(k) Retirement Accounts in Divorce

Summary: Article addressing the five most common questions to arise in divorces regarding 401(k) accounts.

Sidebar -

Proper Citation Form For Unpublished Court of Appeals Decisions

Summary: Explains how to properly cite unpublished civil decisions.

Issue 18

January 2013

Newsletter -

Judge Dupuy Should Be Removed From Office (and here's how to do it)

Summary: A lawsuit should be filed to removed Judge Dupuy from office so a meeting will be organized to have attorneys willing to be plaintiffs to meet and plan for a lawsuit to remove Judge Dupuy.

The Unbelievable Judge Dupuy Story

Summary: Outlines many of Judge Dupuy's misdeeds he has committed.

Shame, Shame, Shame

Summary: Though Judge Dupuy is mostly to blame for the mess he has made, there are many others that must take fault for letting this disaster reach this point.

Sidebar -

Revised 401(k) Paper

Summary: Download to revised 401(k) loans paper.

District Clerk Internet Access Working Again

Summary: Galveston County District Clerk's Odyssey system is working after being down since mid-December.

New Galveston County Court Listings

Summary: Download of new, updated Galveston County Court listings.

Anonymous Don Tequila Broke The Dupuy Story First

Summary: Mysterious Facebook account has been making fun of Judge Dupuy and sharing news about his misbehavior for over a year.

Judge Dupuy Stars on YouTube (Sometimes with Greg Enos)

Summary: Judge Dupuy's critics have made funny Youtube videos poking fun at him.

Issue 19

February 2013

Newsletter -

Judge Pratt Orders Silence

Summary: Judge Pratt issues a "Gag Order" applying to all cases involving children preventing attorneys from discussing cases with the media or with any person not associated with the case yet no one knows anything about this order or whether or not it is in effect.

Madness in Galveston County

Summary: Summarizes recent events in chronological order involving Judge Dupuy.

Mental Disorder in the Court - The Most Bizarre Court Hearing Ever!

Summary: Provides link to full story about Judge Dupuy and his recent bizarre hearing to hold attorney Lori Laird in contempt.

Sidebar -

Will the Notary Public Go The Way of the Dinosaurs?

Summary: Affidavits and verifications no longer need to be notarized if the proper form is used.

Candidates Begin to Announce for the 306th Family District Court

Summary: Assuming Judge Yarbrough doesn't seek re-election, a couple candidates have begun announcing candidacies like Attorney Anne Darring and Assistant District Attorney Jennifer Burnett.

Correction to My January 16 Newsletter Regarding Kathleen Collins

Summary: Provides an apology to Kathleen Collins if his story concerning Judge Dupuy caused people to think ill of her or upset her because of misunderstandings.

Associate Judge Radcliffe Resigns After Ethics Opinion Agrees with Me: It is Wrong to Be a Part-time Judge and Practice Law

Summary: Summarizes Judge Radcliffe's resignation and includes a link to the Ethics Opinion.

Issue 20

May 2013

Newsletter -

247th District Court (Judge Hellums) Now Requires Electronic Filing

Summary: Starting May 1st, all filings in the 247th District Court must be filed electronically.

Texas Supreme Court Clarifies Rule That A Property Owner Can Testify About The Value of His or Her Own Property

Summary: Texas Home Owners must now explain the basis of his or her opinion as to the value of their home.

Who is Running For What In Harris County?

Summary: Lists all of the known candidates running for family district courts in Harris County.

The Ultimate Property Division Spreadsheet

Summary: Downloadable Property Spreadsheet that shows both parties' values and proposed divisions and which provides space for the judge's ruling.

Closing Costs Should Usually Not Be Deducted From the Value of a Home

Summary: The value of a house should only be reduced by the costs of sale if there is evidence in the record of an imminent sale and evidence of the estimated costs of sale and not because of closing costs and realtor fees.

Student Loans Incurred Before Marriage Are Separate Debt

Summary: The obligation to pay the loans arose before marriage and should be treated as separate debt that cannot be assigned to their spouse.

Gifts to Family Members Are Not Always Constructive Fraud or Waste

Summary: Summarizes Marshall v. Marshall which involved a 2 ½ year marriage wherein the husband gave his daughter and grandson about 1/10 of his earnings which was ruled not constructive fraud denying his wife's claim for reimbursement for gifts.

Sidebar -

Judge Dupuy Should Soon Be A Disagreeable Memory

Summary: In May 2013 Judge Dupuy will receive the results of the criminal investigation regarding his behavior and will be served with a civil removal lawsuit resulting in his immediate, temporary suspension from office.

Clear Lake Attorneys: Please Support The CCISD Bond Issue

Summary: Contains link to information regarding important bond issue.

Interfaith Caring Ministries Golf Tournament

Summary: Support local Clear Lake charity, Interfaith Caring Ministries, by participating in ICM's 17th Annual Gold Tournament.

What Have the Courts of Appeals Done to Family Law Lately?

Summary: Identifies specific situations where the Court of Appeals has affected family law.

Issue 21

May 2013

Newsletter -

Not In My House! Judge Dupuy Indicted, and Arrested, Civil Removal Lawsuit Filed

Summary: Galveston County Court Judge Christopher Dupuy has been indicted for felony counts of official oppression, retaliation and abuse of official capacity arising out of his actions toward attorneys Lori Laird, Suzanne Radcliffe and me.

Important New Case on Waste in Divorce Cases is a Game Changer

Summary: A recent decision from the First Court of Appeals provides a new twist to claims of waste or constructive fraud; in this case, the spouse did not have to prove any specific improper transfers of community funds, she merely had to show his expenses were far less than his income, and then the husband became responsible to show otherwise.

The Texas Constitution Has Two Guarantees to the Right to a Jury Trial

Summary: Summarizes two provisions under the Texas Constitution which guarantee the right to trial by jury in district courts.

Sidebar -

Patricia Grady Announces For The 212th District Court

Summary: Judge Susan Criss is not seeking re-election, and Attorney Patricia Grady will seek the Republican nomination for the 212th District Court of Galveston.

Judge Pratt Ordered To Do Her Job

Summary: Judge Pratt ordered by The First Court of Appeals to issue a ruling on an enforcement case she heard in June 2012.

A Quote to Give a Judge Who Feels Resolving a Case Quickly Is More Important Than a Fair Trial

Summary: Includes a quote from the Supreme Court of Texas stating that convenience and economy must yield to a paramount concern for a fair and impartial trial.

7th Floor Problems? File For a Mandamus If a Judge Refuses to Sign an Order Or Set a Hearing

Summary: The Houston First Court of Appeals granted a writ of mandamus against a trial judge who refused to set a civil case for trial.

When Does An Inmate Have The Right To Participate In Trial?

Summary: Summarizes the factors that are considered when deciding if an inmate should be present in court or to participate in an alternative fashion.

Issue 22

May 2013

Newsletter -

Judge Dupuy Removed Without Pay

Summary: Galveston County Court Judge Christopher Dupuy has been suspended without pay by the Texas Unethical Judge Protection Commission. The article contains links to the Judicial Conduct Commission suspension order and the civil removal lawsuit.

Sidebar -

Trey Apffel Elected State Bar President!

Summary: Trey Apffel of League City won the runoff to be the State Bar of Texas President-Elect.

Judge Pratt Ordered To Do Her Job by the Fourteenth Court of Appeals

Summary: Contains link to opinion of The Fourteenth Court of Appeal directing Judge Pratt to do her job.

Issue 23

June 2013

Newsletter -

Judicial Candidates In Galveston County

Summary: Breaks down who will be running and not running in the Galveston County Courts.

The Crime of Witness Tampering

Summary: Summarizes what qualifies as witness tampering and the consequences of doing so as well as provides examples of cases where witness tampering has occurred.

Sidebar -

2013 Harris County Family Law Directory is Here!

Summary: Includes link to purchase the 2013 Harris County Family Law Directory.

Judge Pratt Is Hard at Work!

Summary: Judge Pratt has been issuing ruling after ruling on old cases and is even taking her work home with her.

Upcoming Campaign Events

Summary: Summarizes upcoming campaign events for candidates in Galveston and Harris County: Judge David Farr, Judge Anne Darring, Judge Charley Prine, and county Clerk Dwight Sullivan.

Issue 24

July 2013

Newsletter -

Latest in Dupuy Saga

Summary: Provides public information regarding recent cases and events relating to Dupuy.

Judge Kerri Foley

Summary: Judge Foley has been appointed to be the temporary judge of County Court No. 3 as a result of Christopher Dupuy's removal.

Galveston County Judicial Races

Summary: Gives the latest summary of who is running for contested judicial races in Galveston County in the 2014 Republican primary.

Judge Pratt Must Go!

Summary: Summarizes Judge Pratt's six basic problems as well as three recent cases to show why she should resign.

Over Guideline Child Support

Summary: Download to packet on "Over Guideline Child Support".

Sidebar -

Judge Pratt Faces a New Challenger

Summary: Attorney Anthony Magdaleno announces he is running against Judge Pratt for Republican nomination for the 311th Family District Court.

Family Law Appellate Decisions for May 2013

Summary: Provides links to summaries on recent appellate cases involving family law.

2013 Harris County Family Law Directory

Summary: Includes link to purchase the 2013 Harris County Family Law Directory.

Why isn't Subpoenae the Plural of Subpoena?

Summary: Subpoena, derives from the Latin word, sub peona, meaning "under penalty" or "under pain" and has been listed in the Oxford Dictionary from the late 15th century, and the plural form appears in English law as early as 1509.

Jesus and Divorce

Summary: Includes a link to Dr. David Instone-Brewer's sermon concerning Jesus and divorce.

Upcoming Campaign Events

Summary: Summarizes upcoming campaign events for candidates in Galveston and Harris County: Patricia Grady and Judy Warne

Goodbye Otto

Summary: A tribute to Toni's dog, Otto, who recently passed away.

Issue 25

August 2013

Newsletter -

Why I Cannot Discuss Former Judge Dy***

Summary: A gag order has been issued regarding Judge Dupuy's criminal cases. However, there is still public information which can be viewed not violating the gag order which is listed in this article.

Flowers v. Flowers: Judges Cannot Grant Relief Unless It Is Requested in Pleadings or Tried by Consent

Summary: Describes the Flowers v. Flowers case in which a gay father was treated unfairly, however, the 14th Court of Appeals helped to fix the issues; their opinion is linked in this article.

Brass Balls Award

Summary: Patsy Wicoff wins the first "Brass Balls Award" granted to an attorney who professionally and ethically stands up to judicial misbehavior.

Fees For Judicial Appointments Must Be In an Order and Reported

Summary: Fees are not being properly represented for those attorneys appointed in private cases.

Sidebar -

Subpoena a Child to Court?

Summary: Describes when and how to serve a child a subpoena.

Thomas Jefferson's Favorite Book

Summary: If you are interested in religion, philosophy, and history, you should read *The Swerve* by Stephen Greenblatt. There is also a link to a short summary of *On the Nature of Things* by Lucretius, Thomas Jefferson's favorite philosopher.

2013 Harris County Family Law Directory

Summary: Includes link to purchase the 2013 Harris County Family Law Directory.

New TRCP 91a Allows Quick Dismissal of Wacko Causes of Action That Have "No Basis in Law of Fact"

Summary: Describes new Rule 91a and when it can be used to dismiss a cause of action.

Any Judge in the Building Can Sign Your Order

Summary: If the judge of the court where your case is pending is not available, another judge in the courthouse can sign your order.

Upcoming Campaign Events

Summary: Summarizes upcoming campaign events for candidates in Galveston and Harris County: Judge Warne and Judge Sheri Dean.

Maximum Guideline Child Support Set to Increase September 1

Summary: The cap on maximum monthly net resources used to calculate guideline child support in Texas will rise to \$8,550 per month adjusting the maximum amount of child support per child to increase by about \$200-\$300.

Witnesses and Parties Should Be Respectfully Addressed in Court

Summary: Thanks to Mary Hamilton (whose case is described in this section), everyone has the right to be addressed respectfully in court by their title and last name.

A Poem for the Attorney Who Will Not Return Calls

Summary: Includes a poem sent to an attorney who was unresponsive who immediately returned my call after receiving said poem.

Issue 26

August 2013

Newsletter -

Potential Donors Avoid Pratt's August 29 Fundraiser

Summary: Judge Pratt sends out "By Invitation Only" invites to fundraiser dinner, but attendance is expected to be low.

Newman! I am not Really Picking on Bobby

Summary: Discusses thoughts on Bobby Newman as a skilled attorney but what should be expected of all attorneys.

Could The Democrats Possibly Win Harris County in 2014?

Summary: Speculations on what to expect of local elections based on what is happening in the surrounding area.

Judge Pratt Finally Rules

Summary: Summary of recent trial and ruling made by Judge Pratt showing more cases where she seems to be backdating her rulings.

Judges: Is Threatening Lawyers Who Support a Specific Candidate a Crime?

Summary: Explains how if threats concerning not appointing attorneys to any future cases are carried out, this could be a crime.

Fees For Judicial Appointments Part 2

Summary: Shows the reported fees in the courts of Judges Dean, Lombardino, and Moore.

Sidebar -

Another Mandamus Granted Against Judge Pratt

Summary: The First Court of Appeals has granted another mandamus against Judge Pratt for appointing Donna Detamore as a Discovery Master in a highly unusual custody case and ordered the parties to pay Detamore \$10,000 to get started.

2013 Advanced Family Law Seminar Was Way Too Fun!

Summary: I went to the 2013 Advanced Family Law Seminar and passed out *Mongoose* mugs, my latest newsletter, and handouts on legal topics.

Judge Charley Prine spells his first name "EY" and not "IE!"

Summary: Judge Prine stops by *Mongoose* booth for a photo and a signed mug. I also received an award for the Best CLE Article of the Year.

A.G. Abbott Once Believed In Lawsuits for Injuries

Summary: AG Greg Abbott once sued divorce lawyer, Roy W. Moore, because his oak tree fell on Abbott as he was jogging past and paralyzed him.

Everyone's Daughter Should Get Such A Sweet Deal If Arrested for Drug Possession

Summary: Galveston County District Clerk John Kinard's 28 year old daughter

Upcoming Campaign Events

Summary: Summarizes upcoming campaign events for candidates in Galveston and Harris County: Judge Sheri Dean and Julia Maldonado.

Issue 27

September 2013

Newsletter -

Former Judge Dupuy is in Jail

Summary: Dupuy is in jail after violating the Galveston County court's gag order and is still facing six other felony and misdemeanor charges.

Galveston County Ad Litem, Amicus Seminar Sept. 12-13

Summary: Details on the Ad Litem, Amicus Seminar happening September 12-13th.

A Fun Fundraiser for a Judge Who Invites Everyone

Summary: Judge Sheri Dean invites everyone to Wolfie's Restaurant and Sports Bar for free appetizers and to watch the Texans.

Sidebar -

Upcoming Campaign Events

Summary: Summarizes upcoming campaign events for candidates in Galveston and Harris County: Judge Sheri Dean and Julia Madonado

Issue 28

September 2013

Newsletter -

Dupuy Pleads Guilty and Resigns

Summary: Christopher Dupuy plead guilty to two class A misdemeanors, is serving 45 remaining days of a jail sentence for contempt of court, and has officially resigned from his bench.

Everything Judges and Attorneys Need to Know About Children Testifying in Court and Alternatives to a Child Appearing in Court

Summary: Download of paper on "Rules Involving Children's Testimony in Court."

The Republican Problem with Judge Pratt

Summary: Even Judge Pratt's own Republican Party are disgusted with her actions, and are ready to oppose her. This article talks about more of Pratt's misdeeds as well as how to do something about Pratt.

Sidebar -

New Court Coordinator for County Court No. 2

Summary: Jose Mejia is the new court coordinator for Judge Roberts.

Another Week, Another Appellate Court Order Telling Judge Pratt To Do Her Job and Another "Misdated" Order Signed by Judge Pratt

Summary: Summarizes more of Judge Pratt's recent backdating and the possibility of either incompetency or criminal action that is taking place.

2013 2014 School District Calendars

Summary: Contains a link to our website where all of the Houston area school districts' calendars can be found.

A Superior Alternative to the AG Child Support Tax Tables

Summary: Download of the Enos Child Support Chart, a condensed, more relevant version of the AG tax table, for 2013.

Upcoming Campaign Events

Summary: Summarizes upcoming campaign events for candidates in Galveston and Harris County: Denise Pratt, Anthony Magdaleno, Judge David Farr, Phil Placzek, and Jack Roady.

Issue 29

October 2013

Newsletter -

I Accuse Judge Pratt of Tampering With Government Records

Summary: Shows article from Houston Chronicle on allegations and criminal complaint made against Judge Pratt and the possible pending investigation.

An Example of Government Overreaching?

Summary: Shows a sign from Charleston, South Carolina concerning a new water park; it seems to be an example of the government not trusting the common sense of its own citizens.

Sidebar -

New Court Coordinator for CC3 Judge Foley

Summary: Mitzi Stoll is the new CC3 Coordinator.

How Far Can A Lawyer Go in Criticizing A Judge?

Summary: Explains when and how it is acceptable for a lawyer to speak negatively about a judge and provides examples cases.

Issue 30

November 2013

Newsletter -

HBA Judicial Poll Gives Pratt Lowest Ratings in History!

Summary: 2013 Houston Bar Association Judicial Evaluation Survey show that Pratt's ratings were the worst any judge has ever received in the history of the survey.

Pratt and Recusal Procedure

Summary: Discusses when Pratt is and is not recusing herself from cases as well as the standard procedure to recusing yourself.

Reconsidering the So-Called "Morality" Clause Injunction

Summary: Explains the morality clause injunction and when it should not be used.

Jabba the Hutt Clarifies Who Brought Down Judge Dupuy

Summary: Picture of Jabba the Hutt explaining that Greg Enos did not act alone in bringing down Dupuy.

Sidebar -

Courthouse Snakes in the Grass

Summary: Rattlesnakes spotted in grass at Galveston Justice Center.

The Perils of Publishing 'The Mongoose'

Summary: Publishing *The Mongoose* comes with its risks like Judge Dupuy possibly ordering deadly sea snake venom.

New Law Requires Goofy Federal Wage Withholding Order

Summary: The OMB form is now required for a Wage Withholding Order in Texas.

Upcoming Campaign Events

Summary: Summarizes upcoming campaign events for candidates in Galveston and Harris County: Chris Daniel and John Kinard, and Donny Quintanilla.

Issue 31

December 2013

Newsletter -

Harris County Family Court Races Set

Summary: Judge Farr, Warne, Moore, and Millard run unopposed while Judge Pratt faces four Republican opponents and Democrats are contesting three family court benches.

Galveston County Goes 100% Republican

Summary: Every judge in the county will be Republican after the election, resignation of Judge Criss, and the retirement of Judge Yarbrough.

Reconsidering the So-Called "Morality" Clause Injunction

Summary: Explains the morality clause injunction and when it should not be used and includes a link to Greg's full paper on the subject.

Sidebar -

Four Family Courts Will Soon Move to the Civil Courthouse

Summary: Construction on the 16th Floor of the Civil Courthouse is supposed to end April 22, 2014 and the courts of Judges Warne, York, Farr and Dean will move over in late May.

Harris County to Get a New CPS Court

Summary: The Legislature would not convert any of our civil courts into family courts so our lawmakers as a concession funded a CPS Associate Judge and Court Coordinator.

Who Will Be Appointed to Replace Judge Susan Criss?

Summary: Galveston County District Judge Susan Criss retired and resigned early after 15 years of service in order to run for the State Legislature.

Issue 32

December 2013

Newsletter -

Sherlock Holmes and the Case of the Curiously Dated Order

Summary: Greg discusses Judge Pratt with Sherlock Holmes and Dr. Watson in this short story.

Sidebar -

What Does Pratt's No Bill Mean To The Family Bar?

Summary: Explains some of Pratt's recent misdeeds, criminal complaints, and what can be done about Judge Pratt now.

Speculation on Why Judge Pratt Was Not Indicted

Summary: Considers several facts as to why Pratt wasn't indicted.

Judge Lisa Millard to Determine If U.S. Constitution Applies in Texas

Summary: Attorney Jared Woodfill fights health insurance benefits being given to same sex spouses in states that recognize gay marriage.

Federal Judge Costa Appointed to Fifth Circuit

Summary: Gregg Costa has been appointed by President Barack Obama to serve on the 5th Circuit Court of Appeals.

Issue 33

January 2014

Newsletter -

New Rules Will Change How We File and Serve Documents and Calculate Deadlines

Summary: Includes the recent changes made to the Texas Civil Procedure that will need to be followed when filing and serving documents and calculating deadlines.

Sidebar -

Pratt's "New Year's Eve Massacre" Dismisses Hundreds of Cases

Summary: Pratt dismisses 662 cases without any warning.

Issue 34

January 2014

Newsletter -

A District Clerk Problem Even Worse Than Judge Pratt?

Summary: Dozens of dismissal orders from Pratt have been imaged and connected to the wrong cases.

Basics of Presenting Evidence 101

Summary: Explains the proper procedure for presenting evidence and exhibits.

Counting Forward Instead of Backwards to Calculate Pre-Trial Deadlines That Fall on a Weekend or Holiday

Summary: Explains how to calculate a pre-trial deadline when it falls on holidays or weekends and gives case examples.

Sidebar -

Upcoming Campaign Events

Summary: Summarizes upcoming campaign events for candidates in Galveston and Harris County: Kim Sullivan

The Pratt List of Shame: Attorneys Who Donated to the Worst Judge in Harris County History

Summary: Lists all the people who contributed over \$1,000 to Pratt's campaign.

Issue 34 ½

January 2014

Newsletter -

Same as last issue but with corrections and links to recent articles on Pratt.

Sidebar -

SHARE YOUR E-FILING HORROR STORIES!

Summary: Next issue focuses on e-filing problems so send your stories to our office.

Issue 35

February 2014

Newsletter-

The Harris County Slate Endorsers Have Spoken, Now Will the GOP Sheep Obey?

Summary: Discusses Harris County Republican down-ballot primaries, big endorsers, and what to expect of the election.

E-filing Tips from the Judges

Summary: Several of Harris County Judges answer questions and give tips regarding how to handle E-filing and relating circumstances.

"Home Away From Home" The New Harris County Law Library Can E-file for Attorneys, Enlarge Exhibits, Make Copies and Print Emails

Summary: Harris Law Library provides many useful services to attorneys including but not limited to scanning, e-filing, printing, enlarging exhibits, and copying.

I Am Not A Nazi Lover or Jew Hater But I Really Do Love History and What We Can Learn From the Past

Summary: Explains the history of the WWII photo at the bottom of all of the Mongoose newsletters which pictures August Landmesser, a Nazi soldier who refused to give the Nazi salute.

Sidebar -

Meca Walker: (1) To Thine Own Self Be True, and (2) Return the Illegal Contributions You Should Have Never Accepted

Summary: Judge Walker accepted \$20,000 back in December that violated the Judicial Campaign Fairness Act and another \$45,000 in one day, \$20,000 of which also violates the act. Until it was pointed out that what she was doing was unlawful, Walker was not planning to return the money.

Katrina Griffith is the New CPS Associate Judge

Summary: Katrina Griffith is the new CPS Associate Judge in Harris County.

Jim Cooper is the New A.J. for Judge Roy Moore

Summary: Diane Guariglia returned to her private practice so Judge Moore selected Jim Cooper to be his new Associate Judge in the 245th District court.

Bret Griffin Appointed Judge of 212th District Court

Summary: Governor Rick Perry appoints Brett Griffin to replace Susan Criss as judge of the 212th District court in Galveston over Patricia Grady despite the support of other Galveston judges and our State Senator, Larry Taylor.

Issue 36

February 2014

Newsletter -

E-filing Tips Part 2

Summary: Provides more E-filing tips from the surround counties' clerks.

Dirty Business In a Democratic Judicial Primary

Summary: Maldonado filed a lawsuit to have Peake removed from the ballot claiming she didn't properly collect the signatures stating that the document was notarized despite the people who signed not being present.

Injury Settlements Are Usually Community Property in Texas Divorces

Summary: Provides a detailed article on personal injury settlements and recoveries and how they are treated in divorce.

Senator Ted Cruz Agrees With Me!

Summary: One of Ted Cruz's favorite movies is *Amazing Grace*, a drama about an effort to end the British slave trade.

Sidebar -

M.L. Walker Returns Illegal Contributions But Keeps The Shady Cash

Summary: Walker returns \$20,000 worth of illegal contributions but keeps the other \$25,000 from the same shady, wealthy contributors who have a case in Walker's court.

Anthony Magdaleno is Happy (Not Sad) and Coming On Strong!

Summary: Anthony Magdaleno would make a good judge, but unfortunately, he has not been endorsed by some of the larger, more influential, endorsers.

The Other Side of the Story

Summary: Provides the other side of the story over one of Pratt's dismissal cases leading to one of the parties' arrests.

306th Family District Court Race Gets Nasty

Summary: Schmitz makes last-minute attacks against Darring hoping to affect the election claiming that she, a Republican, is an Obamacare supporter.

Issue 37

March 2014

Newsletter -

Harris County Primary Results

Summary: Shares all of the Harris County Primary Results.

The Basics of Runoff Elections

Summary: Gives all of the need-to-know information on how runoff elections work.

Sidebar -

Galveston County Primary Results

Summary: Shares all of the Galveston County Primary Results.

Issue 38

March 2014

Newsletter -

Harris County Republican Convention Delegates Greeted By Anti-Pratt Protest (and "Honest Abe")

Summary: About 25 attorneys and families hurt by Pratt organized to protest her running for reelection.

April 29: The Ultimate Property Division Seminar

Summary: Tuesday, April 29, there will be a fun seminar on dividing property in a divorce.

Alicia Franklin Fundraiser Thursday!

Summary: If you want Pratt off the bench, come to Franklin's fundraiser at the Cadillac Bar.

2014 Galveston County Legal Directory Is Here!

Summary: 2014 Galveston Co. Directory is available to order.

Sidebar -

Schmude Plans "No Strings Attached, No \$ Donation" Meet The Candidate Luncheon

Summary: Schmude invites attorneys to come and meet with/get to know him and ask questions.

Meca Walker Gives Peek At Policy Changes for 247th Court

Summary: Walker is worried about Schmude winning the election so she shares what changes she plans to make if she were to win the election.

Issue 39

March 2014

Newsletter -

Judge Pratt Resigns!

Summary: Discusses Pratt's resignation and what we can expect now.

Proper Courtroom Behavior

Summary: Explains the proper courtroom behavior and what is expected.

Sidebar -

April 29 Candidate Forum, Straw Poll and Property Division Seminar

Summary: Provides information on Candidate Forum and Straw Poll for Republican candidates and information about Property seminar.

Enos Legal Directories Are Free On The Internet

Summary: 2014 Galveston County Legal Directory available on our website.

Dress Code For Female Attorneys?

Summary: Includes a link to an article on the appropriate attire for female lawyers in the court room.

John Schmude Lunch Today!

Summary: Schmude's meet and greet lunch with attorneys to get to know him for his runoff election in the 247th is happening today.

Good Bye Iris

Summary: Attorney Iris Robinson peacefully passed away at 82.

New Case on Authenticating Text Messages

Summary: A recent criminal case in Corpus Christi explains how to admit text messages into evidence. A link is included to the case.

Issue 40

April 2014

Newsletter -

Cleaning Up The 311th Mess

Summary: Pratt resigned and leaves her mess to be cleaned up by visiting retired judges Warne and Stansbury.

2014 Harris County Family Court Candidates

Summary: Gives a chart of the candidates running for family court benches in Harris.

Four Family Courts Are Moving to the Civil Courthouse at the End of May 2014

Summary: Courtrooms 246th, 257th, 309th, and 312th are moving to the 16th floor of the Civil Courthouse over Memorial Weekend.

National Medical Support Order

Summary: Large national employers are wanting "fill in the box" National Medical Support Orders rather than typed Qualified Medical Child Support Orders. A link to the form is included.

Sidebar -

Choose a Side and Live a Life!

Summary: Discusses attorneys commonly sitting on the fence when it's unclear who will win and gives a tribute to Raymond Fletcher who passed away.

Where Should Depositions Be Conducted?

Summary: Explains the different locations that is allowed for a client's oral deposition to be given.

Word the Geographic Restriction Properly "OR" Else

Summary: Use "or" rather than "and" when saying where a child must reside because a child cannot live in more than one county at once.

Documents Admitted As Shorthand Renditions Are Really "Pedagogical Summaries"

Summary: Includes a link to an article explaining how summaries are admitted as evidence.

Issue 41

May 2014

Newsletter -

The Good News is that Judge Judy Warne is Not Opposed for Reelection in 2014

Summary: Judge Warne runs unopposed for the 257th Court.

Sherlock Holmes Freed by December 2013 Federal Court Ruling

Summary: Characters from Sherlock Holmes are no longer protected by copyright law as of December 23, 2013.

Walker v. Schmude

Summary: Prediction that Schmude will win the primary run-off against his more experienced rival.

Race for the 212th Gets Ugly and Ridiculously Nasty

Summary: Race gets ugly between Grady and Griffin because of big money on both sides. Griffin spreads lies about Grady as well as attack mailers.

Sidebar -

Don't Mess With Bob Newey!

Summary: Includes emails from lawyers concerning keeping Judge Newey in response to the last newsletter calling for a completely new staff in the 311th.

Notices of Hearing Should Give Actual Notice of When and Where the Hearing Is and Unsigned Notices Do Not Cut It

Summary: Clarifies what a Notice of a Hearing should include and look like.

Judgment At Nuremburg

Summary: Compares the Nuremburg trials with Pratt and Hellums, who like a respected judge during Hitler's reign, acted unethically and immorally.

Issue 41a

May 2014

Newsletter -

Pratt is Back on the Campaign Trail

Summary: Pratt starts putting up campaign signs despite her resignation.

Judicial Candidate Calls Fake PAC Website "Lies, Lies and More Lies."

Summary: Schmitz or his supporters make fake websites claiming the PAC "Real Republican Moms for Good Judges" group endorsed Schmitz as well as Griffin which is entirely false.

Senator Taylor Calls Out the GOP Faithful to Stop the Infidel Trial Lawyers From Taking Over!

Summary: Senator Taylor sends out a letter to Galveston County Republicans asking them to vote for Grady and points out that Griffin has been lying and will or do whatever he has to to win the campaign.

Sidebar -

Politics is Just a Nasty Business

Summary: Jerry Patterson reveals Dan Patrick's 30 y.o. health problems, and Midland woman makes "Abortion Barbie" posters of Wendy Davis are just two examples of politics getting too nasty during elections.

Issue 42

May 2014

Newsletter -

Pratt is Finally Gone

Summary: Franklin has officially won the election and will hopefully soon be appointed by Governor Perry to begin working on cleaning up the mess that Pratt left behind.

Why Meca Walker Lost

Summary: Schmude beats more qualified AJ Walker in primary runoff.

Galveston County Analysis

Summary: Lianne Russell, a political consultant who worked for Schmitz, Griffin, Quintanilla and O'Brien, all who lost, will hopefully not be receiving much business in the future.

Sidebar -

Election Results

Summary: Shows the results of the Harris and Galveston County elections.

The Power of Moms and Social Media

Summary: Using Facebook, "Real Republican Moms for Judges" were able to reach almost 18,000 people, more people than voted in the Galveston primary runoff.

Issue 44

August 2014

Newsletter -

Splitting Custody of Siblings

Summary: Includes link to article on cases involving the splitting custody of siblings.

The Revenge of the Defrocked Judges: Pratt & Dupuy Accuse Me of Chicanery Most Foul

Summary: Both Dupuy and Pratt make allegations about Greg Enos in response to them losing their benches. Dupuy claims Enos has been romantically involved with Judge Yarbrough and Pratt sends around “anonymous” email bashing Enos, Judge Franklin, and reporter, Kiah Collier.

Unsolicited Advice for Judges' Spouses Who Practice Law

Summary: Provides some advice on how to handle cases that end up in your family member’s courtroom.

Good Bye and Hook 'Em Horns to Kenneth Kaye

Summary: Attorney Kenneth Kaye passed away at 71 after decades of battling Crohn’s Disease.

Interesting Book on Economics and the Decline of Marriage

Summary: Marriage Markets: How Inequality is Remaking the American Family by June Carbone and Naomi Cahn explores how macroeconomic forces and liberalization of divorce laws are changing the institution of marriage in the United States.

Sidebar -

Visit the Mongoose Booth at the Advanced Family Law Seminar!

Summary: There will be a booth for *The Mongoose* at the Advanced Family Law Seminar in San Antonio.

New Courtroom Chart for Lawyers

Summary: Link to chart of the Harris County Family Court judges and staff.

Possible Name Change for this Newsletter?

Summary: Link to article about strange gecko named “The Satanic Leaf Tailed Gecko.”

Judge Alicia Franklin Takes Charge and Is Getting Good Reviews

Summary: Judge Franklin seems to be doing well and has received positive reviews. She changed her coordinator and bailiff, but she has decided to keep AJ Bob Newey.

Meet the Democrats: Jim Evans Candidate for 308th District Court

Summary: Introduces Jim Evans, an attorney with more than 10 years experience, is running for the 308th Family District Court against James Lombardino.

Judges: Do Not Sext Bailiffs and Do Not Have Sex With Litigants in Your Chambers!

Summary: Story on Judge Wade McCree from Detroit who sent naked pictures to a bailiff as well as had an affair with a woman who had a case in his court.

Issue 47

August 2014

Newsletter -

Houston Chronicle Scoops The Mongoose on My Own Story!

Summary: CPS documents were available to the public despite containing very sensitive data, and *The Houston Chronicle* chose to publish the story despite my request that they wait until the matter was resolved as to protect the children within those CPS cases.

Are Pleadings Even Needed in Family Court?

Summary: Discusses the necessity of pleadings within family courts.

Sidebar -

Franklin & York: Hate the Facts, Not the Fact Finder

Summary: It has been brought to light that Franklin may have done some troubling things like billing 18 - 21.5 hours of work in one day, taking contributions from parties when serving as an amicus attorney, billing for CPS cases after being sworn in as judge, to name a few.

September 12 Judicial Candidate Forum

Summary: Bi-partisan group, Family Lawyers for Good Judges, is sponsoring a debate between all of the candidates for family courts in Harris County.

I Make It Really Easy For Polland to Give Me His Side of the Story

Summary: Includes a fax sent to Polland from myself giving him the option to put checkmarks next to the correct answer to question posed to him since he seems to be too busy to answer questions on his own.

The Crime of Interfering With Child Custody

Summary: Lists Sec. 25.03 which outlines the felony charges that may come about when interfering with court-ordered child custody.

Issue 48

September 2014

Newsletter -

Count One: Submitting CPS Pay Vouchers That Simply Cannot Be True

Summary: Franklin billed for 18.75 - 23.5 hours per day on several different cases for CPS cases paid for by the county alone. This does not include any work she may have done on private cases. Includes a link to a 19 page paper I wrote specifically about Franklin's invalidity of her CPS Pay Vouchers.

Count Two: Billing for CPS Work After She Became Judge

Summary: Franklin billed for work as an attorney on CPS cases after she had been sworn in which is illegal.

Count Three: Accepting A Campaign Contribution from a Party to a Case She Was The Amicus Attorney On

Summary: Franklin accepted a \$1,000.00 contribution from a party on a case that she was working as the amicus attorney and did not disclose this information to either side.

Sidebar -

Judicial Candidate Forum and Seminar

Summary: Bi-partisan group, Family Lawyers for Good Judges, is sponsoring a debate between all of the candidates for family courts in Harris County.

Count Four: Billing for Non-Lawyer Tasks Such as "Post Office Runs"

Summary: Franklin billed for odd things that apparently took absurd lengths of time like going to the post office, e-filing which is typically don't by clerical staff, printing documents, etc.

Count Five: Falsely Asking to be "Re-Elected"

Summary: Franklin's website says "Re-elect Alicia Franklin" which is untrue and unethical since she has never been elected, she was appointed.

Enos Schools County Auditor and Harangues County Judge Emmett

Summary: Outlines the problems that are allowing lawyers to steal tax payer dollars and the systems in Harris County allowing it.

Alicia Franklin Became a Judge on June 13, 2014, the Date of Her Secret Swearing In

Summary: Franklin and York were keeping Franklin's swear in date a secret which didn't make sense until I found that she had been billing for a period after she had already taken the bench.

Issue 49

September 2014

Newsletter -

Criminal Complaint Filed Against Judge Alicia Franklin

Summary: I have filed a criminal complaint against Franklin for continuing to work and bill as an attorney after she was sworn into office.

An Attorney Ad Litem is Not a Law Firm and Cannot Bill the County for Work Done By Others

Summary: It is illegal to bill the county for work that associate attorneys or non-lawyers have done when an attorney is appointed attorney ad litem.

The Alicia Franklin Billing Miracle 32.25 Hours Billed Plus 5 Court Appearances All In One Day!

Summary: Besides billing for more hours than there are in a day, Franklin has billed ridiculous amounts to her private amicus case. In one particular case, she billed a total of \$118,000.00 that never even went to trial and listed all of the fees as "communication" on the bills.

Sidebar -

Supreme Court Changes Rule on Business Record Affidavits

Summary: Business records "proved up" by affidavits are NOT filed with the clerk and must be served on the opposing counsel/pro se parties at least 14 days prior to the trial of the case.

A Law Firm Policy on Fairly Billing Clients

Summary: 10 simple rules that law firms should follow when it comes to fairly billing clients.

First Annual Mongoose Limerick Contest

Summary: Submit your Mongoose Limerick to possibly win a Mongoose T-shirt and coffee mug.

Issue 50

September 2014

Newsletter -

The Sickening CPS Billing Scandal Gets Even Worse

Summary: Franklin has billed Harris County for \$806,005 since 2010.

Pollard CPS Vouchers Reveal Amazing Billing

Summary: Pollard billed for four home visits totaling 19 hours on a single day.

Mainstream Media Plays Catchup to The Mongoose

Summary: *The Houston Chronicle* finally release a late story covering Franklin's alleged false billing.

"The Nail in the Coffin" for Attorneys Falsely Billing Harris County on CPS Cases

Summary: An Austin probate judge confirms that an appointed ad litem attorney cannot bill for work done by other attorneys except in unusual circumstances and only then after informing the court.

Is False Billing on CPS Cases a Crime?

Summary: False billing could cause a lawyer to be convicted and sentenced to prison, but it is hard to say whether or not there is enough evidence to convict Franklin of a crime.

A Useful Form To Close Out Files

Summary: Link to a form to help attorneys and paralegals keep track of orders that need to be drafted and entered.

Sidebar -

One More Time: The New Rule on Business Record Affidavits

Summary: Explains the new rule concerning business records, and it includes a form prepared in response to the amendment.

You (and Alicia Franklin) Should Have Been At The Family Judge Candidate Forum!

Summary: Shows the results of the polls from the candidate forum that took place.

The Defense Alicia Franklin Should Be Making

Summary: Describes what Franklin's spokesperson SHOULD have said rather than remaining low and quiet.

A Partial Defense of Judge Lynn Bradshaw-Hull

Summary: Provides a defense and explanation of domestic violence protective orders and why not everyone receives them.

Issue 51

October 2014

Newsletter -

Franklin Resorts to the "Everyone Is Doing It" Defense

Summary: Franklin's defense to billing more than 24 hours in a day is that she is billing for her associate attorneys which is inappropriate and unethical.

How Gary Polland Earns Million\$ on CPS Appointments

Summary: Polland bills for 30 hours in one day.

Who Gets to Use the Courthouse for Paid Mediations?

Summary: Poland used the Harris County Courthouse for a private mediation, and it is unclear on whether or not he paid to use these rooms.

Sidebar -

Advanced Family Law WiFi Class Action Lawsuit vs. Marriott?

Summary: The Marriott has to pay \$600,000 after being caught blocking consumer Wi-Fi networks and charging as much as \$1000 per device for access to the network.

Petitions to Enter QDRO's

Summary: Includes our firm's form for a "Petition to Enter QDRO" which is not provided by Pro Doc nor the Texas Family Law Practice Manual.

Judges and Commissioners Battle in Galveston County

Summary: Bonnie Quiroga, the County's Director of Justice Administration, was terminated without any notice and it is causing a huge fight to break out between Galveston County's judges and County Commissioner's Court.

Houston Press Investigates "Fathers for Equal Rights"

Summary: A strange suite in Houston that apparently offers access to family court attorneys charges an unadvertised membership fee of \$350 for a three-month membership.

Proof That the Houston Chronicle Leans Democratic?

Summary: The *Houston Chronicle* has made endorsements to five Democrats running for family law benches.

Proof that God (or Mother Nature) Leans Republican?

Summary: Susan Criss, who is running for State Representative, faced a rain storm as she headed into court to give assigned legal advice to a suspected fugitive murderer.

Issue 52

October 2014

Newsletter -

When Is It Too Late To Enforce Temporary Orders?

Summary: Outlines the different situations that may occur for temporary orders to either expire or be enforced.

A Business Owner May Testify as to the Company's Value as a Fact Witness

Summary: A business owner, including a shareholder of a closely held corporation, can testify as to the company's value and does not have to be designated as an expert witness.

The "No Shame, No Consequences" Power Trip

Summary: Doug York continues to take cases in the 311th despite his fiancée, Alicia Franklin sitting on the bench. The article includes an email exchange between York and Zimmerman on the issue.

Sidebar -

Supreme Court Justice Suspended Because of Porn Email Scandal

Summary: Link to an article on the suspension of a Pennsylvania Supreme Court Justice because of pornographic emails involving employees of the attorney general's office.

Voting Has Begun and Democrats in Harris County Have Hope!

Summary: Recent polls show a chance that Democrats may come out on top in Harris County.

Bar Poll: Good Thing Lawyers Don't Elect Judges?

Summary: Shows the results of the Houston Bar Association Judicial Preference Poll.

A Horrifying Book about American Capitalism and Slavery

Summary: *The Half Has Never Been Told: Slavery and the Making of American Capitalism* by Edward Baptist is an amazing book that explores in surprising new detail how slavery and capitalism developed in the United States.

Issue 53

October 2014

Newsletter -

Probate Judge Kim Sullivan Sues Commissioners

Summary: Judge Sullivan sues County Commissioners for reducing her pay by \$5,000 per year.

Mandamus Response Reveals Sordid Details

Summary: Describes the developing situation concerning the firing of Bonnie Quiroga as well as a possible "whistle blower" lawsuit that may be brought forth by Quiroga against Judge Henry.

Sidebar -

A Party Can Testify About the Value of Property, Part 2

Summary: Following up to the previous issue on an owner testifying to the value of their property, the business owner must be able to explain the basis for their opinion as to value.

Attorneys Cannot Bill Clients for Motions to Withdraw

Summary: Attorneys cannot bill for the time spent preparing a motion to withdraw from the client's case.

Issue 54

November 2014

Newsletter -

Harris County Family Court Races

Summary: Provides the unofficial, final election results from Harris County for the family courts.

Clients Are Confused Over "First Friday" Versus "First Weekend"

Summary: Explains how possession works for months when there are "5 weekends" because weekend visitation is based on Fridays.

Harris County Judges Have Been Convicted of Tampering With a Government Record

Summary: In 2000, two judges, Mark Fury and Betty Brock Bell were convicted for tampering with government records, submitting false pay records and applying for a disabled parking placard. Franklin and Polland may possibly face similar convictions.

Sidebar -

Denise Pratt's Protector Wins District Attorney Race

Summary: Devon Anderson has been elected District Attorney. This was an election to fill a vacancy and so the D.A. will be up for election again in 2016 for a full, four year term.

Civil and Criminal Courts

Summary: Republicans swept the civil and criminal judicial races in Harris County.

A Preliminary Analysis of Voting Trends

Summary: Shows how voting trends have changed since 2010.

Issue 55

November 2014

Newsletter -

Why Abbott Destroyed Davis

Summary: Lists a few possible explanations as to why Davis was destroyed by Abbott in the race for Governor.

Three New Associate Judges

Summary: John Schmude selected Paula Vlahakos, Chaley Prine selected Chelsie Ramos, and Sheri Dean selected Beverly Malazzo.

Sidebar -

The Two Lost Family Courts Will Be in the Civil Courthouse Soon!

Summary: Lombardino and Franklin's new courtrooms on the 8th floor of the Civil Courthouse will be complete by late December.

Billion Dollar Divorce

Summary: The wife of Oklahoma oil tycoon Harold Hamm was awarded almost a billion dollars in her divorce.

My Letter to the District Attorney About Gary Polland

Summary: Includes the letter sent to Devon Anderson concerning Gary Polland and the possibility of him committing the crime of tampering with a government record.

Galveston County Battle Gets Embarrassing

Summary: The County file a reply to Cox's order and include emails exchanged between Henry and Quiroga to show that she not only seemed to treat Henry like her boss, but she also was clearly not loyal to the judges defending her.

New Appellate Case on Intentional Under Employment

Summary: Provides a link to a case, *Reddick v. Reddick* concerning intentional underemployment to avoid paying child support.

Issue 56

December 2014

Newsletter -

Thank You Judge Yarbrough

Summary: We are saying "good bye" to many fine judges who are retiring or leaving the bench including Judge Yarbrough who is retiring after working as a judge for 20 years.

Illegal Electronic Evidence and Family Law Part 1: Attorney Beware!

Summary: This first article focuses on what attorneys should never do with illegally obtained evidence.

Sidebar -

Really Good News: Meca Walker to be Judge Franklin's A.J.

Summary: Judge Alicia Davis announced that she has selected Meca Walker to replace Bob Newey as A.J.

Good News: Most Heavy Drinkers Are Not Alcoholics!

Summary: 90% of heavy drinkers fall short of the criteria for alcoholism.

Should We Celebrate "Black Friday" in August?

Summary: Includes several links to articles concerning a study on Christian pastors being non-believers, Christ's birthday being December 25, and the theory that the Romans invented Christmas.

Book Review: The Secret History of Wonder Woman

Summary: Discusses the creation of Wonder Woman as well as the unconventional lifestyle of her creator, William Moulton Marston.

Issue 57

December 2014

Newsletter -

2015 Harris County Court Chart

Summary: Link to the updated and verified 2015 Harris County Court Chart.

Legal Articles Published in The Mongoose in 2014

Summary: Link to all of the articles on legal topics printed in *The Mongoose* in 2014.

2014 in Review As Told by Photographs and Art Work in The Mongoose - Part 1

Summary: Pictures showing many important events that took place in 2014.

Sidebar -

Part 2 - More 2014 in Review As Told by Photographs and Art Work in The Mongoose

Summary: Pictures showing many important events that took place in 2014.

Issue 58

January 2015

Newsletter -

A Special Thanks to Judges Kerri Foley and Jim Woltz

Summary: Kerri Foley was unfortunately beat because she was focused on fixing Former Judge Dupuy's court rather than working on her campaign , and Jim Woltz, who served Galveston for 29 years, will be retiring.

Nepotism in the Courtroom?

Summary: Link to my analysis on whether it is appropriate to take cases in your spouse's court.

More Galveston County Judicial Civil War Mayhem

Bonnie Quiroga, the former Director of Justice Administration, has sued Galveston County alleging she was a victim of age and sex discrimination and was retaliated against for being a whistle blower.

Je Suis Ahmed

Summary: The horrible massacre at the offices of the French magazine *Charlie Hebdo* killed cartoonists, writers, as well as police officers, including a Muslim officer named Ahmed Merabet.

Sidebar -

Interesting Appellate Cases Just Decided

Summary: Link to Petition for Mandamus Order Denying Mandamus concerning a case where a former client sued her attorneys.

Upcoming Mongoose Seminars

Summary: The "Ultimate Discovery Seminar: Answering and Responding to Discovery the Correct, Efficient and High-Tech Way" Seminar will take place on March 12, 2015.

What To Do When Illegal Electronic Evidence is Discovered

Summary: Walks you through the process of what to do when a spouse is caught with illegally obtained e-mails, text messages, or other electronic evidence.

Vacation Letter Time

Summary: In Harris, the deadline for non-summer months is February 1 and for summer months is May 15, and in Galveston, each court must be notified 30 days in advance.

Beware of the New Year: A Mistake in the Year Might Not Be Fixable

Summary: Make sure to put the correct year on orders, otherwise you may screw your client.

Issue 59

February 2015

Newsletter -

Has the CPS Appointment Battle for Ethics and Propriety Already Been Won?

Summary: It appears that appointments in CPS cases are now being spread out evenly with no one attorney with special political pull getting a lot more appointments than anyone else.

Gary Polland Hits the \$2 Million Mark In Payments from Harris County!

Summary: Includes a link to the entire list of attorneys that were paid over \$500,000 from 2010-2014 in Harris County.

"Do Nothing" Devon Anderson Still Protecting Her Republican Cronies

Summary: District Attorney Devon Anderson does not seem to be doing her job investigating criminal complaints despite the overwhelming evidence.

A Final Round of Lawyer Shake Downs (Judicial Fundraisers)

Summary: Judges cannot accept campaign contributions after March 4.

"Pants on Fire" Parties For Franklin and Prine?

Summary: Franklin and Print called their parties "retire the debt" events despite the fact that they owed no debts; in fact, Franklin had \$16,736 in the bank from her campaign and Prine had \$27,500.

Enough is Enough Already!

Summary: Prine, Franklin, Lombardino and Dean "suggest" a minimum donation of just \$1,000 in their invitations.

Sidebar -

Valuable Attorney General Contact Information

Summary: Includes a link to AG Kathy Vossler's office.

Interesting Appellate Cases Just Decided

Summary: Includes a link to a case, Hancock v. Hancock, that carefully lays out the law applicable to spousal maintenance and the evidence I presented to win this award.

Upcoming Mongoose Seminars

Summary: Information about The Mongoose's Ultimate Discovery Seminar: Answering and Responding to Discovery the Correct, Efficient and High-Tech Way.

Results of the Mongoose Judicial Ethics Survey

Summary: Results from the Mongoose ethics survey concerning attorneys taking cases in their spouses' courtroom.

A New Family Court for Harris County?

Summary: A bill has been introduced into the Texas Legislature that would create the new 507th Family District Court in Harris County.

Galveston County Judges Are Still Battling County Commissioners

Summary: The Court of Appeals refused to grant a writ of mandamus to make Judge Lonnie Cox rescind his sua sponte order that said Galveston County Commissioners could not fire or replace the Director of Justice Administration Bonnie Quiroga.

Issue 60

February 2015

Newsletter -

Ultimate Discovery Seminar: Answering and Responding to Discovery In a Correct, Efficient and High-Tech Way

Summary: Information about The Mongoose's Ultimate Discovery Seminar taking place next month.

Sidebar -

Hilarious But So True Video About The Folly of Electing Judges

Summary: Link to video by John Oliver about what a wacky idea it is to elect judges.

A Defense of Judge Kim Sullivan

Summary: Judge Sullivan is suing the county because commissioners eliminated an extra \$5,000 per year she was being paid to be Administrative Probate Judge.

A Very Useful Date Calculator

Summary: Link to a website that we use for most date calculations and another website for legal deadline calculations.

Issue 61

March 2015

Newsletter -

Dan Lemkuil and the 308th

Summary: Dan Lemkuil will no longer practice in the 308th as long as his wife is the Associate Judge in that court nor will he accept new cases already pending in the 308th.

It is Not Too Late to Buy Judge Franklin (a wedding gift)

Summary: There is still time to buy a wedding gift for Judge Alicia Franklin because she made all of her gift registries very public and known, something that many are considering very unprofessional.

Legal News -

DRO to Offer Parenting Coordination

Summary: The Domestic Relations Office is now offering Parenting Coordination. Included is a link to the DRO Order to access these services.

Mandamus Petition is the Solution When a Judge "Pulls a Pratt" and Will Not Rule

Summary: A petition for mandamus has been filed against one of our family judges providing good legal authority that a judge who takes months to rule after a trial has abused his discretion and should be ordered to make a decision.

Super Useful HBA Guide to Family Court Procedures

Summary: HBA Guide to the procedures and rules for each Harris county Family District Court which includes who requires mediation prior to temporary order hearings, etc.

Useful Form: An Agreement to Abate Discovery and Exchange Financial Documents

Summary: In cases where both parties are close to agreement without kids, you shouldn't have to waste time answering production requests. Instead, there is a form called "Agreement to Abate Discovery and Exchange Financial Documents" that is much more well suited.

Issue 62

April 2015

Newsletter -

Updates for the Harris County Family Law Directory

Summary: Link to fill out and submit your updated firm's information to be published in the public legal directory.

Wisdom From the Texas Code of Judicial Conduct

Summary: The Code of Judicial Conduct on integrity and impropriety.

Issue 62a

April 2015

Newsletter -

The Gary Pollard / Alicia Franklin Scandal is Now an Even Bigger Devon Anderson Scandal and Embarrassment

Summary: District Attorney Devon Anderson refuses to investigate or recuse herself, even though she has an enormous conflict of interest.

Greg Enos: Moral Coward?

Summary: I regrettably did not speak up for my opposing counsel as the judge treated her very rudely and unprofessionally.

Judge Franklin York Expects an Exhibit List

Summary: Judge Franklin York puts up sign warning attorneys that their exhibits must be pre-marked and that an exhibit list must be given to the court reporter and the judge or the hearing will be reset.

Judges: No Facebook Posts About Pending Cases!

Summary: Judge Slaughter posted on Facebook evidence and comments about a criminal case that she was presiding on.

Legal News -

A House Purchased in One Name Just Before Marriage Could Be Jointly Owned Separate Property

Summary: Full article on how a property purchased prior to marriage could still be considered jointly owned separate property.

Updated List of Four Hour Parenting Classes

Summary: List of four-hour parenting classes to help your client to comply with family courts' requirements.

Can Judges Ignore Inadmissible Evidence?

Summary: Link to an article that tested actual judges and concluded, "judges are generally unable to avoid being influenced by relevant but inadmissible evidence."

Issue 63

July 2015

Newsletter -

Are All Orders Signed by Former AJ Robert Newey Void Because He Took Office After the Mandatory Judicial Retirement Age of 75?

Summary: Lawyers are concerned that possibly hundreds of orders signed by former Associate Judge Robert Newey may be void and unenforceable because he had hit the mandatory retirement age for judges when Judge Denise Pratt first appointed him to be her Associate Judge.

Which Courts Require Mediation for Temporary Orders? A Handy Chart

Summary: Link to a Chart on Mediation Before Temporary Orders Hearing for Harris County.

Legislature Enacts Reform Laws to Clean Up Court Appointments

Summary: As of September 1, 2015, requires that judges use a rotation system to appoint attorneys and guardians ad litem and mediators.

New Family Court for Harris County Starts January 2016

Summary: Judge Farr and Lombardino worked to get the County to approve and the Legislature to create the new 507th District Court bringing the number of family district courts in Harris County to ten.

Former Judge Dupuy Jailed for On???]Line Impersonation, Demands MY Emails

Summary: Discusses Dupuy's past lawsuit and resignation as well as his recent motion requesting my emails with the person running the Don Tequila Facebook page.

The U.S. Supreme Court and Family Law

Summary: The U.S. Supreme Court recently ruled that the right to confront an accuser in criminal cases is not violated by allowing the hearsay testimony of a teacher about what a child said when she first disclosed abuse.

Issue 64

August 2015

Newsletter -

Attorneys Start to File Motions Arguing That All Orders Signed by Former AJ Robert Newey Are Void Because He Took Office After the Mandatory Judicial Retirement Age of 75

Summary: Discusses whether or not these orders could be void and what may or may not be done about it.

Judge Slaughter Fights for the Right of All Judges to Post Comments on Social Media About On-Going Trials

Summary: Judge Slaughter defends her actions and appeals the Commission ruling. She will be the subject of a two day trial in Austin concerning her actions and conduct.

Issue 65

November 2015

Newsletter -

Attorneys Seek Appointment to New 507th Family District Court

Summary: Several Republicans are seeking to be appointed judge of the new 507th Family District Court including Melanie Flowers, Angelina Gooden, Aneeta Jamal, Alyssa Lemkuil, Lan Nguyen, Chelsie Ramos, and Meca Walker. There are some Democrats interviewing, but the odds are low that Republican Governor Abbott would appoint them.

2015 HBA Judicial Evaluation Survey Results

Summary: Results to the HBA Judicial Evaluation survey find David Farr, Roy Moore, and Judy Warne on top and Lynn Bradshaw-Hull, James Lombardino, and Alicia Franklin-York on bottom.

Judge Slaughter Wins the Right for All Judges to Post About Pending Cases on Facebook

Summary: Judge Slaughter wins the right to publically post details of a pending case on Facebook despite the fact that jurors are instructed to not do precisely that. Article includes a link to the full opinion exonerating Slaughter.

Issue 66

December 2015

Newsletter -

Alyssa Lemkuil Appointed Judge of the New 507th District Court

Summary: Alyssa Lemkuil served as associate judge in the 308th court in Harris County and has now been appointed as Judge of 507th Judicial District Court. She will still need to win the Republican nomination to be elected March 1.

Issue 67

February 2016

Newsletter -

Meet the New Associate Judges

Summary: The new Associate Judges are as follows: Diana Guariglia in the 311th, Amy Perez for the 507th, and Michael D. Sydow Jr. for the 308th.

U.S. Supreme Court Information

Summary: Several links to articles and charts concerning Supreme Court Vacancy, nomination names for seats on the Supreme Court since 1791, possible "scandal" with Justice Scalia, and Justice Sandra Day O'Connor calling for President Obama to name Scalia's replacement.

How to Keep Guns Out of Your Law Office

Summary: Description of signs that can be made in an attempt to prevent people from bringing weapons into their business.

The Heart Broken Client in Divorce Cases

Summary: Explains how to treat and deal with heart broken clients in divorce cases.

Issue 68

May 2016

Newsletter -

Rick Ramos Fails in Bid for World Domination

Summary: Attorney Rick Ramos, husband of Associate Judge Chelsie Ramos, lost his bid to unseat Harris County Republican Party Chair Paul Simpson

Lombardino Divorce Shows the System Mostly Works

Summary: Judge Lombardino's son is getting divorced, and several judges have been professionally recusing themselves from the case until it was assigned to a judge from another county to avoid conflict. However, there were some odd issues that arose which are listed in the article.

Darrell Apffel Elected County Commissioner - Is An End in Sight to the Foolish Fight Between Judges and Commissioner's Court?

Summary: Darrell Apffel will be replacing Ryan Dennard as the Galveston County Commissioner on January 1, 2017 and will hopefully be bringing the feud between the commissioner's court and the county's judges to an end.

Who Knew? AJ Can Conduct Final Trial But Elected Judge Must Sign the Final Order

Summary: The elected judge is required to sign the final order even if it was agreed for the associate judge to

Should the Oath Given to Witnesses Include "So Help Me God?"

Summary: Discusses the controversy with using this phrase when taking an oath.

Issue 69

July 2016

Newsletter -

Democrats Select Julia Maldonado to Face Alyssa Lemkuil for 507th District Court

Summary: In a tight runoff election, Julia Maldonado was selected to be the Democratic Nominee.

2016 Election Analysis for Harris County

Summary: Summary of the last two general elections in Harris County and what to expect from this upcoming election.

Former Judge Dupuy is Out of Jail (For Now)

Summary: After 11 months behind bars, Dupuy has been released, and somehow he still has his law license. Links are included to two articles concerning Dupuy's release.

What is "Misogyny" and Why Should Family Law Attorneys Care?

Summary: Describes the typical traits of a misogynist and discusses why we should care.

The Meaning of "Reside" and "Residence" in Texas Family Law Cases

Summary: Article that helps to clarify the meaning of the word and how they may affect your client in a court order.

Issue 70

August 2016

Newsletter -

Changes in Galveston County

Summary: Includes link to the new, updated chart of Galveston County family courts and court personnel as well as some helpful reminders on how family law cases are currently being handled in Galveston County.

Star Spangled Controversy and History

Summary: Discusses the history and the making of "The Star-Spangled Banner", specifically the involvement of slaves in the war.

Associate Judge Catastrophe?

Summary: Several cases "finalized" years ago may now possibly be void because of their lack of the appointed judge's signature. Provides attorneys with suggestions as to what to do if they find old cases signed only by the associate judge.

Issue 72

January 2017

Newsletter -

New Harris County Family Court Chart

Summary: Includes link to the new, updated chart of Harris County family courts.

New Faces in the 507th

Summary: Julia Maldonado is sworn in as judge of the 507th District Court and appoints Jim Evans to be her new associate judge.

Judges Lemkuil and Perez Move On To New Challenges

Summary: Republican Judge Alyssa Lemkuil lost the election but plans to run for the 257th District Court in two years. In the mean time, she will be working as a mediator while her Associate Judge, Amy Perez, will be opening her own law office in Spring, Texas.

Issue 73

April 2017

Newsletter -

Judges & Money: The Races for 2018 - Part One

Summary: Fund-raising starts in May for the 2018 elections. Includes a link to the full article discussing Judges Prine, Warne, Franklin-York, and Farr and their plans for re-election or retirement.

Judge Julia Maldonado: Words Matter, Not Money

Summary: Article on Maldonado's largest contributors to her campaign as well as how her first couple of months in office has gone.

A Step Closer to the Truth about Lucrative Court Appointments - Part One

Summary: A small, selection of attorneys tend to make hundreds of thousands of dollars through court-appointed amicus attorney cases who, in many cases, seem to be big political contributors to the judges appointing them. Harris County is trying to make a small step in the right direction to attempt to fix this problem.

Expect Delays Getting to the 15th and 16th Floors

Summary: 3 of the 6 public elevators at the Harris County courthouse are out of service.

Automatic Child Support Increases Can Work

Summary: Most cases have automatic decreases in child support, but there are rare cases where the court approves an automatic future increase in child support which is discussed in this article.

Issue 74

June 2017

Newsletter -

Was a Jury Verdict in a Million Dollar Child Custody Tossed Out Because of Politics?

Summary: Discusses a case in Judge Franklin-York's court where politics seems to have had a large say in determining the outcome of a final trial because of fear of losing her bench.

Issue 75

June 2017

Newsletter -

The End of Straight Ticket Voting in Texas

Summary: Governor Abbott signed a bill that stops straight ticket voting in September 2020.

New Texas Public School Rankings

Summary: Includes a chart of the 2017 elementary school rankings that may prove to be useful in custody cases.

Judge Lonnie Cox Falsely Claims Victory After His "Yuge" Loss Before the Texas Supreme Court and Then Dismisses His Frivolous Lawsuit, Thus Wasting \$1.3 Million Tax Dollars

Summary: Judge Cox misleads the public claiming he won his case in the Supreme Court despite losing all of his arguments.

Issue 77

November 2017

Newsletter -

Judge Barbara Roberts Retires - Reflections on What Makes a Good Judge

Summary: Observes how Judge Roberts oversees cases brought to her court as well as mentions two Republicans who will be running against her in the next election, Kerri Foley and Donnie Quintanilla.

New Judge for the 280th - Angelina Gooden

Summary: Governor Abbott appointed Gooden who will be sworn in on December 1.

Democratic Lineup for Family Courts - Part 1

Summary: Shows pictures of the Democrats running for family benches in Harris County.

How Likely is a Democratic Sweep in 2018?

Summary: Discusses the fluctuation in votes necessary to lead to a Democratic sweep as well as considers how the election could be affected by the current national political environment.

Family Law Primer: Objecting to an Assigned Judge

Summary: The proper procedures and forms required to object to an assigned judge.

Issue 78

January 2018

Newsletter -

Did Judge Lonnie Cox Cross Ethical and Possibly Criminal Lines?

Summary: I have uncovered evidence of potential ethical and maybe criminal violations by Judge Cox thus I have filed a criminal complaint based on the facts discussed in this article. This article breaks down what I have found concerning Judge Cox and his attorney, Mark Stevens, relationship regarding cases involving both parties, cut costs for Cox, gifts that Cox has accepted, and possible campaign finance violations.

Issue 80

March 2018

Newsletter -

Judge Lisa Millard Should Resign

Summary: Judge Millard is so rarely present in her court room that a woman who has litigated for years assumed Associate Judge Conrad Moren to actually be Judge Lisa Millard. If Millard cannot be bothered to show up to her courtroom every day, she should resign so that cases can be properly and fairly handled.

Meet the Democrats: Tristan Longino

Summary: Tristan Longino, running against Roy Moore in the 245th court, has been an attorney for six years. Though he is a young attorney, he shouldn't be assumed to be a bad judge.

Will a Democratic Tsunami Hit Harris County?

Summary: Considers the President's current ratings, special elections, historical results of mid-term elections, Harris County demographics, and present emotions concerning politics, there is a very fair chance that Democrats will sweep the election.

The 507th is Rejecting Standard TRO's Straight Out of the Form Book

Summary: Maldonado and Evans are rejecting TRO's unless it includes this specific language.

Issue 81

March 2018

Newsletter -

Judge Millard Was At Work on Tuesday!

Summary: Millard shows up on Tuesday after the most recent newsletter was published. However, many attorneys showed similar concerns with Millard's lack of attendance and how it has negatively impacted their clients.

2018 Primary Results

Summary: Shows the recent results of the primary elections including but not limited to wins for Gooden, Graves-Harrington, Stalder, Foley, Henry, Oakes, and Dunson.

Issue 83

April 2018

Newsletter -

Dr. Martin Luther King

Summary: Inspiring recording of Dr. Martin Luther King about being a "drum major for justice." King encouraged his congregation to seek greatness, but to do so through service and love. King concluded the sermon by imagining his own funeral, downplaying his famous achievements and emphasizing his heart to do right.

Issue 84

May 2018

Newsletter -

Millard and the Mongoose Effect

Summary: After Millard somehow hears that I will be writing about a case that has been continuously reset for two years because of her, she decides to move the final trial forward three months during which both attorneys had vacation letters on file.

Changes to Harris County Security Passes

Summary: All FCV ID Cards will expire September 15, 2018, and you will not be able to bypass the metal detectors. Included are changes being made to the FCV Program as well as a link to their application.

New Attorney Portal for Galveston County District Clerk Website

Summary: Galveston County has finally updated their website allowing registered attorneys to see "sensitive data" documents if they are the attorney of record for that case.

Democrat Judicial Candidate Profiles: Clinton "Chip" Wells

Summary: Attorney Chip Wells is running for the 312th District Court against Judge Farr. Wells has been practicing family law for more than 40 years though he has only taken 33 family law cases during this time in Harris County. More background on Wells, along with his campaign website, is included in the article.

The Enos Law Firm Newsletter

Issue: No. 10

April 2012

The Enos Law Firm

17207 Feather Craft Lane, Webster, Texas 77598

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Greetings!

It is crazy at the Galveston County Justice Center -- weirder than I have ever seen in my 26 years of practicing law in Galveston County. I am asking my fellow attorneys to join me in calling for the resignation of our District Clerk Jason Murray (see story below).

I also include in this newsletter two trial briefs which divorce and child custody attorneys will find very useful and a guide to family law in Galveston County. My 2012 Galveston County Legal Directory is finished and being printed and is ready to be ordered. As usual, your referrals of family law cases in Galveston or Harris counties are truly appreciated.

Greg Enos

The Enos Law Firm

(281) 333-3030

[Check our new web site!](http://www.divorcereality.com)

Divorce and child custody cases in Galveston and Harris counties. Enos has 26+ years of legal experience and is board certified in Family Law by the Texas Board of Legal Specialization.

Insanity in the Courthouse

District Clerk Jason Murray Should Resign

Galveston County District Clerk Jason Murray should resign or be removed from office, for these reasons:

- Murray, who took office in January 2011, is almost never in his office and lets his deputies run the department. However, his two most experienced assistants are leaving - one quit and one was fired (she may be suing the county). [See news story.](#)
- Some folks at the courthouse are scared of Murray. Galveston county just recently started requiring elected officials to go through security screening. Harris County alerted its security to watch out for Murray in case he dressed as a law officer and tried to bring a gun into the courthouse. [See news story.](#)
- Murray plead guilty in December 2010 to a domestic violence charge for assaulting his wife, an attorney and was put on two years probation in Harris County. Murray's wife has filed for divorce. [See news story.](#)

Courthouse Tales

[Judge on Judge E-mail Exchange About Courthouse Security](#)

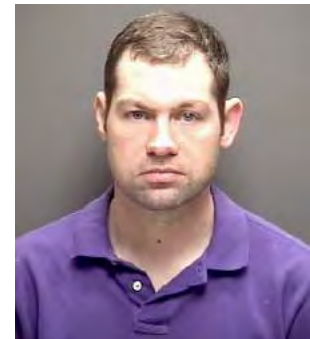
[Mystery Independent Prosecutor Hired](#)

Trial Briefs

[Family Court Judges Cannot Grant Relief Without Pleadings](#)

[Admitting Hearsay of Child to Therapist](#)

Guide to Family Law Practice in Galveston County



District Clerk's mug shot.

Attorney Greg Enos has

- Murray was arrested in March for a DWI in Galveston county after he hit a car, got a ticket from the police, drove off erratically and hit another car. He was taken to the hospital for a blood draw. [See news story.](#)
- Harris County prosecutors filed to revoke Murray's probation and had him arrested because of the DWI arrest and because he allegedly threatened to kill his wife. The judge placed him on bond and scheduled a bond revocation hearing, that could well result in jail time. [See news story.](#)
- The middle school where Murray's oldest child attends was briefly placed on "lock down" status and extra police called to secure the school as a result of threats Murray's wife claimed he reportedly made. [See news story.](#)

Murray is actually a likeable guy and has always seemed friendly and intelligent to me. However, he admits to taking prescribed Xanax, an anxiety drug, and Zoloft, an antidepressant, and clearly is suffering major mental health problems. Murray has a law degree but is not licensed and is a former Harris County deputy sheriff. You cannot help but feel sorry for him and his family, but his public duty must come first. Mr. Murray should resign or be removed from office.

Galveston County Finally Has E-filing

E-filing of lawsuits and pleadings is finally working for the Galveston County Clerk and District Clerk. To eFile in Galveston County, an attorney registers with one of Texas.gov's Electronic Filing Service Providers. There is one wrinkle to remember for e-filing for family law cases in Galveston county, since the three County Courts At Law hear family cases but use the District Clerk to handle those files. If the family case is in a county court, you have to select "District Courts" for jurisdiction to make sure it goes to the district clerk, otherwise the system tries to send it to the county clerk and it is rejected.

been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is the current President of Interfaith Caring Ministries.



Attorney Greg Enos



2012 Enos Legal Directory for Galveston County Ready!

The 17th annual [Enos Legal Directory for Galveston County](#), Clear Lake, Alvin, Pearland and Seabrook is being printed. You can download a free copy at my website or use our searchable database to find local attorneys. [Thanks to my amazing fiancée Toni Herbes for all of her work on the directory and my web sites!](#)



The Enos Law Firm Newsletter

Issue: No. 11

May 2012

The Enos Law Firm

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Please forward this e-mail newsletter to your lawyer friends!

Greetings!

Yes, it can get even weirder at the courthouse. A female Galveston County Constable has been sued by a former deputy for, among other things, forcing him to "motorboat between her breasts." [{click for news story}](#). Channel 2 News last night aired a video purportedly of the same Constable urinating in a public park. [{click to see the story if you dare}](#).

My best trial brief ever on "Admitting Evidence of Prior Acts in Modification Cases" is something I hope you take a look at. [{click to see my trial briefs}](#). This newest brief covers a topic that comes up in all modification cases but which has not been addressed in any article or seminar paper I could find. This newsletter will also summarize the prior month's appellate decisions in family law with links to the full opinions ([click to see appellate case summaries](#)).

This law firm newsletter was itself a front page story in the Galveston News and made Houston TV news [{see story}](#) and three days later Galveston County District Clerk Jason Murray announced his resignation [{see story}](#). The District Judges have selected Doryn Danner Glenn to be the interim District Clerk. [{click to see photo and story}](#). Doryn is a lawyer and has worked in the clerk's office under the current and prior administration. A special election without a primary will be held in November 2012 to fill the vacancy through 2014. Each party's executive committee will select a nominee.

Asking a troubled District Clerk to do the right thing is really not such a big deal, but confronting a few of our all-powerful Harris County family court judges over questionable behavior is something else entirely. We should all honor and respect the honest, hard working judges who are doing their best. However, it is time we as a group of professionals serving families and children actually stood up and did something about improper or questionable actions by judges.

For example, we have all been in one particularly court waiting our turn when we see the judge take away kids without pleadings or evidence simply because a parent did not attend a four hour class. We all looked at each other and whispered "she can't do that," but no one stood up in court as an officer of the court to object to what was happening. The truth is we all should have said or done something before now.

Appointments of judges' political cronies and friends is another big problem. My modest start to help address this issue will

In This Newsletter

[Fees For Judicial Appointments Must Be In an Order and Reported](#)

[Campaign Finance Reports Are On-Line](#)

[Wonder Who is Getting Appointed?](#)

This newsletter is distributed to about 1,200 family law attorneys in Harris County and all attorneys in Galveston County.

[Courthouse Tales Woman Arrested for Threatening Judge Bonnie Hellums](#)

[Attorney Arrested Outside of Judge Hellums' Courtroom](#)

[Harris County Judge Starts 30 Day Jail Term](#)

[Appeals Court Justice Barred From Brazoria County Cases](#)

Trial Briefs

[Admitting Evidence of Prior Acts in Modification Cases](#)

Family Law Appellate Case Summaries

[March 2012 Decisions](#)

[Guide to Family Law Practice in](#)

be to remind everyone that ALL fees paid for judicial appointments must be approved in a written order and the clerk then compiles a monthly report so that we can see who is getting how much from which judge. See my story below.

I do not expect to win every case. I just want an efficient system where my client gets a fair hearing by a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
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[Check our new web site!](#)

Divorce and child custody cases in Galveston and Harris counties. Enos has 26+ years of legal experience and is board certified in Family Law by the Texas Board of Legal Specialization.

Fees For Judicial Appointments Must Be In an Order and Reported

Harris County Court Scandal in 1990's Resulted in Supreme Court Order That is Largely Ignored

Scandals involving judicial appointments in Harris County courts in the mid-1990's caused the Texas Supreme Court to issue an order that is still in effect but largely ignored. [{click to see full order}](#). The 1997 order states in part:

Section 1. Every appointment made in a civil case, probate case, or proceeding governed by Titles 1, 2, or 4 of the Family Code, by a regular or assigned judge of any district court, constitutional county court, statutory county court, statutory probate court, court master or court referee of a person to a position for which any type of fee may be paid shall be made by written order.

Section 2. Every application or request for the payment of a fee by such an appointee shall be approved by the court of the judge making the appointment. This approval shall be accomplished by a separate written order.

The Supreme Court order requires the District Clerk to collect all orders for appointments and fees and compile a monthly report that must be available to the public. The Office of Court Administration compiles all of the reports state-wide and posts them on line in an Excel spreadsheet. [{click to see state-wide report}](#). However, the spreadsheet is too big and covers the entire state. **I have taken the period September 2011 through March 2012 and created spreadsheets for each of Harris County's family district courts and sorted by bar number, so you can see who is getting reported appointment fees.** [{Click here to see my analysis of reported appointments for each of the Harris County District](#)

Galveston County

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is the current President of Interfaith Caring Ministries.



Attorney Greg Enos



Courts}.

However, a review of the reports shows that almost ALL of the lucrative amicus appointments in private cases and most appointed mediations are not being reported. For example, the 308th on October 3, 2011 approved an order for a \$6,925.85 fee for an amicus in cause no. 2011-38171 but that fee was not reported to the state. In Cause no. 2008-71984, on February 22, 2011, Judge Pratt awarded a \$10,000 initial fee to an amicus in a separate order but the fee (which was paid) was not reported. These failures to report are the clerk's fault and the amicus attorneys and judges are not to blame because the fee was clearly set out in clearly titled orders. In case after case, the fees for amicus attorneys and court appointed mediators in private cases are not being reported. None of the very large fees for court appointed custody evaluations, special masters and receivers are being reported. All of that violates the Supreme Court order and deprives all of us from knowing who is getting a lot of money in particular courts. We have all seen the Supreme Court Court Appointment and Fees Report that most but not all mediators file with the clerk after mediation. It would be a simple matter for each court or the local rules to require these forms to be filed by every amicus, ad litem, mediator, receiver, custody evaluator and special master and then the clerks could easily spot the fees to report.

HILL, KELLIE M
vs
HILL, HOWARD D

Cause No. 201157288

Filed 12 April 17 P2:25
Chris Daniel - District Clerk
Harris County
FAX: 15288676
IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
310th JUDICIAL DISTRICT

**SUPREME COURT OF TEXAS
APPOINTMENTS & FEES REPORT - MEDIATION**

ALYSSA P. LEMKUIJ was appointed mediator in the above-referenced cause by agreement of the parties/order of the court. After such order the case:

☐ settled prior to mediation
☒ settled during mediation: *(partial)*
☐ did not settle

The parties and mediator agreed that the mediator would be paid as follows:

\$ 1000	paid by	Howard Hill
\$ 1000	paid by	Kellie Hill
\$	paid by	
\$	paid by	

(use additional sheets if necessary) Such payments may be reassessed as costs pursuant to Tex. R. Civ. P. 131 AND 141. Approved and Agreed to on:

Mediator: ALYSSA P. LEMKUIJ TBN: 794829 Address: 1314 TEXAS AVE #1515 HOUSTON TX, 77002 Phone: 713-993-9100	Attorney: GREG ENDS TBN: 8630450 Address: 17207 FEATHER CRAFT LN WEBSTER TX, 77598 Phone: 281-333-3030 COC: CROSS-PLAINTIFF ATTORNEY
Attorney: JULIA LENEHAN BAILEY TBN: 1529000 Address: 952 ECHO LANE, STE 480 HOUSTON TX, 77024 Phone: 713-481-7193 COC: ATTORNEY FOR PLAINTIFF	Attorney: TBN: Address: Phone: COC:

Approved on

Hon. Judge: LISA MILLARD
310th District Court

Campaign Finance Reports Are On-Line

Every wonder who gave how much to which judge? The Texas Tribune has a great web site where you can see the contributors for judges (or any Texas politician). [{Click here to go to the web site}](#). You can also enter a person's name and see who they contributed to. At the top of this web page it says: **Search Campaign Finance Data** then there is a box to type in the name of the candidate or contributor. You can also view individual campaign reports.

If you type in "Lisa A. Millard," for example, her top contributors are

listed as follows:

Jeff Uzick & his law firm	\$11,500
Bob Perry	\$11,000
Donna Everson	\$10,500
Don McGill	\$10,000
Oliver Sprott	\$9,250
George Clevenger	\$8,948
John Grubb	\$7,850
Bruce Baughman	\$7,062
Kenneth Brauer	\$7,000
Doug York	\$6,000
Lilly Newman & Van Ness	\$6,000
Mark Lipkin	\$6,000
Heather Horwitz	\$5,275
Dennis Kelly	\$5,250
Lewis Davenport & Hildebrand	\$5,000
Carl Dyess	\$5,000
Amy Lacy	\$5,000
William Stewart	\$5,000
Martin Beime	\$5,000
Michael Craig	\$5,000
Tindall & England	\$5,000
Doylene Perry	\$5,000
Rob Kimmons	\$5,000
John McGill	\$5,000

You can search my name and determine that I have donated to a lot of Galveston County candidates and also given a whopping \$300 to Judy Warne, \$810 to Denise Pratt, \$250 to Roy Moore, \$750 to my neighbor Sherri Dean, \$1,700 to Lisa Millard, \$800 to David Farr, and \$250 to Bruce Kessler.

Wonder Who is Getting Appointed?

One way to see who is being appointed by judges is to look up a particular attorney in the District Clerk website using his or her bar number. You will get a list of cases and you can click on each one to see the details, including orders of appointments and in theory orders approving fees. For example, Jared Woodfill, according to the District Clerk web site, has always practiced civil law, mostly personal injury. However, this year he has begun to get appointments in family law cases, including CPS cases. The records show that Mr. Woodfill, who also serves our community as the Chair of the Harris County Republican Party, has been appointed through April 2012 by these courts:

308th Judges Lombardino/Ramos - 16 appointments
310th Judge Millard - 5 appointments
246th Judge York - one appointment
257th Judge Warne - one appointment
309th Judge Dean - one appointment

Jared is actually a very smart, personable guy and I highly recommend you get to know him as it appears he is yet another personal injury lawyer making the transition to family law (just like I did 15 years ago). My hat is off to him if he is taking CPS cases with all the nitty gritty face to face contact with poverty in scary

places that CPS cases usually involve.

While the GOP chairman and I certainly disagree on a few matters of political philosophy, I am sure we both are strongly in favor of a government that is transparent, efficient and even-handed. I strongly believe that the more judges understand that we all can see who is doing what for whom, the more we can expect them to do the right thing. Elected officials just naturally tend to behave better if folks can see what they are doing.



The Enos Law Firm Newsletter

Issue: No. 12

June 2012

The Enos Law Firm

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Please forward this e-mail newsletter to your lawyer friends!

Greetings!

In this newsletter, I respectfully call for Judge Bonnie Hellums to change her policies which are unconstitutional, unfair, contrary to the Family Code and potentially dangerous for children. [See my story below](#). I also provide a trial brief on how social security can and cannot be treated in a divorce case.

Reaction to my last newsletter from lawyers was very positive and encouraging. One judge (one of our good ones) even asked from the bench when my next newsletter would go out. Here is one sample of the feedback I have received:

Mr. Enos,

I must say, your latest newsletter made a lasting impression on me. I have recently witnessed similar conduct from Judges and it has not set well with me either. I have experienced the same inner-struggle as your newsletter describes. It is comforting to know that I am not alone and that there are other good lawyers - like you - who share my view of the law and carry the same passion and respect for the rules, regulations, and boundaries with which we, both attorneys and Judges, are supposed to abide by.

Thank you for addressing this issue. We need to embrace our legal process. Enforcing it and protecting it only makes it stronger. As attorneys, we should guide and instruct the Court accordingly, and be able to do so without penalty. I think it is essential in maintaining a just and right system.

Many have asked me why I am doing this. First, I am never going to run for judge (I would have even less patience for lawyers than I do for judges). I am not plotting a Democratic take over of the family courts, although I can see that coming eventually with the demographic changes in Harris County (70% under age 18 in Harris county are non-white and Hispanics will have a plurality by the next census). In fact, we have at least four fine Republican family district judges that I will do everything I can to dissuade any Democrat from running against (even as I remain a liberal, Obama loving Democrat).

I am just fed up with judges who do not know or follow the law, who view amicus appointments as political patronage and who play favorites in court.

I do not expect to win every case. I just want an

In This Newsletter

[Reception TODAY to Honor Clerk Employees](#)

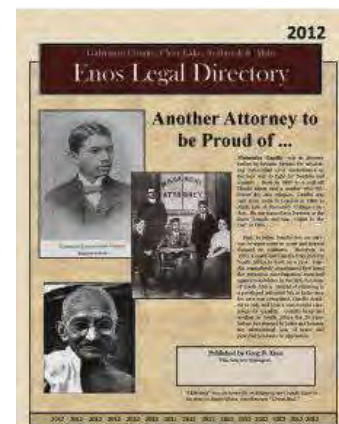
[Judge Bonnie Hellums Must Change Her Illegal Policies\)](#)

[Patricia Grady to Seek District Clerk Post](#)

[Trial Briefs Social Security Retirement Benefits In A Divorce](#)

[2012 Galveston County Legal Directory Is Here](#)

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Courthouse Tales

[Miles Whittington: The Once and Future Judge Becomes Interim J.P.](#)

[308th Amicus of the Year Jared Woodfill Faces \\$30 Million Lawsuit \(Probably Frivolous\)](#)

efficient system in which my client gets a fair hearing by a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

**Greg Enos
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[Check our new web site!](#)

**[Lawsuit Abuse
Republicans Hate So
Much\)](#)**

[Life Sentence for Enticing
Teen Babysitter Reversed
With a Rare Acquittal](#)

[Lawyer Found Guilty for
Exposing Himself on Airline
Flight Also Groped Female
Clerk and DA!](#)

[Verdict for Widow of Wife
of Cop Who Died During
Three Way Sex](#)

[Attorney Created Fake Law
Firm and Stole \\$9 Million
\(Allegedly\)](#)

Event TODAY to Honor Our Hardworking Court Clerks

Please join our judges and the Galveston County legal community in saying "thanks" to the dedicated women and men who work for the District Clerk and County Clerk at a reception today, Thursday, June 28, 2012. This event I have organized starts at 5:00 p.m., right after work, in the Jury Assembly Room in the Galveston County Justice Center. There will be barbecue catering and soft drinks and tea. Doryn Danner Glenn and Dwight Sullivan will introduce their staffs and allow them to receive our appreciation for all they do for us. Please bring your staff and friends to this event. I hope we see you there!

Judge Hellums Must Change Her Policies

Judge Bonnie Hellums should follow the law and live up to her moral obligation to protect children. Judge Hellums must stop taking away children from parents simply because they did not attend a four hour parent education class. She should also stop dismissing cases simply because orders are not ready on the one and only entry date her court will allow.

I am not suggesting this because of a bad result I have personally experienced in her court. I can truthfully say my clients have never lost in her court. Judge Hellums once awarded me \$50,000 in interim fees. I am not some fringe crackpot out to get her. I am a board certified attorney with 26 years of experience and the sad truth is that everyone knows what Judge Hellums is doing is wrong. Even the attorneys who seemingly spend all their time in her court and get almost all of the court appointments in her court will privately admit there is no way to justify or defend what Judge Hellums does.

I sincerely tried to resolve my issues with Judge Hellums with a private letter sent weeks ago that she never responded to. I offered to meet with her to persuade her to change her practices because I did not want to write this column and start this crusade. I do admire a lot of what Judge Hellums has done, including her drug court, her

Sorry this newsletter is a little late. June has been way too full with kids, vacation, a law practice, a paper for Advance Family, a reception in Galveston to organize and a large charity to help run. **I was also frankly waiting to see if Judge Hellums would respond to my private letter in hopes I could change her ways in a less public way.**

**Guide to Family
Law Practice in
Galveston County**

Attorney Greg Enos has been through his own divorce and child custody

efforts to get a new family law center and her strict ban on chewing gum. I think she is personally charming and her husband is a great guy. But none of that changes what is scarily wrong and unfair.

No other family court judge in Harris County (or this state) would take children from a mother without pleadings or evidence simply because the mother did not attend a largely worthless four hour class for divorcing parents. I have sat in court and seen Judge Hellums order that a mother who had not attended the class could not have her children that night even when the father before the bench was saying he couldn't possibly take them. A judge cannot take kids from one parent and order they go home with the other parent against the parents' agreement and wishes and without any hearing or evidence on what is best for the children. It violates the constitutional right to due process and it violates every principle of the Texas Family Code that says a judge must decide on the children's best interests. Moreover, sanctions without warning, pleadings, notice or a hearing are unconstitutional and illegal. Most importantly, a judge cannot sanction a parent by endangering the kids! A reasonable judge might delay finalizing the case and order the parent in open court to attend the class in the next week, but would never take the children away as a punishment!

So why hasn't anyone stood up and complained or filed a mandamus against Judge Hellums over this? When I have seen it happen in her court, I was each time waiting my turn to represent a client in front of Hellums and I did not want to prejudice the case against my client. Some poor working mother cannot afford \$10,000 or more for a mandamus action to the court of appeals when it is far quicker and cheaper just to go take the stupid class. It is not just the self-interest of lawyers which allows family court judges to get away with bad behavior, it is simple economics.

Judge Hellums also must stop dismissing cases without exception because an order is not ready on the one and only entry date you will ever get in that court. While I share her frustration with lawyers who do not take care of business, it is insane to dismiss a father's modification case where he has been given temporary custody simply because the mother's lawyer did not turn in an order on an ancillary matter such as a motion to compel discovery. Why should the other party, and, most importantly the children, suffer because the lawyer for the other side did not do her job? ALL other judges in Harris County will cut some slack on entry dates if there is a good reason (and often if there is no good excuse at all for more time). This draconian policy makes no sense, is unfair, actually wastes judicial resources and also ignores the best interests of the children.

The good work Judge Hellums has done in her career as a judge is sadly being overshadowed by her impossible-to-explain behavior on the bench now. The family bar (who all gossip and share these stories) should stand up together for what is right, what is legal and what is best for children.

To be fair to Judge Hellums, I will print verbatim in my next newsletter her response to this column (as long as it is roughly the same length). I am not out to demonize her, but rather change her ways.

battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is the current President of Interfaith Caring Ministries.



Attorney Greg Enos



Patricia Grady to Seek Election for

Galveston County District Clerk

Patricia Grady, a well liked attorney (and wife of Judge John Grady), is seeking the Republican nomination to be Galveston County District Clerk. Mrs. Grady currently works as Legal Liaison for County Judge Mark Henry. Doryn Danner Glenn, the interim District Clerk, appointed to replace Jason Murray who resigned (and is now in Harris County jail), is not seeking election to the position. A new District Clerk will be elected in the November general election. Since the primaries have already passed, each party will select its nominee by a vote of the county precinct chairs. The Democrats have regrettably nominated Latonia Wilson, who previously served as District Clerk (my next newsletter will remind folks of what she did to her office after she was defeated in 2008). The Republicans are expected to select their nominee later in the summer. Mrs. Grady resigned as a GOP precinct chair to seek this office.



Attorneys should work together to improve our family courts!

The Mongoose



Issue: No. 13

The Enos Law Firm

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

Not a soul has come forward to defend the policies of Judge Bonnie Hellums which take children from parents without a hearing or evidence simply because they did not attend a stupid four hour parenting class. Judge Hellums' did not take advantage of my offer to print anything she has to say about her policies which are unconstitutional, unfair, contrary to the Family Code and potentially dangerous for children. So now, I am "kicking it up a notch." [See my story below.](#)

I also suggest changes to rules in my home turf of Galveston County which make no sense and clearly allow lawyers to venue shop and at least de-select the judge assigned to a family case. [See my story below.](#) The reception I put together to honor the men and women who work so hard in the offices of the Galveston County District and County Clerk was a big success. We hope to make it an annual event.

I have written another Trial Brief on the issue of "How Current

August 2012

In This Newsletter

[Judge Hellums Must Go!](#)

[Mini-History Lesson: The White Rose](#)



[Useful Guide to Houston Area School Calendars](#)

[How to Venue Shop in Galveston County](#)

Do Property Valuations Have To Be In A Divorce Trial?" [Click here for a link to my collection of Trial Briefs.](#)

The candidate I supported, Michelle Slaughter, won the Republican primary and is now unopposed to be judge of the 405th District Court in Galveston County. I am hosting a fund raising party for Judge-Elect Slaughter at my offices on September 6. [Click here to see the announcement.](#)

I am still fed up with judges who view amicus appointments as political patronage and with politicians turned amicus attorneys who do not visit the kids, who do not show up for court and who only seem interested in getting their fees.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing by a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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[Check our new web site!](#)

Judge Hellums Must Change Her Policies or Leave Office

Judge Bonnie Hellums should follow the law and live up to her moral obligation to protect children. Judge Hellums must stop taking away children from parents simply because they did not attend a four hour parent education class. She should also stop dismissing cases simply because orders are not ready on the one and only entry date her court will allow.

The last issue of this newsletter respectfully called on Judge Bonnie Hellums to change policies which are illegal, unconstitutional and potentially dangerous for children. That article was written only after I had sent a long personal letter to Judge Hellums seeking to resolve the problem privately.

Judge Hellums was invited to respond but I have heard nothing from her, even though I promised to print her response verbatim in this issue.

The feedback from that first article about Judge Hellums has been amazingly positive. Lawyers and even judges have said they agreed with me and they all said they were happy someone was raising these issues. Here is a sample e-mail I received from a [judge](#):



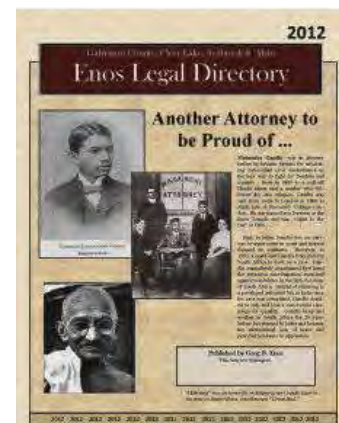
Taking on an all-powerful family court judge is probably too much for just one attorney alone. I need my colleagues to help me clean up our family courts!

Trial Briefs

[How Current Should property Valuations Be in a Divorce Trial?](#)

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I absolutely agree with you on your article about Judge Hellums. It is shameful and appalling what she does in open court, surely it also qualifies as grounds for a judicial complaint! I also witnessed her take children away from BOTH parents due to not attending the idiotic class and actually told a CPS worker sitting in court. to go get the children!

Judge Hellums has announced in court that she knows some people disagree with her policies but she is not changing them.

So what now? I am going to begin a campaign to have Judge Hellums removed from office and begin a quiet, dignified campaign of clever but peaceful resistance to her. I need the names and contact information of parents who have had their children taken away by Judge Hellums for not attending the dumb parenting class. I need real people to file grievances and talk to the media. Please e-mail me at greg@enoslaw.com.



Can a family court judge allow her spouse (even if he is a great guy) to sit as a visiting associate judge? Does that seem proper or legal? Consult Texas Family Code Sec. 201.018.

Galveston County District Clerk Nominees: Kinard v. Wilson

Jason Murray resigned as Galveston County District Clerk within days of this newsletter calling for his resignation. His wonderful interim replacement, Doryn Danner Glenn is not seeking election to the post.

The Democrats have nominated former District Clerk Latonia Wilson, who was defeated by Murray in 2010. Wilson disgraced herself by the way she acted after she lost. Her employees were not allowed to meet during work hours with the in-coming clerk and she suspended one employee for even talking to the new guy, according

Guide to Family Law Practice in Galveston County

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is the current President of Interfaith Caring Ministries.



Attorney Greg Enos



to the [Galveston News](#). [Click here to the News story](#) or here to see the [News editorial "It's No Way to Leave Office."](#)

The Republicans have nominated John Kinard, retired FBI agent and recent Sheriff candidate. Kinard has a law degree but has not practiced law in Galveston County.

The District Clerk election will be on the November ballot.

How to Venue Shop in Galveston County Family Courts

Galveston County judges are used to me suggesting how things should be done. They work in a new courthouse I first proposed that was built with bonds I helped pass as the Chair of the bond campaign committee. I re-wrote the local rules for family law cases and designed the FIS form used in Galveston County.

No judge has been more receptive to my numerous ideas than Jan Yarbrough. We have organized seminars together and I truly respect her as a hardworking, fair judge who really cares about making the right decision.

One of the arguments I have not won with Judge Yarbrough involves her part-time Associate Judge for CPS cases, Judge Suzanne Schwab-Radcliffe (full disclosure: I represented AJ Radcliffe in her divorce for a time).

Judge Radcliffe works two days a week doing a great job with CPS cases and she works the rest of the time as a lawyer in private practice. If someone hires Ms. Radcliffe or the lawyer she shares an office with and the case is in the 306th District Court, then the case gets automatically transferred to another court. It seems to me that who a party hires as a lawyer should not select (or de-select) the court. If the 306th is the court of continuing jurisdiction, what legal reason is there to move the case to another court? The rule should be that Ms. Radcliffe has to decline cases in the 306th and the hiring of her office-mate should have no effect on the court after full disclosure of the relationship.

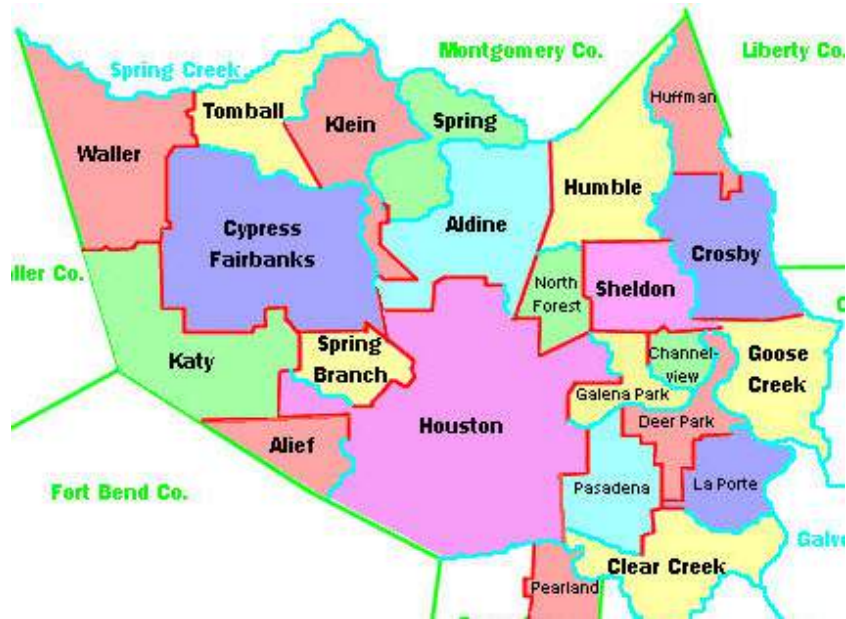
Nefarious parties who want out of the 306th could simply hire Radcliffe, get the case moved, and then proceed with another lawyer since the cases are not transferred back if Radcliffe is discharged. This policy needs to be changed.

Useful Guide to Houston Area School Districts & Calendars

Ever been in mediation and needed to know when a kid's school got out for a holiday? Family attorneys and judges will appreciate my web site that offers quick access to the 2012-2013 calendars for all 52 public school districts in Harris and surrounding counties and the district web sites. [Click here to go to the Houston Area School Districts Web Site](#) and see all of the school calendars.

Attorneys and mediators frequently need to know when school holidays are or need contact information for a particular school to subpoena records.

This web site prepared by me also provides county by county maps of districts and has links to TEA school ratings.



Mini-History Lesson: The White Rose

The White Rose was a courageous group of students from the University of Munich and their philosophy professor who risked (then lost) their lives to oppose the reign of Adolph Hitler. The group became known for an anonymous leaflet and graffiti campaign, lasting from June 1942 until February 1943, that called for active opposition to the Nazi regime.

The students scattered anonymous leaflets around the University of Munich campus for eight months in the middle of World War II. Six members were arrested, tortured and finally beheaded in 1943. The text of their sixth leaflet was smuggled out of Germany, and in July 1943 copies of it were dropped over Germany by Allied planes, retitled "The Manifesto of the Students of Munich."



Today, the members of the White Rose are honored in Germany amongst its greatest heroes, since they opposed the Third Reich in the face of almost certain death. (Source: Wikipedia).

Join Us for a Fund Raising Party on September 6 for Judge-Elect Michelle Slaughter at The Enos Law Firm

REPUBLICAN FOR JUDGE Michelle Slaughter FUND RAISING PARTY FOR JUDGE-ELECT MICHELLE SLAUGHTER For 405th District Court Galveston County Thursday, September 6, 2012 5:00 p.m. until 7:00 p.m. at The Enos Law Firm 17207 Feather Craft Lane Webster, Texas 77598 (281) 333-3030 (directions on back page) Drop by after work and enjoy drinks, food and company. Visit with Judge-Elect Slaughter Please bring your staff and friends!	 EVENT SPONSORS E.A. "Trey" Apffel, III Baker & Hostetler Bertini & Associates Bettison, Doyle, Apffel & Guarino, P.C. Burwell Nebout Trial Lawyers Anthony Burbee Robert Clements Pat Cunningham Anne Darring Daughtry & Jordan, PC Greg Enos Fernelius Alvarez PLLC The Hoerster Mediation Firm Christopher Leavitt Lewis & Williams, LLP Locke Lord, LLP Lubel Voyles, LLP McLeod Alexander Powell & Apffel Mills Shirley L.L.P. Nicolas Simon The Law Firm of Alton C. Todd Don Tomlinson Tammy Tran Lawrence M. Tylka Ware Jackson Lee & Chambers Watt Guerra & Craft, LLP Zende Del & Associates, PLLC

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P.O. Box 54, League City, Texas 77574, Ed Walsh, Treasurer



The Mongoose



Issue: No. 14

The Enos Law Firm

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

**Judge Bonnie Hellums gets a break this month while I address
judicial lunacy in Galveston County.**

**This month's my way-too-long newsletter explains the current
insane controversy involving Galveston County Judges.**

**Court Court No. 3 Judge Christopher Dupuy apparently agrees
with what I have said for over a decade -- our part time
Associate Judge Suzanne Schwab Radcliffe should not be
allowed to also practice family law in Galveston County.
However, Dupuy has gone too far and falsely accused another
elected judge of a criminal conspiracy and has now held Judge
Radcliffe in contempt. Dupuy may have a point, but his recent
actions have provided his many opponents even more reasons
to call for his removal (which at this point has to now be
considered a realistic possibility). He has also probably really
hurt my chances of working with the judges and county
commissioners to change this very improper arrangement with
Judge Radcliffe.**

**I do not expect to win every case. I just want an
efficient system in which my client gets a fair**

October 2012

In This Newsletter

[Alyssa Lemkuil New Associate
Judge for 308th](#)

[Dupuy v. Yarbrough and
Radcliffe: Judicial
Smackdown in Galveston
County](#)

[My Letter to Galveston County
Judges and County
Commissioners](#)



This is not a political ad
because I am not running for
judge. I would rather be a
player on the field with the
ball in my hand than the guy
in the striped shirt with a
whistle.

2012 Galveston

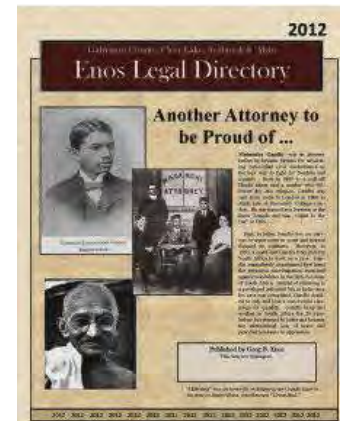
hearing by a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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**Guide to Family Law
Practice in
Galveston County**

Alyssa Lemkuil is New Associate Judge

Alyssa Lemkuil is the new Associate Judge for the 308th District Court. Lemkuil was selected by Judge James Lombardino to replace Rick Ramos, who is now practicing law with Golda Jacob and Kelly Fritsch at a firm renamed Jacob, Fritsch & Ramos. Ramos can be contacted at rick@jfandrlaw.com.

Judge Lemkuil is the second AJ in the family as her husband, Daniel, also served as an Associate Judge. Alyssa Lemkuil received her law degree from the University of Houston in 1992. Her law practice has focused primarily on mediations and appellate law. Alyssa will bring a working mother's perspective and detailed knowledge about what is reversible error to the bench.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is the current President of Interfaith Caring Ministries.



Attorney Greg Enos

"Galveston County's Dirty Little Family Court Secrets"

Galveston County Judge Christopher Dupuy is accusing District Court Judge Jan Yarbrough and her part-time Associate Judge Suzanne Schwab Radcliffe of impropriety in a way that is itself totally improper and **now Judge Dupuy has held Associate Judge Radcliffe in contempt**. I am afraid I started the embarrassing mess by pointing out what I consider to be totally valid objections to a long-standing procedure in Galveston County that is just wrong (but not crooked). Now, this little newsletter is itself news (see front page [Houston Chronicle article](#)).

In Galveston County, 306th District Court Judge Yarbrough hears all CPS cases and Judge Radcliffe is the part-time Associate Judge for the 306th for CPS cases. Radcliffe also sometimes hears protective order applications and a few temporary order hearings from the 306th. A standing order signed by the then family court judges in October 2001 says all cases involving Radcliffe as a practicing attorney or her partners or associates must be transferred out of the 306th on a rotating basis to the county courts at law. None of the four judges who signed that order still hold office in Galveston County.

The last edition of my newsletter stated what I have been telling Galveston County judges for years - allowing a part time associate judge to also practice family law in this county is not a good idea. It is not enough to say "that is how we have done it for years" or point out that this particular Associate Judge, Suzanne Schwab Radcliffe, is a really good judge in CPS cases and she is an honest person (both of which are true). My arguments against this arrangement are based on pure policy reasons (see [my letter to Galveston County Judges and County Commissioners below](#)).

Before she was elected District Judge, Yarbrough was a two day a week Associate Judge and our mutual friend Pat Reilly was the other two day a week Associate Judge. I told both of them back



then the same thing - it is not right to be a judge and practice law in the same county. However, that experience may explain why Judge Yarbrough sees nothing wrong with it. She enjoyed the prestige and referrals generated by serving two days a week as an excellent associate judge and enjoyed her private practice on the other three days a week practicing primarily in front of her friend and fellow associate judge, the sainted Patrick Reilly.

Things are different now in Galveston County. This year, all of Galveston County's elected judges voted to select Kerri Foley to be the Juvenile Master only on the condition she would not practice any sort of family law in this county. Our part-time (but might as well be full-time) family law Associate Judge Steve Baker does not practice law privately in this county.

I sent all of the judges a memo five years ago arguing that Radcliffe should not be allowed to be a part-time associate judge and practice law. I have never made a secret about my strong objections to this policy, but I continued to work with and practice in front of Judge Yarbrough and even occasionally Judge Radcliffe with no problems. The clear fact that those judges did not agree with my arguments caused no issues for my clients because they are fair judges (even on days they are annoyed with me).

This entire issue of Associate Judge Radcliffe has taken a nasty and totally unexpected turn after my last newsletter was published. In September, I represented a mother in a modification case in the 306th which was transferred without motion or hearing to County Court No. 3 because the father's attorney, Lori Laird, shares offices with Suzanne Radcliffe. The 306th takes the position that the office sharing arrangement creates a conflict of interest for Lori Laird and she cannot represent clients in the 306th. I filed a motion in County Court No. 3 to have the case transferred back to the 306th. My motion stated in part:

Petitioner should not get to choose which court his case is in simply by hiring the right law firm. Instead of transferring a case from the 306th because Associate Judge Radcliffe is associated with the firm Petitioner hired, the law firm should turn down the case because of the conflict. The 306th's policy of transferring cases because a party has hired Ms. Radcliffe or her firm is in effect putting the economic interests of the part-time associate judge and her associates ahead of the very clear provisions of the Texas Family Code regarding continuing exclusive jurisdiction.

For non-family law attorneys, it should be noted that in Texas, a court that enters a final child custody or support order then has exclusive, continuing jurisdiction over the child and must hear any modification cases involving that child unless the case is transferred to another Texas county or the court declines jurisdiction and defers to a court of another state or nation. This is why Judge Yarbrough is violating the law when she transfers modification cases out of her court just to allow Radcliffe to be the attorney on the case.

Judge Dupuy not only granted my motion and transferred the case back to the 306th, he also entered an order which disqualified Lori Laird as attorney and ordered her not to accept any new cases pending in the 306th. I filed a motion once the case was back in the 306th to reconsider the orders regarding my opposing counsel being disqualified and Judge Yarbrough rescinded those orders. My case



is back in the court of continuing jurisdiction and I am working with Ms. Laird on settling the case, so I have not even thought about this entire issue in the last few weeks until I heard about the *Tucker* case.

The *Tucker* divorce seems to be a simple matter with no children. Judge Dupuy entered his usual temporary restraining order and appointed Shauna Correia to mediate before temporary orders but the parties reached agreement on their own through a Rule 11 agreement. Then, at 2:28 p.m. on October 3, 2012, Judge Dupuy on his own motion (*sua sponte* for you Latin speakers) signed the following order:

ORDER DISQUALIFYING SUZANNE RADCLIFFE

On this date, it was brought to the Court's attention that a County Family Law Associate, Suzanne Radcliffe, is attorney of record for Petitioner... The Court FINDS that such representation to be a clear conflict of interest between the attorney's role as advocate for her client, and the attorney's judicial obligations and responsibilities. As such, the Court FINDS that the Associate Judge must be DISQUALIFIED from this matter, and should be disqualified from representing family law clients in this County. See, e.g., Code of Judicial Conduct, Canons 1-4. It is ORDERED that Suzanne Radcliffe is DISQUALIFIED as attorney of record in this matter. The disqualified attorney shall make a good faith effort to return to the client all files and other documents belonging to the client. The Court also recommends that this attorney return all monies received, if any, to the client.

At 4:11 p.m. on October 3, Suzanne Radcliffe, who is (was?) representing the father in this divorce filed a motion to recuse Judge Dupuy. Radcliffe attached to her motion to recuse a copy of an email chain that includes an email from Judge Dupuy to the District Clerk and County Attorney entitled, **"Investigation of Galveston County's Dirty Little Family Law Court Secrets."** The email is attached to the motion and is part of the public record and is viewable on the District Clerk's website under cause number 12FD2386.

I nearly barfed when I read the outrageous e-mail from Dupuy attached to the motion to recuse and saw I was mentioned in it. Dupuy's e-mail points out that both Ms. Laird and I in the other case wrote that the 306th's policy regarding cases involving Ms. Radcliffe can violate the laws on exclusive continuing jurisdiction in family cases. Dupuy went on to paint an even more sinister picture by writing in his e-mail that many divorces may now be void because of a "scheme orchestrated in the 306th District Court..." Dupuy wrote:

In addition, if the judge's friend was merely paid a few thousand dollars per case, then hundreds-of-thousands of dollars may have been funneled through the court, or with the court's blessings, to the judge's friend and appointee, Suzanne Radcliffe, as "fees." Quite frankly, the legal exposure in this matter is great and it is alarming.

Dupuy requested from the District Clerk a list of all cases involving Radcliffe or Laird as an attorney and his email states that he is going to the Texas Rangers (presumably not the baseball team) and the

"Texas Judiciary" with his concerns. Dupuy suggested to the County Attorney that many hundreds of citizens may have to be informed their divorces are void.

What Judge Dupuy has written in his e-mail is in important parts flat wrong and his e-mail about a fellow judge is unseemly and undignified. First, transferring divorce cases because of the attorneys involved does not violate the laws on continuing, exclusive jurisdiction over child custody cases which applies to later modification cases, not divorce cases. There is no way divorces could be later found void because they were transferred before the final decree of divorce was signed. There was no "scheme orchestrated in the 306th District Court..." It was simply a policy (albeit a flawed one). I know for a fact that Judge Yarbrough does not give her friends preferential treatment in her court as alleged by Dupuy or improperly "entertain ex-parte communications." All family judges must hear some ex-parte matters (like temporary ex-parte protective orders or restraining orders) and even Judge Dupuy does.

Alleging, as Dupuy, did that "hundreds of thousands of dollars may have been funneled through the court, or with the court's blessings, to the judge's friend and appointee" is an outrageous way to describe what is happening. While it appears Ms. Radcliffe probably has earned hundreds of thousands of dollars in over a hundred cases transferred out of the 306th to accommodate Radcliffe, those fees that she might not have been able to accept under different rules were not illegal or criminal in any way (just highly questionable). Unlike me, none of the opposing attorneys in Radcliffe's other cases objected to the transfers and certainly everyone clearly knew why the cases were being transferred. Nothing was done in secret and no one complained.

The notion that Judge Dupuy feels the need to report Judge Yarbrough to the Texas Rangers and "Texas Judiciary" [Texas Commission on Judicial Conduct?] is very ironic given his own past issues. On the other hand, the e-mail attached to the motion to recuse shows that District Clerk Doryn Danner Glenn forwarded the e-mail to her friend and former boss Judge Yarbrough and Yarbrough then forwarded it to Suzanne Radcliffe who sent it to Lori Laird who wrote, "I really can say I hate him." (a sequence which almost bolsters Dupuy's argument about the unseemly relationships).

Now, the issue has taken a more unusual turn after these developments:

- Radcliffe and Lori Laird have been filing identical motions to recuse Dupuy even in cases that were finalized months ago and which are not currently active (wonder if those former clients authorized those filings?)
- Dupuy in several cases, including 12FD2386, on October 10 signed orders holding Radcliffe in Contempt. How can he possibly hold Judge Radcliffe in contempt without notice and a hearing since she did not commit her act in his court in front of him? How can Radcliffe be ordered by one judge to stop practicing family law without a joint agreement of all the family court judges? How can Dupuy sign a contempt order in a closed case that was finalized months ago?
- Lori Laird started posting a lot of negative things about Judge Dupuy on her Facebook site and then mysteriously all of her

Facebook postings about Dupuy were deleted as if Big Brother had stepped in (or someone with clout complained to Facebook). Laird has now started a blog at RemoveDupuy.com.

One immediate reaction to all this is to ask why the hell Judge Dupuy decided to take these actions? Did he imagine he would get good press? The Houston Chronicle story did not make him look good. Why would he ever write his inflammatory e-mail about his fellow judges knowing the Commission on Judicial Conduct was already looking at over a dozen complaints against him? Why would he take unilateral action without consulting with the other judges? Those other judges now probably do not want to touch this issue with a ten foot gavel.

No matter what you have to say about Dupuy's past behavior, he is actually correct on this point: Suzanne Radcliffe should not be allowed to be both a judge and attorney in the same county in the same narrow field of law. Dupuy is just going about things in an outrageous and unwise way, but his point remains valid. I am just worried that the messenger will outshine the message. I still hope that Judge Yarbrough changes her policies involving her part-time associate judge and does not resist needed change even more because of these ridiculous allegations from Judge Dupuy. In the likely case Judge Yarbrough will not change the policy she herself benefitted from back in the day, I have written to all of the elected judges and the county commissioners who fund the part-time associate judge position (see below).

Judge Yarbrough remains in my mind one of the fairest, most ethical, most hard working, conscientious judges I have ever seen. She has always inspired me and encouraged me to stick with family law and her rulings in my own custody cases had a profound effect on me and my children. The work Yarbrough and I have done together on forms and procedures and seminars has benefitted our entire legal community. Judge Yarbrough has politely yet firmly disagreed with me over this associate judge issue for years, but she in no way deserves the ridiculous attacks from Dupuy.

For myself, I am beginning to recall why I stopped writing my last newsletter that was published for Galveston County attorneys for about a decade until 2004. Life can get complicated when an attorney plays at being a journalist in the same county he works in. However, right is still right and wrong is still wrong and our judicial system has to treat people fairly. If lawyers will not speak up about injustice, then who will?

Finally, I want to make one more point. There is a circle of attorneys who now make (or in the past made) the bulk of their income from CPS appointments and they are intensely loyal to Judges Radcliffe and Yarbrough. These good ladies are taking this issue very personally and demonizing Judge Dupuy for what he is doing and saying even as they remain too close to their judicial friends / patrons to see Dupuy has a valid point. I just want to remind everyone that we attorneys, unlike politicians, can advocate passionately for opposing positions while still respecting our opponents. We should not make or take arguments personally. Good people who are fighting for families and children and the integrity of our justice system should be able to disagree civilly without name calling or making outrageous, inflammatory allegations. To me, this is a disagreement with my friends and

colleagues and, unlike Judge Dupuy, I hope we can all continue to treat each other like friends and colleagues.

My Letter to Galveston County Judges and County Commissioners

This e-mail was sent this week from me to all of the elected Judges in Galveston County and to the County Commissioners:

By now, everyone has heard about the dispute between Judge Dupuy and Judge Radcliffe. In my opinion, Judge Dupuy is right, he is just going about it the wrong way. I wrote the four family judges five years ago and laid out my arguments then why it is not right to allow an associate judge to also practice law in this county but nothing was done. Now, three of those four family court judges are gone. The argument that this is how it has been done in Galveston County for decades is not a proper defense of this system.

If indeed over 120 cases have been transferred from the 306th to allow Radcliffe to be the attorney on the case, that is probably over a half million in fees she has earned on those cases that she would otherwise have had to decline if the rule were that she cannot take cases pending in the 306th or which land in the 306th.

The simple solution is to do what all the judges voted to do when they hired Kerri Foley to be the Juvenile Master and adopt this simple policy:

An attorney appointed to be an associate judge or master serving the county, probate or district courts may not practice law in the county, probate or district courts of this county. This is a condition of employment as an associate judge or master.

If the commissioners or elected judges were to adopt this rule, the problem would be solved.

My arguments against allowing an associate judge to also practice law in this county include the following:

1. Allowing Judge Radcliffe to work for the 306th District Court two days a week and practice family law in this county on the other days has caused cases to be moved out of the 306th that by law should remain in that court. So, the Texas laws on exclusive continuing jurisdiction in child custody or support cases are being violated in some cases (but no divorces are void as Judge Dupuy has suggested).
2. It could lead to forum shopping and allow litigants who want away from Judge Yarbrough to get their wish by hiring Ms. Radcliffe (or even her office mate Ms. Laird).
3. The policy could also cause people to perceive our judicial system as less than fair ("holy crap, my wife hired a judge as her attorney and our temporary orders hearing will be heard by her fellow associate judge?").
4. I as a private attorney should not compete for clients in the Clear Lake community against another attorney who can accurately say she is a current family court judge in Galveston County. Ms.

Radcliffe notes prominently on her law firm web site and her Linked-In web site (see attached) that she is the Associate Judge of the 306th District Court. Ms. Radcliffe's personal e-mail address she uses for her law firm is AJFLSSR@gmail.com which is an acronym for Associate Judge Efamily Law Suzanne Schwab-Radcliffe.

The image is a screenshot of a LinkedIn profile for Suzanne Schwab Radcliffe. At the top, the LinkedIn logo is visible, along with account information: 'Account Type: Basic | Upgrade' and notification counts of 39 and 1. Below the header is a navigation bar with links: Home, Profile, Contacts, Groups, Jobs, Inbox, Companies, News, and More. A banner at the top of the profile area reads '112 New Texas Clients - 112 new legal clients seeking a Texas attorney. Vi'. The profile header shows the name 'Suzanne Schwab Radcliffe' with a '2nd' degree badge. Below the name is the title 'Associate Judge and Attorney/Mediator at Suzanne Schwab Radcliffe, PLLC' and the location 'Houston, Texas Area | Law Practice'. The education section lists 'JD, Law at St. Mary's University School of Law'. There are two buttons: 'Connect' and 'Send Suzanne an InMail'. To the right of these buttons, it says '140 connections'. Below the buttons is a URL: 'www.linkedin.com/pub/suzanne-schwab-radcliffe/36/665/2a'. The 'Experience' section is partially visible, showing the title 'Associate Judge and Attorney/Mediator' at 'Suzanne Schwab Radcliffe, PLLC' with the note 'Currently holds this position'. The 'Education' section is also partially visible.

5. My opposing attorney who supposedly is in private practice should not be able to use the employee entrance and the same back elevator the judges use to get to hearings against me. My opposing attorney should not sit in on judges' meetings as a judge and then appear against me in front of her fellow associate judge.

Judge Yarbrough and Judge Radcliffe are good, honest judges, but the current arrangement is just not right and needs to be changed. I respect both judges and I feel I can advance my policy arguments civilly and respectfully without accusing them of wrong doing, which is the mistake Judge Dupuy has made. The current battle involving orders of disqualification and contempt and motions to recuse is unseemly and only makes things worse. This problem should be resolved by the actual decision makers - the elected judges and county commissioners. It is time for the decision makers, however, to do what is right and end this improper practice.





The Mongoose



Issue: No. 14a

The Enos Law Firm

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October 2012

Mea Culpa!

**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

Oh the perils of being an amateur journalist! This is a correction to my earlier newsletter and I apologize to District Clerk Doryn Danner Glenn, who is one of the finest public servants you will ever meet.

Judge Dupuy's crazy e-mail went to the County Attorney and to Ms. Glenn. Mrs. Glenn DID NOT forward the email to her friend and former boss Judge Yarbrough (although I am sure she wanted to). Instead, Harvey Bazaman sent it to Judge Yarbrough. Someone forwarded the e-mail to Judge Radcliffe, who forwarded it to Lori Laird (who has no unseemly relationships with anyone).

The e-mail chain attached to Radcliffe's motions to recuse Dupuy is set forth below to make things clear. It is almost unfair to Judges Yarbrough and Radcliffe to even re-print an e-mail that is so mostly untrue and written in such an inflammatory manner. But, Judge Radcliffe made it a public record and all attorneys should read the e-mail for themselves and make their own minds up.

I apologize to our wonderful interim District Clerk for my mistake. We are going to miss her in three weeks, since the

**Me one sad
Longhorn,
attorney and
pseudo-
journalist.**



newly elected District Clerk will take office as soon as votes are canvassed.

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greg@enoslaw.com

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Judge Dupuy's Email That Is NOT True (except for the little part that is true about Judge Radcliffe should not be both judge and attorney in the same county).

This email from Judge Dupuy, however valid his point about Judge Radcliffe may be, is such an outrageous assault on his fellow judges and the truth, that it might be "the straw that finally broke the camel's back" and brings the Judicial Conduct Commission down on Dupuy.

Everyone involved in this controversy who wears a black robe should review The Texas Code of Judicial Conduct, Canon 2A, which states:

A. A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Here is the e-mail Dupuy sent out, which is now public record and attached to all of the motions to recuse Judge Radcliffe and Lori Laird are filing. A hearing is set for tomorrow, October 16 at 10:00 a.m. in the big courtroom on the 4th floor on these motions to recuse Dupuy. I am sure this e-mail will be discussed.

From: Dupuy, Christopher
Sent: Monday, September 17, 2012 9:41 AM
To: Glenn, Doryn
Cc: Bazerman, Harvey
Subject: Investigation of Galveston County's Dirty Little Family Law Court Secrets

Doryn and Harvey,

It has come to my attention that for possible as long as a decade or more, the 308th District Court has intentionally or negligently violated the Texas Family Code in order to financially benefit the judge's friends and her appointee. This was brought to my attention by two attorneys, both friends with the current judge.

Mr. Greg Enos, in a pleading, stated: "The 308th's policy of transferring cases because a party has hired Ms. Radcliffe or her firm is in effect putting the economic interests of the part-time associate judge and her associates ahead of the very clear provisions of the Texas Family Code." Opposing counsel, Mrs. Lori Laird, claimed, "This unwritten policy may very well be in conflict with the Texas Family Code and the Texas Government Code" and "the Galveston courts have not been following the procedures set out in the Tex. Fam. Code or the Tex. Gov't Code." Both counsels agreed that the 308th's "unwritten policy" violated Texas law.

Now, years later, it appears that dozens, and most likely hundreds, of cases now have void orders.

In addition, if the judge's friend was merely paid a few thousand dollars per case, then hundreds-of-thousands of dollars may have been funneled through the court, or with the court's blessings, to the judge's friend and appointee, Suzanne Radcliffe as "fees." Quite frankly, the legal exposure in this matter is great, and it is alarming.

Doryn, to assist with the investigation into how many family law cases may have void orders entered in them, please identify all family law cases that either Lori Laird or Suzanne Radcliffe are/were attorneys of record. It is likely that we need to go back to the investiture of the sitting judge.

Harvey, after we identify all the cases that likely have void orders, the parties in those cases will need to be notified.

Possibly something like, "After investigation of a scheme orchestrated in the 308th District Court, the County apologizes because the order granting your divorce on [date] is void and is not enforceable. Please contact an attorney to discuss your legal options."

This Court is also alarmed that the sitting judge appears to allow her coordinator to "stamp" a judge's signature on orders and notices, as well as that the judge herself entertains ex-parte communications in chambers, entertains issues in chambers without proper pleadings and thus in violation of the local rules, and has granted her cronies and political friends preferential treatment.

This Court feels compelled to notify the Texas Rangers and Texas Judiciary of these judicial abuses. In the meantime, please send this Court a list of active and inactive family law cases that involve Mrs. Lori Laird and Ms. Suzanne Radcliffe as attorneys.

Thank you.

HON. CHRISTOPHER DUPUY

Judge, County Court No. 2

County of Galveston

Justice Center

600 59th St., Suite 2205

(409) 621-7920 Main

Suzanne Schwab-Radcliffe <ajfissr@gmail.com>
To: Lori Laird <lori@lorilaird.com>

Mon, Sep 24, 2012 at 1:53 PM

Doryn is getting us information

----- Forwarded message -----

From: Jan Yarbrough <janyarbrough@gmail.com>
Date: Mon, Sep 24, 2012 at 12:40 PM
Subject: Fwd: Investigation of Galveston County's Dirty Little Family Law Court Secrets
(quoted text hidden)

Suzanne Schwab-Radcliffe
Email: Suzanne@SchwabRadcliffe.com
Web Site: www.SchwabRadcliffe.com
Facebook | Twitter

Lori Laird <lori@lorilaird.com>
Reply-To: Lori Laird <lori@lorilaird.com>
To: Suzanne Schwab-Radcliffe <ajfissr@gmail.com>

Mon, Sep 24, 2012 at 2:03 PM

I really can say I hate him. I never use the word hate because I don't believe in hating people... I seriously dislike them but not hate... however, this is making me feel HATE. OY VEX.

Lori Elaine Laird



The Mongoose



Issue: No. 15

The Enos Law Firm

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

This special election eve edition of my newsletter explains how election night will unfold and what to look for in returns and projections in hopes you can go to sleep at a reasonable hour and have a good idea who won.

This newsletter also explains why it is unethical and criminal for a family court judge to conduct ex parte communications with the amicus attorney about a custody case. It is widely believed that a few of our nine family court judges engage in this improper, unethical and criminal activity. I will personally file the grievances and the criminal complaints for any attorney who provides me solid proof of what we all hear is going on. This sordid practice imply must stop!

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing by a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously

November 6, 2012

In This Newsletter

[Election Night Guide to Early Returns and Projections](#)

[It is Unethical and Criminal for a Judge and Amicus Attorney to Engage in Ex Parte Communications About a Case](#)

"F-bomb" Dropped in Courtroom After the Judge Had Left Yields 4 Months in Jail

A federal judge dismissed a pro se litigant's civil case because he was late to the court. Instead of sensibly starting his own newsletter to complain, upset fellow told a court clerk "Tell judge Currie get the f--- off all my cases." The man was held in contempt and sentenced to four months in jail even though the judge was not in the courtroom. The U.S. Court of Appeals upheld the result. [Click here to read the opinion.](#)

look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
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greg@enoslaw.com

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How to Make Sense of Election Night

We will all know by Thursday or Friday the election results (we pray the Presidential race does not drag on for weeks in the courts while provisional ballots from Ohio or Florida are fought over). It may be a while tonight before we know who won nationally or locally.

What to Watch for Tuesday Night in Local Races

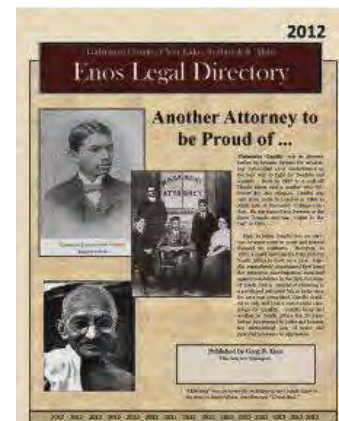
In Harris County, per GOP Chairman Jared Woodfill, the early indicator will be how much the Democrats win the early vote by. This year, the early vote should be over 60% of the total vote (a record). In the last few elections, the Democrats won the early vote but lost the votes cast on election day. So, if the Democrats do not win the early vote by at least 30,000, the Republicans are likely to sweep the county.

A poll conducted October 17-27 (before Super Storm Sandy) by a Rice Professor for KHOU 11 News and KUHF Houston Public Radio showed Obama leading Romney in Harris County 46% to 42%. In the U.S. Senate race, Democrat Paul Sadler had 44 percent to barely lead Republican Ted Cruz, who had 42 percent in Harris County. However, Republican crossover voters were helping push Democratic Sheriff Adrian Garcia to 51 percent ahead of his Republican challenger Louis Guthrie's 32 percent. On the other hand, many Democrats told pollsters they planned to vote for Republican district attorney candidate Mike Anderson, who's polling at 41 percent with his somewhat unusual Democrat opponent Lloyd Oliver fairly close behind with 35 percent.

This year, 700,216 people showed up to vote early in person in



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**Guide to Family Law
Practice in
Galveston County**

Harris County for the 2012 general election. That's 3.2 percent more than the then-record shattering 678,312 who voted early in the November 2008 election.

A reminder of the 2008 Harris County General Election Results when Obama barely won the county:

President

Candidate	Party	Votes	Pct
John McCain	REP	571,883	48.81%
Barack Obama	DEM	590,982	50.44%
Bob Barr	LIB	6,783	0.57%
Race Total		1,171,472	

U.S. Senator

Candidate	Party	Votes	Pct
John Cornyn	REP	544,857	47.33%
Richard J. Noriega	DEM	583,782	50.71%
Yvonne Adams Schick	LIB	10,694	1.96%
Race Total		1,151,174	

District Attorney

Candidate	Party	Votes	Pct
Pat Lykos	REP	563,431	50.21%
C.O. Bradford	DEM	558,647	49.79%
Race Total		1,122,078	

County Sheriff

Candidate	Party	Votes	Pct
Tommy Thomas	REP	495,246	43.72%
Adrian Garcia	DEM	637,588	56.28%
Race Total		1,132,834	

11th Judicial District - typical down ballot judicial race in which a long time Republican incumbent lost

Mark Davidson (R)	538,996	48.80%
Mike Miller (D)	565,464	51.20%
	1,104,460	

National Polls and Predictions

National opinion polls sway donors and fire up or discourage supports and give reporters something to talk about but national public opinion polls do not decide U.S. Presidential elections - the Electoral College does. That being said, five the eight national surveys released over the weekend show Obama ahead and three show a tie. That is a big change from just two weeks ago. The Pew survey, which has predicted the final popular vote percentages exactly in the last two presidential contests, shows Obama ahead by three percent. All pollsters now find it difficult to accurately predict voting because so many households only have cell phones and pollsters cannot call cell phones and because changing voting allegiances make it hard to model how many likely voters consider themselves Democrats and how many Republicans this year. However, it appears that there is a late swing back toward Obama.

The election eve forecasts from the more reputable forecasters are as follows for the Electoral College (270 needed to win):

Electoral-vote.com	Obama 294	Romney 220	Ties 24
Politico.com	Obama 303	Romney 235	

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is the current President of Interfaith Caring Ministries.



Attorney Greg Enos

It's the Electoral College Stupid!

Al Gore will confirm that winning the popular vote nationwide does not make one the President. It takes 270 votes to win the Electoral College. This election night starts with 41 states safely locked into Romney's or Obama's columns and only nine swing states in play.

Safe Obama states 237

Safe Romney states 191

The most recent surveys of the 9 swing states show the following likely outcomes Tuesday night:

Colorado (9) – Too close to call

Florida (29) – Romney (but 2 of 4 most recent polls say it is a tie)

Iowa (6), Nevada (6), New Hampshire (4) – Obama

North Carolina (15) – Romney (Public Policy Polling's last survey over the weekend says North Carolina is tied, but Romney has led in all recent polls before storm Sandy)

Ohio (18), Virginia (13), Wisconsin (10) – Obama

Totals based on most recent swing state polls:

Obama 294 Romney 234 Undecided 9

Romney cannot win unless he wins Florida and North Carolina plus Ohio and one other big state like Virginia or Wisconsin. If Obama wins Ohio and either Nevada or Iowa as currently projected, Romney would have to win all of the other swing states despite trailing in the polls in all those states.

When Swing State Polls Close

In the Presidential race, polls in the nine swing states close as follows (times are Central Standard time):

6 p.m. Virginia, New Hampshire

6:30 p.m. Ohio, North Carolina

7 p.m. Florida, New Hampshire

8 p.m. Colorado, Wisconsin

9 p.m. Iowa, Nevada

Voters may still be in long lines at the time polls are supposed to close and they will be allowed to vote. It thus may be hours before any returns other than the early votes are reported.

A Romney loss in Virginia would be really bad news for the GOP and Romney is toast if he loses in Florida. If Ohio is called early for Obama and Romney fails to win Wisconsin, it is hard to see how Romney can win. But, if Romney is stronger than expected in Virginia, and that state is called early for him, then it may be a sign almost all polling was off as Republicans have claimed and Obama may be back to teaching Con Law next year.



Nationally, the networks will quickly project Romney or Obama to be the winners of the "easy" states they are expected to win. Romney will jump to an early lead when the polls in the first seven states close at 6 p.m. CST. Romney will lead 44-3 at the beginning. The key is to see how the nine swing states go and the networks will take their time calling those races. The vote from the West Coast, which will all go for Obama, will be reported last but by then the winner should be known based on the results in the swing states.

The Associated Press, ABC, CBS, NBC, CNN, and Fox are part of a consortium, called the National Election Pool, to gather and share information that they will use on election night to call states for President Barack Obama or Mitt Romney. That information, collected by Somerville, N.J.-based Edison Research, includes telephone polling of early voters before Election Day, plus exit polls on Tuesday and sampling of precinct vote counts after the polls close.

While Edison has its own statistical models for calling races, many news organizations maintain independent - and private - software to make their own calls. Some news organizations differ in how they use exit polls. For example, CNN doesn't use exit polls to call competitive races. The AP, though, does use exit polls as one of its tools to project winners in close states.

Ex Parte Communications Between a Judge and an Amicus Attorney are Unethical and Criminal

An amicus attorney is an attorney serving as an advocate in a case and ex parte communications between any attorney and the judge are prohibited. A judge simply cannot have private discussions with the amicus about the facts of the case if the other attorneys are not present or have not consented in advance. It is not only unethical for the amicus and also for the judge to engage in ex parte communications, it is probably also a crime under Texas Penal Code Sec. 36.04. In 2005, a Brazos County judge and the attorney admitted he appointed in a car wreck were both indicted for secret e-mail communications about the case that did not involve the other attorneys of record. The judge and attorney both accepted guilty pleas, the judge resigned and both were publicly reprimanded by the State Bar.

The Texas Family Code makes clear that the amicus attorney serves as an attorney in the case. Sec. 107.001(1) defines "Amicus attorney" to mean, "an attorney appointed by the court in a suit, other than a suit filed by a governmental entity, whose role is to provide legal services necessary to assist the court in protecting a child's best interests rather than to provide legal services to the child."

Sec. 107.003 sets forth the powers and duties of the Attorney Ad Litem and Amicus Attorney and does not mention the power to have ex parte communications with the judge. Sec. 107.003(1)(F) states that the Amicus Attorney shall, "participate in the conduct of the litigation to the same extent as an attorney for a party." Sec. 107.005 describes additional duties of the Amicus Attorney and

makes clear that the amicus serves as an advocate in court like the attorneys representing the parents. Sec. 107.007(a) says, "Subject to any specific limitation in the order of appointment, an amicus attorney shall advocate the best interests of the child after reviewing the facts and circumstances of the case."

The Texas Code of Judicial Conduct, Canon 3(B)(8) states:

*(8) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. **A judge shall not initiate, permit, or consider ex parte communications or other communications made to the judge outside the presence of the parties between the judge and a party, an attorney, a guardian or attorney ad litem, an alternative dispute resolution neutral, or any other court appointee concerning the merits of a pending or impending judicial proceeding.** A judge shall require compliance with this subsection by court personnel subject to the judge's direction and control.*

Rule 8.04 of the Texas Disciplinary Rules of Professional Conduct states:

(a) A lawyer shall not:

(1) violate these rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship;
(2) commit a serious crime or commit any other criminal act that reflects adversely on the lawyers honesty, trustworthiness or fitness as a lawyer in other respects;

(6) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law;

Rule 3.05 of the Texas Disciplinary Rules of Professional Conduct states:

A lawyer shall not:

(a) seek to influence a tribunal concerning a pending matter by means prohibited by law or applicable rules of practice or procedure;

(b) except as otherwise permitted by law and not prohibited by applicable rules of practice or procedure, communicate or cause another to communicate ex parte with a tribunal for the purpose of influencing that entity or person concerning a pending matter other than:

(1) in the course of official proceedings in the cause;
(2) in writing if he promptly delivers a copy of the writing to opposing counsel or the adverse party if he is not represented by a lawyer;
(3) orally upon adequate notice to opposing counsel or to the adverse party if he is not represented by a lawyer.

An amicus attorney who engages in ex parte communications with a judge would be violating DRPC 8.04 and 3.05. The amicus attorney would also probably be committing a crime.

The Texas Penal Code at Sec. 36.04 describes the crime of "Improper Influence" as follows:

(a) A person commits an offense if he privately addresses a

representation, entreaty, argument, or other communication to any public servant who exercises or will exercise official discretion in an adjudicatory proceeding with an intent to influence the outcome of the proceeding on the basis of considerations other than those authorized by law.

(b) For purposes of this section, "adjudicatory proceeding" means any proceeding before a court or any other agency of government in which the legal rights, powers, duties, or privileges of specified parties are determined.

(c) An offense under this section is a Class A misdemeanor.

In 2005, a Brazos county judge and the attorney ad litem he had appointed in a car wreck case were both criminally charged for ex parte e-mail communications about the case. The attorney ad litem was charged and finally accepted a guilty plea for violation of Sec. 36.04 for sending e-mails to the judge about a case which were not sent to the other parties or attorneys (Cause no. 05-06066CRIM). That same attorney also accepted an agreed Public Reprimand from the State Bar. The judge in that case plead guilty to "Abuse of Official Capacity" under Texas Penal Code Sec. 39.02 (Cause no. 05-06061-CRM). The judge resigned and also agreed to a public reprimand from the State Bar. A local newspaper, Bryan-College Station Eagle on January 6, 2007, described what happened as follows:

Harrison became the focus of attention in November 2005, after the Brazos County Juvenile Board unanimously selected her for a part-time juvenile judge seat over six other candidates, despite her history of alcohol-related arrests. She initially accepted the job but backed out days after The Eagle filed an open-records request seeking all nonwork-related e-mails between her and each of the area's five trial court judges on the Juvenile Board. It would take months of legal wrangling before the newspaper received the e-mails, which revealed the attorney had been having an affair with Michel - who was then presiding over the County Court-at-Law No. 1 bench. Using a grand jury subpoena, the District Attorney's Office quietly requested similar documents at about the same time.

Prosecutors claimed that Michel abused his power by conducting "secret e-mail correspondence" with Harrison about a case she was arguing in his courtroom. He gave her advice on whom to call as witnesses and cited laws she should look into - a violation of the law so flagrant prosecutors described it as "a complete corruption of the way the process in a Texas courtroom is supposed to take place."

Former County Court-at-Law No. 1 judge Randy Michel and lawyer Patricia Bonilla Harrison were reprimanded by the State Bar of Texas for unethical practices. More than a year ago:

** Michel pleaded guilty to abuse of official capacity. He also announced he would step down from the bench.*

** Harrison pleaded guilty to improper influence. She had previously backed out of a position as a part-time juvenile judge because of a history of alcohol-related arrests.*

** Both were ordered to jointly pay \$13,840 in restitution to local*

attorney Chad Jones.

At the end of the case, Michel ruled in Harrison's favor and ordered her opponent, Bryan-based attorney Chad Jones, to pay \$12,000 in fees. He then filed a complaint against Jones with the State Bar of Texas that officials would later find to be without merit.

As a result of their 2005 plea agreements, Michel and Harrison agreed to pay Jones \$13,840 in restitution. For the recent public reprimands, they were each ordered to pay \$400 to recoup costs associated with the State Bar of Texas' investigation.

"The evidentiary panel finds that respondent has committed professional misconduct as defined by the Texas Rules of Disciplinary Procedure and should be reprimanded," read the court documents filed for each attorney's reprimand.

The situation of ex parte communications between a judge and an amicus attorney involves three unique dynamics in family court:

- Some family court judges, who would never discuss a case ex parte with a lawyer for the mother or father, truly think it is acceptable to have ex parte discussions with the amicus attorney the judge appointed.
- The amicus attorney is often reluctant to say, "no" to the judge who appointed her, who controls her fees and who has the power to appoint that lawyer in the future to other cases.
- Family attorneys in particular are frankly afraid to confront all-powerful family court judges about improper behavior because judges in divorces and custody matters are given such wide discretion.

Proving that ex parte communications have occurred between the judge and the amicus attorney is often difficult. Texas Family Code Sec. 107.007 states that an amicus attorney may not be compelled to produce work product developed during the amicus appointment and may not testify except as to attorney's fees. However, Amicus Attorneys do speak in court and one possible method would be for an attorney in court with all counsel present on the record to say something like, "Judge, before we get started, with all due respect to the court, I would like for the amicus attorney to state on the record that she has not engaged in any communications with the court about the facts of this case in which other counsel were not involved." The judge might be angry but she would not look very good if she then refused to allow the amicus to make that statement. The amicus as an attorney would have an ethical duty to tell the truth to the tribunal even if not under oath. DRPC 3.03, 8.04(3).

A lawyer representing a parent or grandparent in a child custody case who can prove that the amicus and judge have engaged in ex parte communications might be tempted to say or do nothing if the amicus and/or judge is on his client's side in the custody case. However, DRPC 8.03 states:

Rule 8.03 Reporting Professional Misconduct

(a) Except as permitted in paragraphs (c) or (d), a lawyer having knowledge that another lawyer has committed a violation of

applicable rules of professional conduct that raises a substantial question as to that lawyers honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate disciplinary authority.

(b) Except as permitted in paragraphs (c) or (d), a lawyer having knowledge that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judges fitness for office shall inform the appropriate authority.

The attorney who can prove that an ex parte communication has occurred between the judge and amicus, should:

1. Inform her client and the opposing attorney.
2. File a sworn motion to recuse the judge and a motion to replace the amicus attorney.
3. File a grievance with the State Bar and the Commission on Judicial Conduct, and
4. Make a report to the District Attorney's office.

The amicus attorney must refuse a judge's attempts to talk or email about a case ex parte and should notify the other attorneys and has a duty to report the judge.

Courthouse gossip says a few of our nine family court judges are routinely talking to amicus attorneys about active cases without the knowledge or participation of the attorneys representing the parents. I have had amicus attorneys tell me this is going on. **If you bring me the proof, I will file the grievances and complaints to the District Attorney.** This practice is not just unethical and illegal, it subverts our system of advocacy and rules of evidence and is simply not fair.





The Mongoose



Together, family law attorneys can reform our family courts!
Published by attorney Greg Enos

Issue: No. 15

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

This post-election edition of my newsletter analyzes election returns for Harris County and its suburbs and predicts that in the next two to six years, Harris County will be swept by the Democrats in general elections because of changing demographics. The tree-hugging liberal in me likes the sound of that prediction. But, my rational, family lawyer side does not want to lose some of the wonderful family judges we have in Houston who just happen to be Republicans.

I also write about the messed up Galveston County election administered by the "gang that can't shoot straight."

First however, this newsletter provides two scary examples of judges "protecting" others in ways which make you really wonder how much common sense and the law actually effects some judicial decisions.

Lastly, I again express disappointment and near total disagreement with Galveston County Court at Law Judge Christopher Dupuy, this time over a ridiculous Facebook posting.

November 12, 2012

In this issue...

**Judges "Protecting"
Others in Bizarro
Land**

**Harris County
Election Results**

**Galveston County's
Screwed up Election**

**Judge Dupuy, Are
You Kidding Me?**

**Home Schooling
and Child Support**

Child support in Texas is payable past the child's 18th birthday if the child is enrolled in an accredited secondary school in a program leading to a high school diploma, or enrolled

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing by a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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[Check our new web site!](#)



Are you a real warrior for justice?

Nothing beats a beautiful "Roman" themed weekend at the Renaissance Festival with your best Centurion buddies!

Examples of Judges "Protecting" Others

We want judges to help and protect people, especially children. It is usually preferable if considerations of the law and common sense guide how that protection is given. Here are two examples of family court judges "protecting" others in ways most of us should have a hard time understanding.

In Galveston County, in Cause No. 07FD1547, the Ricks were divorced in the 306th District Court in 2008. The 306th then became the court of exclusive continuing jurisdiction because a child's custody, possession and support was addressed in the decree. In January 2010, attorney Suzanne Schwab-Radcliffe filed a petition to modify for the mother. Judge Jan Yarbrough (a Democrat), without motion or hearing, transferred the case to County Court No. 3 because Judge Radcliffe is the 306th's part-time

in joint high school - junior college course or "on a full-time basis in a private secondary school in a program leading toward a high school diploma." Tex. Fam. Code Sec. 154.002(a). In Texas, home schooling is treated as a private school. *TEA v. Leeper*, 893 S.2d 432, 444 (Tex. 1994)(a child being home schooled is in a "private school" and is exempt from the compulsory public school attendance law).

The only Texas case directly involving home schooling and child support is *In re J.H.*, 264 S.W.3d 919, 925-6 (Tex. App. - Dallas 2008, no pet.). There, a nineteen year old was being home schooled by his mother and was "one third to one half completed in his home schooling program." The young man was considered enrolled in a private school and thus the father still was required to pay child support past his son's 18th birthday. The father's argument that he was really being ordered to pay child support indefinitely was not reached because the court of appeals did not consider the issue properly briefed. *Id.* at 926.

Join the Rebellion!

Family Docket, 306 th Judicial District Court, Galveston County Cause 07FD 1547					
STYLE OF CASE		ATTORNEYS	KIND OF ACTION	DATE OF FILING	
				Month	Day
Rides					
Date of Orders	ORDERS OF COURT			Minute Book	
JAN 28 2010 Coded SF	Case transferred to AC #3 due to Judge Sotomayor Rodriguez's inavailability (Court practice in 306th) - dm			Sheet	Page
			REMARKS		

Judge Yarbrough's *sua sponte* transfer of the case violated the very clear law in Texas on continuing, exclusive jurisdiction. Appellate cases have held that family judges cannot just transfer cases involving children unless the very specific procedures for transfer are followed. *In re G.R.M.*, 45 S.W.3d 764, 766-767 (Tex. App. - Fort Worth 2001, no pet.) clearly holds:

In *Kirby v. Chapman*, we previously recognized that the legislature intended that the transfer procedures provided by the family code be the only mechanisms for the proper transfer of suits affecting the parent-child relationship. More specifically, we held in *Kirby* that the exclusive transfer provisions in the family code for suits affecting the parent-child relationship negate the ability to transfer such cases freely between courts in the same county under section 24.303(a) of the government code.

Citing the Dallas Court of Appeals' decision in Johnson v. Pettigrew, we held that the legislature intended the transfer procedures provided by the family code to be the only mechanisms for the proper transfer of suits affecting the parent-child relationship and that the exclusive transfer provisions provided in the family code negate the ability to transfer cases freely between courts in the same county under section 24.303(a) of the government code.

(Citations omitted).

This holding is in accord with *Johnson v. Pettigrew*, 786 S.W.2d 45, 47-48 (Tex. App.—Dallas 1990, no writ) and *Alexander v. Russell*, 699 S.W.2d 209, 210 (Tex. 1985).

In the above *Ricks* case, Judge Yarbrough did not transfer the case because either party requested it, because the law required it or because it was necessary to protect the child. In fact, the law prohibited the transfer. A "standing" order signed in 1998 by three family court judges who no longer hold office (which also made the same sweet deal for the then part-time Associate Judge Jan Yarbrough) which says any cases of Radcliffe's in the 306th will be transferred to County Court No. 1 or 2 (but not to Court no. 3) does not change the law or the ethics involved.

As wonderful a judge as Yarbrough otherwise is, I have to conclude she transferred the case in violation of the law to protect her friend's and part time Associate Judge's ability to earn the fees in this case.

Guide to Family Law Practice in Galveston County

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is the current President of Interfaith Caring Ministries.

Yarbrough should have told her friend, "Sorry, I know you need to make a living, but we are judges and we gotta follow the law, not to mention we must avoid doing something that just doesn't look right." The *Ricks* case is just one of many cases where such transfers in violation of the Texas Family Code were made to accommodate Judge Radcliffe's private practice.

Another example of a judge trying to protect someone (a child I guess) is found in Cause No. 2009-75735 in Harris County in Judge Denise Pratt's court (Pratt is a Republican). There, the parents were divorced in 2010. In April of 2012, a modification suit was filed and the parents quickly reached an agreement to increase the child support, add the over 100 mile visitation language because one parent had moved to Dallas and add the standard State Bar approved language on changes of possession at the airport. Judge Pratt requires a "prove up" hearing on all modification cases, even if custody is not changed. When the petitioner and her attorney appeared in court (and once they waited for Judge Pratt to arrive), Judge Pratt refused to approve the agreed order because it provided that the 8 year old child could fly unaccompanied for visitations (on non-stop flights only, when the parents felt the child could handle it). When pressed, Judge Pratt from the bench said she would never approve unaccompanied flights for any child under age 19. When asked why, Judge Pratt said in open court before the gathered attorneys, "because of human trafficking." An angry Pratt then sent the attorney away and within a day Judge Pratt appointed an Amicus Attorney to represent the child!



Attorney Greg Enos

Stop and consider what happened. The parents who know and love their child reached an agreement that provides for the possibility of unaccompanied flights for a child on non-stop 50 minute flights to and from Dallas. Thousands of parents and kids do the same thing every month in Texas without incident. Without hearing any evidence, Judge Pratt refused to accept this agreement because of the judge's fear of "human trafficking," which I am sure would be news to Southwest Airlines and the FBI. Then, these parents who had agreed on everything, got stuck with the cost of an Amicus Attorney. What exactly would the amicus even do in this situation? Everyone involved in family law in Harris County is asking, "What is going on in Judge Pratt's court?" Tales of really odd rulings and procedures abound. The above case is just one example of many, many such hard to understand rulings.

Harris County Election Results

Harris County went slightly Democratic in the 2012 General Election. In Harris County, 68% of all votes cast were straight ticket votes and each party got roughly the same number of straight ticket votes: Republicans 403,455 and Democrats 406,099. Unlike other recent elections, the Republicans won the early vote but lost the votes cast on election day. In the final total vote tally, Romney and Obama were effectively tied, although the President won by just 585 votes. Romney got 584,866 votes and Obama 585,451. Minor party candidates for President received about 15,000 votes.

In the U.S. Senate Race, Republican Ted Cruz did slightly better than Romney, receiving 581,197 votes to Democrat Paul Sadler's 562,955.

In the races for the two Houston Courts of Appeals, all of the Republicans won. In Harris County, the Republican candidates for Court of Appeals Justice beat their Democratic opponents 50% to 49% except for Democrats Barbara Gardner and Julia Maldonado, who each got 50% to the Republican's 49%. However, Gardner and Maldonado did not win because of the votes cast in the other 10 counties that comprise the First and Fourteenth Courts of Appeal. Maldonado, for example, lost the 11 county district to John Donovan 856,119 (52.7%) to 769,655 (47.3%).

In the 24 District Court races on the ballot in Harris County, Democrats won 14 and Republicans won 10. Republicans won both County Court at Law benches that were on the ballot. In all of the judicial races, the winner got just over 50% and the loser got just under 50%. In all but one of the district court races won by Republicans, less than 7,000 votes out of 1.2 million cast separated the winners and the losers.

Democrats won the race for County Attorney (51.47% to 48.53%) and for Sheriff (52.95% to 45.2%). Sheriff Adrian Garcia was by far the biggest vote getter for Democrats. Republican candidate for District Attorney, Mike Anderson, was the biggest vote getter for local Republicans, as he defeated the controversial Democrat, Lloyd Oliver, 52.35% to 47.65%.

Harris County is now a politically competitive county teetering on the verge of tipping to a solid Democratic county because of demographic changes. Dallas County in 2004, a Bush Presidential year, was in roughly the same position then. In 2004, Republican candidates barely won all of the local judicial races. Then, in 2006, a year when the Governor was on the top of the ballot, Democrats barely won all local judicial races and the Democrats have dominated Dallas County ever since.

In most of the biggest cities in solid Republican states, changing demographics usually cause the central urban county to go Democratic just as the surrounding suburban counties become even more solid Republican. Compare this "Democratic donut hole" phenomenon for the 2012 Presidential election for Dallas and Harris counties and their surrounding counties:

Dallas Obama 57% Romney 41.6%

Denton Romney 65%, Obama 33.3%
 Collin Romney 65%, Obama 33.4%
 Kaufman Romney 71.7%, Obama 27.3%
 Ellis Romney 73%, Obama 25.6%
 Tarrant Romney 58%, Obama 42%

Harris Obama 49%, Romney 49%

Brazoria Romney 66.4%, Obama 32.3%
 Chambers Romney 80.1%, Obama 18.9%
 Fort Bend Romney 52.9%, Obama 46.1%
 Montgomery Romney 79.7%, Obama 19%
 Galveston Romney 62.8%, Obama 35.9%

The population changes in Harris County are truly astounding. The U.S. Census estimates that in 2011, 41.4% of the population of Harris County was Hispanic and 32.7% was Anglo, 19.3% black and 6.4% Asian. This means that almost seventy percent of the county's population is non-white. Over 50% of the voting age population is non-white. I strongly suggest you look at this eye-



opening summary of a recent Rice University study of demographic and attitude changes in Harris County. [Click here to see the study findings](#) (look at the maps and bar graphs toward the end especially).

It is only a matter of time before Harris County is as Democratic as Dallas County while the surrounding counties vote overwhelmingly for Republicans (the exception could be Fort Bend county which is unusually racially diverse). The big question for family lawyers and judges is: how soon will Harris County make the switch to only electing Democratic judges?

In two years when all of our family courts will be on the ballot, it will also be a gubernatorial election year. Governor Perry, who was badly damaged by his embarrassing presidential run, apparently plans to seek reelection and he is very likely to be the Republican at the top of the ticket. Yes, Obama will not be on the ballot to motivate minorities to vote in 2014. But, Obama probably encouraged just as many Republicans to vote this year because of their hatred of him. If a dynamic Democrat is running for Governor, such as San Antonio Mayor Julian Castro, we may see record Hispanic voting in Texas in 2014. If local Democrats copy the amazing get out the vote efforts used by the Obama campaign in competitive states such as Ohio and Florida this year, it could be the end of Republican judges in our county. Given how really good the majority of our nine family court judges are, that would be mostly a shame.

2014 should see an improving economy and surely by then a bipartisan compromise on the federal budget. Obamacare will be kicking in full force and most Americans will become covered by health insurance. Our long war in Afghanistan will be over and the huge political issue of the day will be immigration reform. Either congressional Republicans will continue to oppose rational immigration reform (which will enrage and motivate Hispanics) or finally a grand consensus on immigration reform will be reached and Obama and the Democrats will get the credit for it with Hispanics.

2012 was the year Republicans should have kicked ass given the economy and general feeling we are not better off than four years ago. 2014 is very unlikely to provide such an opportunity for the GOP. The huge anti-incumbent fever that swept the country in 2010 and helped Republicans win everywhere, including judges in Harris County, is also unlikely to be repeated in 2014.

Two or three family court judges are expected to retire in two years, so there will be some open seats.

Family attorneys should discourage any Democrat from running against our five really good, fair Republican judges. We also need to encourage and recruit really good lawyers to run in both parties for at least four of our family court benches in two years.

Based on the district court elections this year, all it takes is a half of a percent swing to elect either a Democrat or Republican judge in Harris County. The four Republican incumbent family court judges who do not already know better might consider this good reason to stop playing favorites and treating amicus appointments like political patronage -- a public perception that our family courts are not fair and need cleaning up might well motivate at least a few thousand voters to want a change in the family courts and thus elect Democrats in a tight race.

Galveston County Shows How Not to Run an Election

Galveston County was swept by Republicans as expected. Romney got 63% of the vote and the straight Republican ticket votes were almost twice the straight ticket votes cast for the Democrats. None of the local judicial races even had a Democratic nominee. The Republican candidates for Sheriff and District Clerk each received roughly 60% of the vote. John Kinard will be sworn as District Clerk as soon as the final vote is canvassed because he won a special election to fill a vacant position.

The only black eye for Republicans in Galveston County was the astoundingly incompetent way the Election Day voting was managed. Unlike almost all other counties, Galveston County allows voters to vote at any voting center on Election Day, not the voters' local home precincts. This requires the electronic voting machines at each voting center to be able to accept votes for every possible combination of local race and local bond issue or referendum. State law requires electronic voting machines to produce a printout on the morning of the election to show that no votes have been cast and everyone is starting with zero votes. Apparently, no one thought about how long that process would take with a voting center system. The voting machines took over an hour to print out the long complicated report showing all possible races. Many election workers started the process too close to 7:00 a.m. So, when the polls were supposed to open, the machines were still printing out reports on special rolled printing paper. Unfortunately, most of the machines ran out of paper and no extra paper rolls had been provided to the voting centers. The County Clerk's staff had to scramble to find and deliver the special printing paper to the voting centers before voting could begin.

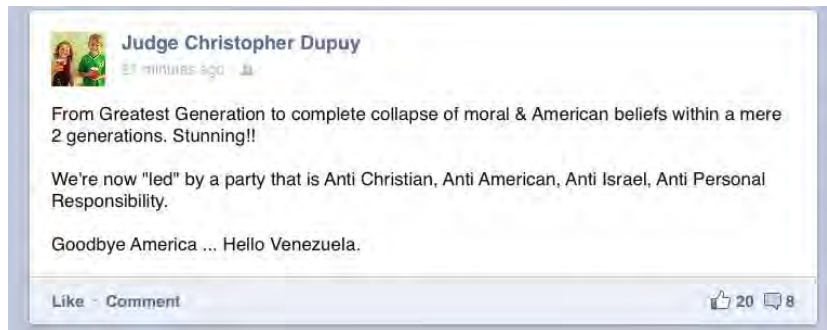
Voting at most of the voting centers started well over an hour late and centers some opened over two hours late, resulting in angry, frustrated voters and crazy long lines. Judge Ellisor granted a motion to allow the polls to stay open two hours late. However, all votes cast after 7:00 p.m. were taken as provisional votes, which are not counted on election night. Now, there is a delay counting those provisional votes and some are missing! The county's electronic voting system shows that 1,988 provisional ballots were cast during the election, but election officials hand-counted 1,943 provisional ballots, 45 shy of what the electronic voting system says there should be. But, County Tax Assessor-Collector Cheryl Johnson, whose staff must certify the provisional ballots, says she has 1,935 ballots - 53 less than what the county's voting system said were cast. No one can explain where the missing ballots are. Worse, Ms. Johnson shut her offices on the Friday after the election for staff training and she had to ask for extra time to certify that each provisional ballot was cast by an eligible voter before the County Clerk is allowed to count them.

The provisional ballots and the missing ballots will not change the results of any elections, except for possibly one city council election and one school board race. However, this mess makes our county government look totally inept. Heads should roll and voters deserve an honest explanation of how this mess could possibly have happened and how it will be avoided in the future. County

Commissioners should appoint a panel to investigate and write a public report. This panel should be independent of the County Clerk and the Tax Assessor-Collector.

Judge Dupuy, are you kidding me?

The following Facebook post made after Obama's election win would be disgusting coming from anyone, but coming from a judge who is not exactly the paragon of responsibility or moral behavior, it is absolutely amazing. Someone who has filed for bankruptcy twice, had his law license suspended, a house foreclosed and car repossessed, who still faces malpractice lawsuits from before his accidental election as judge and whose judicial misbehavior constantly results in him being recused from cases should not be accusing anyone of being "Anti Christian, Anti American or Anti Personal Responsibility."



The battle royale between judges Dupuy and Radcliffe continues. Radcliffe has filed a mandamus action with the Court of Appeals properly pointing out that Dupuy issued his orders barring her from practicing family law while she is a part-time associate judge and holding her in contempt without notice or a hearing. While Dupuy is correct that the county should not have a part-time judge who also is allowed to practice family law and get her cases kicked out of the 306th, he went about it the wrong way. True to form, Dupuy also stuck his foot in his mouth while giving an interview to the *Galveston Daily News*. The article in the *News* ([click here to read the article](#)) says:

Dupuy ended his statement to The Daily News by saying he expected the liberal local media, including the reporter asking Dupuy for comment on the writ, to refuse to fairly report the matter and instead draft misleading articles.

Dupuy just cannot help doing, writing or saying things that make him look bad. He is his own worst enemy and he just keeps giving folks more reason to want him out of office.



The Mongoose



Together, family law attorneys can reform our family courts!
Published by attorney Greg Enos

Issue: No. 17

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

I am ending 2012 on a positive note before I start the new year by calling for the removal or resignation of a certain judge who is the subject of a criminal complaint I have filed and many, many complaints filed by others with the Commission on Judicial Conduct.

We have a lot to be proud of in our family courts. For every complaint or suggestion for improvement I can make, I have a dozen compliments for hard working, dedicated judges who know and follow the law.

In this issue, I describe the ideal family law judge and briefly describe a recent article on why marriages and romantic relationships usually change after the first two years.

Most importantly, I provide an eye-opening paper on how to handle 401(k) retirement accounts in divorces. I can almost guarantee that some of the things you thought you knew about how 401(k) accounts are characterized, valued and divided in divorces is wrong. [Click here to download the paper on 401\(k\)'s in PDF format.](#) I intend to follow this article up with a

December 31, 2012



Proper Citation Form For Unpublished Court of Appeals Decisions

Memorandum decisions in civil cases from Texas Courts of Appeals may be cited as authority in briefs and pleadings. I checked with no less an authority than Nina Indelicato, Chief Staff Attorney at Fourteenth Court of Appeals, on the correct citation form for these unpublished decisions (assuming you, like most attorneys, do not use or have access to Westlaw). The proper citation form for an unpublished civil decision is:

**In re Marriage of Green,
No. 05-11-00127-CV**

series of similar papers on pensions, IRA's, and state and local government retirement plans.

Lastly, I want to thank all of the attorneys and many judges who have been so very supportive during this past year of this newsletter and my humble efforts to seek improvement in our family courts. Here is one of many recent e-mails I have received from attorneys:

Greg - I appreciate what you do. I am sure there is a price to pay for you, but at least you have the guts to say and bring to the public domain what so many of us know and talk about but do nothing but complain to our colleagues. Kudos to you.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing by a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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[Check our new web site!](#)

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Yo, your honor, the *Mongoose* is watching you!

The Ideal Family Law Judge

I do not just complain about what is wrong in the family courts. I also appreciate the amazing good that our judges and their staffs do to help families and children.

Forty years ago, teenage boys in Austin would spend hours discussing their ideal female back in the days before the Internet, when the three television channels only ran shows that were PG or

(Tex. App. - Dallas
8/19/11, no pet.)(mem.
op.).



**Beware of attorneys serving
the dark forces of injustice!**

Guide to Family Law Practice in Galveston County

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area

G. One might suggest that "she" should have the face of Brooke Shields, the hair of Farrah Fawcett and the body of Raquel Welch, for example. If I were to apply the same process to describing the ideal family court judge, I would dream of:

- A judge who works as hard day in and day out as Jim York and who treats all visitors to court, the rich and poor, the big shot lawyer and the newest attorney, with the same equal friendliness that Judge York shows to those who appear before him.
- A judge who insists that his court be as lawyer friendly as Judge Lombardino, with coffee and use of the jury room and Wi-Fi the judge provides and even sometimes use of a judge's computer to type an agreed order.
- A judge who runs a court with efficient friendliness like Judge Farr, who commands respect though consistent fairness and knowledge of the law and procedure.
- A judge who can get through a 62 case docket in the morning like Judge Dean by herself and who applies the same common sense perceptiveness to the parents and grandparents and teenagers who appear before her.
- A judge like Judge Judy Warne, who not only knows the law, but applies an intellectual vest for learning and discussing the law.
- A judge like Conrad Moren or Robert Newey, who remains calm and unflappable when the lawyers and parties are all going emotionally beserk before them.
- A judge like Roy Moore, who will not take B.S. from any lawyer or party and who can so very effectively pucker the backsides of those rare miscreants who deservedly receive a blistering chewing out.
- A judge like Bonnie Hellums, who will patiently describe her policies and procedures (however detached from logic or reality they might be) each morning and who detests chewing gum like I do.
- A judge like Lisa Millard, who embraces new technology (and who someday will have a free scanner at the clerk's desk for handwritten agreements to be e-filed).
- A judge like Randy Huffstedler, who is such a fundamentally good and likeable person at heart that you cannot help but smile when someone mentions his name (a reaction I do not have when the names of some other judges come up).
- A judge like Barbara Roberts or John Grady, who still remembers the realities of practicing law by busy attorneys with multiple clients; who expect professionalism but understand the occasional mistake.
- A judge like Steve Baker, who is consistent and predictable - two qualities that are hugely important to lawyers who spend so much of our time trying to anticipate the likely outcome in court so that we can advise our clients on settlement and trial tactics.
- A judge like Suzanne Schwab Radcliffe, who can hear a case presented by an attorney like me (who has so publicly disagreed with the very existence of her part-time judge's job) and still treat the attorneys and parties with consummate fairness and professional courtesy.
- Most importantly of all, a judge like Jan Yarbrough, or David Farr or Judy Warne or Roy Moore, and most of those listed above (and their associate judges), who try so hard to make fair decisions of such great importance and who make amicus appointments based on merit and not on political

Bar Association and
President of the Board of
Interfaith Caring Ministries.



Attorney Greg Enos

connections.

Though Provoking Article on Romance, Marriage and "Hedonic Adaptation"

A few weeks ago, the *New York Times* ran an interesting story on the limited shelf life of romantic love. Scientists have confirmed that newlyweds enjoy a big happiness boost that lasts, on average, for just two years. Then the special joy wears off and they are back where they started, at least in terms of happiness. This article explores the concept of "hedonic adaptation" and explains why many marriages (and perhaps law partnerships) change after about 24 months. [Click here to read the complete New York Times article.](#)

401(k) Retirement Accounts in Divorce

The most common retirement account we deal with in divorces are 401(k) accounts. Surprisingly, many attorneys and some judges do not understand some of the basic legal principles involved in dividing 401(k) accounts in divorces. I have written a brief article which addresses the five most common questions that arise in divorces regarding 401(k) accounts. [Click here to download the article in PDF format](#) and I bet you will read something you did not know about 401(k) accounts.

The questions this paper answers are:

- 1. What is the proper method to determine how much of a 401(k) account is community property and how much is separate property?** A lot of lawyers are using the wrong method to calculate how much in a 401(k) account is separate property.
- 2. Should the value of a 401(k) account be reduced because it has not yet been taxed?** Often, lawyers make this argument but I explain why in almost all cases, the 401(k) balance shown on the statement is the amount that should be used and not some lower amount reduced by a mythical tax rate.
- 3. How does the attorney show a 401(k) loan on the community property spreadsheet?** A 401(k) loan is a debt and a receivable which cancels itself out mathematically, but it should still be accounted for and shown on the property division spreadsheet.
- 4. What is the correct way to word a settlement agreement that divides a 401(k) account?** We all use forms for divorce decrees that address most of the vital issues in dividing retirement accounts. However, our informal settlement agreements and mediated settlement agreements often fail to address the fundamental matters the plan administrator must know in order to divide the account. I provide specific sample language for settlement agreements to avoid later fights over entry of decrees and QDRO's and calculations of the amounts each spouse is to receive.
- 5. What are the procedures and tax implications for dividing a 401(k) account in a divorce?** Too many attorneys wait until the very last moment to obtain the information needed to draft QDRO's,



Is resistance really futile?



even if they farm that chore out to specialists. The forms suggested by the Texas Family Law Practice Manual for obtaining information from plan administrators asks for way too much. I provide a short, specific form letter for obtaining just what is needed from the 401(k) plan and specific procedural steps for getting a QDRO drafted, entered and approved.



The Mongoose



Together, family law attorneys can reform our family courts!
Published by attorney Greg Enos

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Dear Chris:

It hurts me to think you are going to read this just like it hurts me to feel compelled to write this because of your actions. Please do not come shoot me or hurt yourself because of this newsletter. Please just focus on the job you were elected to do and just stop issuing crazy orders and insane e-mails about your fellow elected officials. Start recusing yourself as soon as anyone asks you to and stop holding lawyers and your fellow judges in contempt and please, stop drafting pleadings and freedom of information request letters for your new girlfriend and do not fax them to me from the courthouse. If you cannot control yourself (and it may well be too late), you are going to lose your bench, your law license and custody of your kids. This is one time when you really should listen to me. I am sorry it has come to this because I truly tried to help you. My goal was always and simply to see you do a good job.

Greg

Dear Reader,

January 16, 2013



Revised 401(k) Paper

I received a lot of feedback from lawyers and judges on my paper on 401(k) plans in divorces. So, I have done a major revision on the section on 401(k) loans. I am confident that the approach I describe to such loans is supported by most other family law attorneys and judges who have studied the subject. [Click here to download the new, improved 401\(k\) paper.](#)

District Clerk Internet Access Working Again

Internet access to court files through the Galveston County District Clerk's Odyssey system is now most

A lot of things in life are more important to me than this newsletter. I am a pseudo-journalist as a hobby but I take very seriously my role as a father and attorney. I have criticized some judges in the last year, but I have purposefully ignored or gone easy on Galveston County Court No. 3 Judge Christopher Dupuy because I did not want to see any innocent folks I care about embarrassed because I got involved in the public controversies Dupuy has generated. However, Dupuy's own actions have now drawn me into the mess he had created, to the point where I had to write the DA about behavior that could be criminal and is certainly horribly inappropriate (Dupuy would deny any crime and I do not know one was committed). [Click here to see a redacted copy of my letter to the District Attorney](#) about Judge Dupuy's actions, which supplies facts that make it seem likely a crime has been committed (it may not have been) but which proves beyond a shadow of a doubt Dupuy exercised incredibly bad judgment.

I was slow in part to focus on Dupuy because I am also a lawyer representing clients with cases pending in his court. I can disagree with Judge Yarbrough and not worry that she will penalize my clients, but I cannot say that about Judge Dupuy. Now, I will be sharing this newsletter with my clients and either filing motions to recuse or finding other lawyers to substitute for me.

There was also the delicate fact that I was the arbitrator in Dupuy's divorce who awarded him custody of his two young children (before he was elected judge in the 2010 Republican landslide). At that time, I did not know Dupuy and I had never dealt with him professionally. I feel any judge would have ruled as I did based on the evidence presented, but that fact made me even more reluctant to publicize his conflicts with a few other lawyers.

In reality, I was reluctant to focus the spotlight on the Dupuy story because I was too much a part of the story. When Dupuy was elected, I made the decision to try to get to know him and steer him in the right direction since it appeared he might be a judge in our county for many years if he did his job right. Rather than sit on the sidelines and just observe, I as usual jumped right in and tried to suggest how he should do his job as a judge in hopes he would get it right. Although, I actually had very few contested cases in his court, in many attorney's minds, I became very closely associated with Dupuy.

It simply has not been right for me to sit on my high horse preaching to the world about proper judicial behavior while I ignored judicial misbehavior that is simply hard to believe is happening. Brave lawyers like Greg Hughes (and less brave anonymous critics like Don Tequila) should not have to shoulder the fight alone. Moreover, I may disagree with Judges Yarbrough and Radcliffe on one narrow policy issue, but I cannot sit by and watch them lambasted with horribly inaccurate slurs by Dupuy.

A book could be written about what Judge Dupuy has done wrong in the two short years he has been on the bench. This newsletter barely skims the surface of his misdeeds but it still reads like some lame fiction a Scott Turrow wannabe would pen.

As you will read below, I do more than say Judge Dupuy should resign (he never will) or be removed. I suggest a way for lawyers, and our County Commissioners, if they have the guts, to file a suit

working after being down since mid-December. Contrary to rumor, the system was not taken down by Judge Dupuy to hide the new suit filed against him by the State Bar to take his deposition, or because our new District Clerk, John Kinard, pushed the wrong button. It was a highly technical IT issue that was only resolved after Mr. Kinard raised hell and IT added a new dedicated server for public access. So far, Mr. Kinard is proving very responsive to attorney's issues and suggestions.

New Galveston County Court Listings

Two new judges took office in Galveston County on January 1 and some switched courtrooms, so everyone needs a new list of courts and court staff.

[Click here to download my new court listing for 2013.](#)



Anonymous Don Tequila Broke The Dupuy Story First

The Facebook site for the mysterious and clearly obsessed "Don Tequila" has been making fun of Judge Dupuy and sharing news about his mis- behavior for over a year. Click here to

allowed by Texas law to force Dupuy out of office. I am not sure that the District Attorney, however motivated he is, will have enough to pursue criminal charges against Dupuy. **My letter to the DA supplies facts which make it look like that Dupuy may have committed a crime, but I do not know he has and frankly I hope he has not.** I certainly have no faith now in the Commission on Judicial Conduct doing anything about the many complaints it has received about Dupuy.

Dupuy's fellow judges want him gone as do most of the Republican officials who were elected with him in 2010. Attorneys spend a lot of time gossiping about him but few act. The *Galveston Daily News* just a year into Dupuy's term in January 2011 published an editorial saying he should resign. Many complaints have been filed with the State Bar and the Commission on Judicial Conduct. Yet, Dupuy still holds office. It is time to change that and we cannot afford to wait until he is defeated in 2014.

I am writing all of this with a sharp sense of regret, because I became something of a friend to Dupuy for a short time after he was elected. I tried to be a mentor when he was first elected and I came to know and actually like the guy even as it turns out he was taking advantage of my friendship. I know Dupuy has good qualities as well, and that makes what he has done to himself even more of a shame.

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[Check our new web site!](#)

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Yo, your honor, the *Mongoose* is watching you!

Judge Dupuy Should Be Removed From Office (and here's how to do it)

Judge Dupuy should resign, as the *Galveston Daily News* called for a year ago. However, Dupuy will never resign. He needs the salary, the benefits, and the prestige too much.

see this example of anonymous and often over the top dissent.



Judge Dupuy Stars on YouTube (Sometimes with Greg Enos)

Judge Dupuy's critics have been creative and busy posting silly videos on YouTube which poke fun at Dupuy. For some reason, several include me, including the "Dupuy/Enos Fracas on Ice." Click here to be amused and impressed with my skating skills.



Guide to Family Law Practice in Galveston County

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before

I suggest that as many attorneys as possible band together and file a lawsuit under Sec. 87.01 of the Local Government Code. That law allows any citizen who has lived in Texas for six months to file a suit to remove a county official for incompetency, **official misconduct** or intoxication. Sec. 25.0006(b) of the Government Code says that a judge of a statutory county court can be removed from office in the same manner and for the same reasons as a county judge and so Sec. 87.01 would apply to Dupuy. The lawsuit would have a lot more power if people like the County Commissioners and Barbara Meeks, the Republican County Chair, joined the lawsuit.

Sec. 87.015 requires the petition for removal to be very specific in its factual allegations. Sec. 87.017 says that the District Judge hearing the case may temporarily suspend the officer and may appoint another person to perform the duties of the office but a bond must be posted by the plaintiffs. Sec. 87.018(a) requires a jury trial. Sec. 87.018(d) says that the county attorney shall represent the state, so clearly it is contemplated that the county or state may be a party seeking to remove an elected official.

I am organizing a meeting of attorneys willing to be plaintiffs in this lawsuit to meet and plan for a lawsuit to remove Judge Dupuy. We will need specific factual allegations and attorneys willing to sign affidavits and attach documents proving the misconduct.

[Click here to read the applicable law on this sort of lawsuit to remove a local elected official.](#)

he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos

The Unbelievable Judge Dupuy Story

Even a story of just the highlights of Judge Dupuy's misdeeds in his two years in office is too long to be typed into the body of his newsletter. In fact, it is turning out to be a small book. It should be ready by my next newsletter unless Dupuy does something else amazing. However, let me just throw out nine items out of the dozens of important misdeeds Dupuy has committed. As always, I am giving Judge Dupuy an open invitation to provide me his side of the story and I will print what he sends me verbatim.

Consider the following:

1. Dupuy is being sued in one pending legal malpractice case arising from his work before he was elected. In that suit since Dupuy became a judge, he has refused to provide his deposition, been hit with multiple orders to compel discovery, he has filed motions to recuse the judge (twice), been sanctioned \$7,500 for filing frivolous motions to recuse, and he filed Chapter 13 bankruptcy just to put this case on hold. His bankruptcy was dismissed in December 2012.
2. Dupuy agreed to a \$25,000 judgment against him in another legal malpractice case in 2010 and that plaintiff has pursued him since



"How did this happen?"

he was elected to collect on the judgment. Dupuy has also refused to give his deposition in that case and has also filed a motion to recuse the judge. A wage withholding order takes \$600 a month out of his judge's pay to partially satisfy the judgment.

3. Dupuy presided over a child custody case that was set for a jury trial on a Monday. At the Friday pre-trial conference, it was clear that one of the lawyers, Kathleen Collins, was not prepared for trial. Dupuy tried to get the parties to agree to waive the jury, but the other attorney, Jack Ewing would not agree. On Monday morning, Ewing showed up for trial only to be told by Dupuy that he had recused himself because the prior Friday afternoon Dupuy had hired Collins to represent him in one of his malpractice cases filed against him. That same year, attorney Greg Hughes filed a motion to recuse Dupuy in a case involving Ms. Collins and Dupuy this time refused to recuse himself. At the recusal hearing before another judge, Hughes called Dupuy's ex-wife to testify about Dupuy's relationship with Ms. Collins, including the fact that Dupuy and his kids had spent a lot of time at Collins' house and that Dupuy sent his kids' school a letter on court letterhead authorizing Collins to pick up Dupuy's children. Dupuy was recused. Dupuy called Greg Hughes at his office and told Hughes he was "sleazy and unethical" and then Dupuy told Hughes that, "someday you will have to return to my court and I will remember you." Dupuy personally confirmed to me that he made that call. Later, in another personal injury case, the plaintiff's attorney hired Ms. Collins as a local counsel. Neither Ms. Collins nor Judge Dupuy informed the defendants about the prior recusals and eventually a motion to recuse was filed and granted in that case.

4. The very next time Greg Hughes appeared in Dupuy's court after Dupuy called him to threaten and berate him, Hughes showed up to represent a man in Dupuy's court against a motion for enforcement and Hughes had his usual motion to recuse. Dupuy took the bench and asked Hughes if he represented the respondent. Hughes said he did and Dupuy said, "I don't think so, you are excused." Hughes barely had time to say he had filed for recusal when Dupuy had the bailiff remove Hughes from the courtroom and then Dupuy proceeded to question Hughes' client without him about why he hired Hughes.
5. Dupuy was investigated by the Galveston County District Attorney in 2011 because Dupuy swore in his application to run for judge

Who's to blame? Well certainly there are those who are more responsible than others, and they will be held accountable, but again truth be told, if you're looking for the guilty, you need only look into a mirror. I know why you did it. I know you were afraid. Who wouldn't be?"

"V for Vendetta"



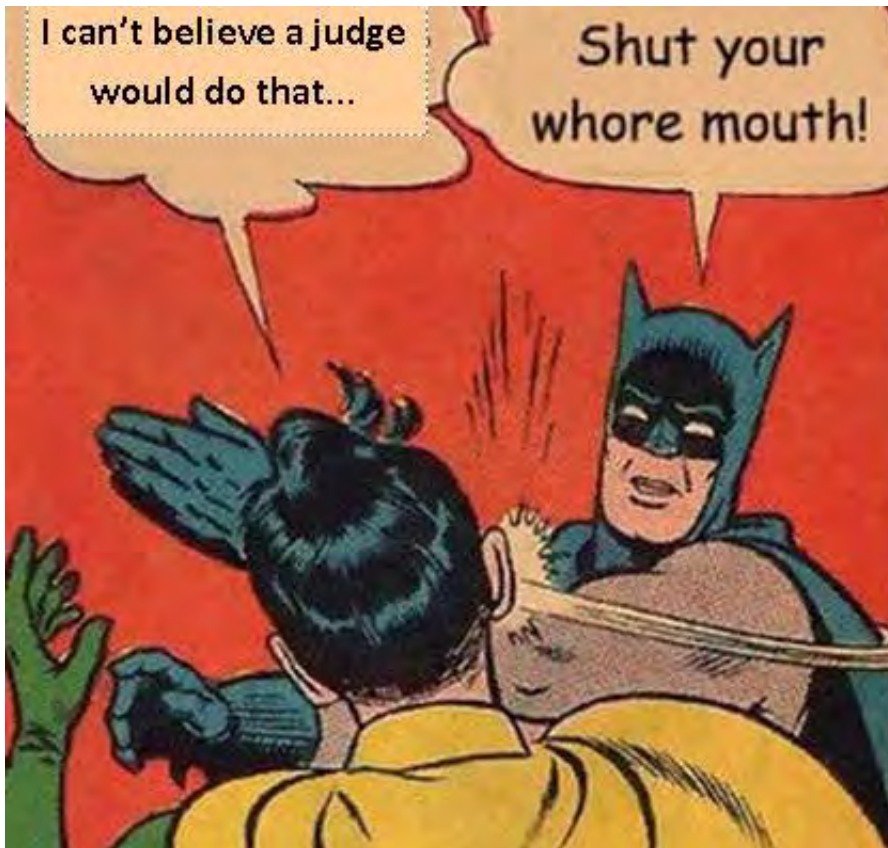
that he was a resident of Galveston County even though he lived in a rented apartment in Webster in Harris County. Dupuy listed as his residence the address of his ex-wife. The elastic definition of "residence" under Texas election laws prevented the DA from pursuing a criminal charge (something Jack Roady has unfairly been criticized for).

6. On his own motion, Dupuy ordered that our part-time Associate Judge Suzanne Radcliffe cannot practice law in Galveston County and then he proceeded to hold her in contempt without a motion, notice, hearing or evidence. The Court of Appeals in December conditionally granted mandamus to set aside those orders under the theory that all litigants are entitled to notice and a hearing before a judge rules against them. [Click here to read that opinion.](#) Dupuy basically did the same thing to attorney Lori Laird but there he was even more tricky. Laird filed a motion to recuse Dupuy and on the morning of the hearing Dupuy sent a fax saying he would recuse himself so the recusal hearing was called off. However, Dupuy did not actually sign a recusal order until much later and only after he issued sua sponte the most unusual order of contempt you will ever read. [Click here if you want to see this bizarre order](#) issued again without motion, hearing or evidence.
7. Dupuy has sent e-mails to another judge threatening to send his bailiff to her court to grab criminal defense lawyers who Dupuy thought were being held up too long in district court. Dupuy sent a horrible e-mail to many folks claiming Judge Yarbrough was violating the law and funneling money to her associate judge and he suggested many family law cases might be void because of their actions. He even suggested an investigation by the Texas Rangers. The entire diatribe was overblown, false and showed how off his rocker Dupuy is (even if he was trying to agree with me). Lastly, Dupuy got really mad when his ex-wife filed a petition for enforcement against him and the case was assigned its own new cause number and not immediately sealed like his divorce file is. Dupuy sent a chain of bizarre e-mails throwing a fit and threatening to hold the District Clerk or her staff in contempt (as he clearly likes to do). [Click here to read the amazing e-mails Dupuy sent threatening the District Clerk](#) in a case where Dupuy himself was a party!
8. Dupuy was just sued on January 10, 2013 **by his own uncle** for failure to repay a loan of \$25,000 taken out on November 3, 2010 (the day after he was elected!). [Click here to read this new](#)

lawsuit and to see the sad promissory note that begins ironically, "On my good name I promise to repay you \$25,000..." and ends, "Executed by your loving nephew on November 3, 2010."

9. Dupuy has resisted providing his sworn testimony in deposition or hearing in the malpractice lawsuits against him or in the many motions to recuse. In an very unusual move, the State Bar has filed a suit to force Dupuy to give his deposition regarding pending grievances against him. This Uber-secret lawsuit is not even indexed by the District Clerk but it is pending and was delayed only because Dupuy objected to the judge assigned to that case in December.

Remember, this short list just barely scratches the surface of what Dupuy has done. The full story will hopefully be ready next month. Also remember, that before he was elected Judge in the 2010 GOP landslide, Dupuy had filed for bankruptcy, had a house foreclosed on and two cars repossessed, had his law license suspended for six months (probated) for misleading advertising, and was unable to keep any job with law firms before he started his own firm, where he was sued twice for malpractice and once by me to recover a client's funds from a house sale that Dupuy had taken for fees that were so excessive he ended up returning 60% of the money.



Shame, Shame, Shame

Judge Dupuy has created a huge mess mostly on his own, but with some help from others. However, like all humans, Dupuy has both good and bad qualities. He is not pure evil like his ex-wife and the lawyers who hate him so much seem to think. He has good qualities as well and the shame of it is that he had such potential to be a good judge. Dupuy is smart, he reads pleadings before hearings and he does his own legal research. He treats most (but clearly not all) attorneys with proper respect and he is not writing horrible things about all of his fellow judges. Dupuy can be very personable and he is certainly a very dedicated parent.

However, none of Dupuy's good qualities come close to making up for his defective moral compass that for some reason causes him to almost always make the wrong ethical decision. Dupuy also seems compelled to go out of his way to gratuitously make enemies and to ignore the fact that he is under such close scrutiny.

There is blame to be shared for this mess Dupuy has created and no objective observer would look into this mess and not say "Shame" on others as well. Do not get me wrong - Dupuy bears 90% of the blame for this embarrassing disaster. However, I also say:

- Shame on the voters who elected Dupuy by voting a straight ticket and ousting a fair, experienced, kind, wise and totally ethical Judge Roy Quintanilla.
- Shame on the State Bar of Texas and the Commission on Judicial Conduct for not taking action sooner to disbar or remove Dupuy.
- Shame on some of the lawyers Dupuy has done wrong, because a few of those lawyers are acting almost as bad as Dupuy. There are ethical, respectful ways to deal with a judge like Dupuy and he will eventually get what he deserves. However, it is just as wrong for a lawyer to overreact and make a fool of herself by ridiculing the judge in ways that also make her look stupid and by filing pleadings and sending letters that bend the truth and which drag innocent people into the mud along with Dupuy. The moral justness of the cause of those who oppose Dupuy is eroded if we act unethically or improperly or if we behave ourselves in ways that demean our justice system.
- Shame on the vast majority of attorneys who are going to stay silent and sit on the sidelines and just watch while a few of their colleagues oppose Dupuy. Lawyers who know Dupuy is doing wrong should do more than just shake their heads and gossip about it.
- Shame on me for taking so long to call for Dupuy's removal. I can criticize other judges for their errant ways but those misdeeds all together pale into insignificance next to what Dupuy has done. My relationship with Dupuy is more complicated than most, but that is a lame excuse. Dupuy was a total stranger to me when Judge Yarbrough referred Dupuy's divorce case to me to mediate (before the parties agreed for me to be their arbitrator). Then, later I had a divorce case against Dupuy, which was my only case against him as opposing counsel. I had to sue him to try to recover the sale proceeds of the parties' house which I alleged Dupuy had wrongly taken. He eventually returned most of the funds (which may be why he had to borrow \$25,000 from his uncle on November 3, 2010). I campaigned for Judge Quintanilla against Dupuy. Then, in a landslide, the Republicans were swept into office, including

Dupuy. I decided it would be worth a try to mentor Dupuy and try to guide him (boy, was I wrong). Three days after the election I took Dupuy to dinner and told him:

Most people do not know you and the few who do think really bad things about you. This is a chance for you to start fresh and just be a good judge and impress people with how you do your job.

I also warned him that he would be under close scrutiny because his ex-wife was looking for dirt on him. I set up a meeting for Dupuy and most of the local family law attorneys. I argued with him and had some influence on his new procedures and forms for family law cases. I included Dupuy in my monthly poker games with a few lawyer buddies and I even invited him to my house (something I almost never do with judges and something I definitely regret doing with him). By last summer, I had decided to not socialize with Dupuy and to distance myself from him. That did not stop me from giving him advice, such as when he decided abruptly to fire his entire courtroom staff (I e-mailed Dupuy to ask, "are you f***ing crazy?"). I met with Dupuy last Fall and told him to his face that he was toast and had zero chance of being re-elected. I urged him to just do his job, keep a low profile and not make any more enemies. Sadly, he was not listening.

Last year, I cooperated with the District Attorney when they investigated Dupuy for allegedly lying on his application to run for judge since he actually did not live in Galveston County at the time he filed. I shook my head when Dupuy did his dirty deeds with Jack Ewing and Greg Hughes. I repeatedly warned Dupuy he should not appoint as mediator any attorney he was dating (he did not listen). I told him when he should automatically recuse himself (he did not listen). However, it was not until Dupuy stuck his nose into my argument with good Judge Yarbrough that I criticized Dupuy for the first time in my newsletter. I still practiced before Dupuy even after I had harshly criticized him and to his credit, he continued to treat my clients fairly. Now, however, Dupuy has done something that caused me to write my letter to the District Attorney and to file a complaint with the Commission on Judicial Conduct. **I have decided it is finally time for me to be consistent and true to what I claim to be fighting for. This issue of my newsletter is written with reluctance and some amount of sadness, but it simply has to be said. However, shame on me for taking so long.**



The Mongoose



Together, family law attorneys can reform our family courts!

Published by attorney Greg Enos

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**Please forward this e-mail newsletter
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February 27, 2013



Greetings!

What can be done when a judge turns out to be mentally ill but is still cloaked with the vast power of a family court judge? Surely, there must be a better answer than just wait a few years for the voters to exercise their vast wisdom.

The lesson we have learned in Galveston County is that you cannot count on the State Bar or the Judicial Conduct Commission to provide any real help with a judge run amok. A group of attorneys are working together to use a law first enacted in 1879 to have Judge Christopher Dupuy removed. In the meantime, the most bizarre, unimaginable events have unfolded in the Galveston County Justice Center. Our draft removal petition is constantly being revised because Dupuy keeps doing new, ridiculous things almost every day. A partial summary of Dupuy's most recent mind blowing antics is below.

In Harris County, Judge Denise Pratt has surprised all of us who were so enthusiastic about her election just two years ago. Lawyers who spend so much time gossiping about Judge Pratt's unusual and hard to understand rulings and policies were really buzzing last month when I circulated a "gag order" Judge Pratt has signed. I write about that curious order below.

**Will the Notary Public
Go The Way
of the Dinosaurs?**

Affidavits and verifications no longer need to be notarized if the proper form is used. A law passed in 2011 added Sec. 132.001 to the Texas Civil Practices and Remedies Code. This law allows unsworn declarations using a certain form to be used in place of any affidavits or verifications required by statute or rule. Now, interrogatory answers, affidavits and inventories from clients and attorney's verifications on motions do not have to be notarized. [Click here](#) to read this statute and see my suggested form for an unsworn verification for an inventory and appraisal.

Few attorneys and judges seem aware of this new law or willing to use it. There are many situations when it is a real hassle to get a client before a notary and this law can avoid that problem.

The stories told in this newsletter simply defy rational understanding, but sadly are just a sampling of the many stories that could be shared about these two particular courts.

Also, I discuss very briefly the latest and presumably final development in my crusade to end the unique Galveston County practice of allowing a part-time Associate Judge to also practice law in the same county. It turns out my negative ethical analysis of that practice was shared by the Texas Center for the Judiciary and an ethics opinion from them caused Associate Judge Radcliffe to resign.

Finally, my law firm's website has been redesigned using WordPress (check out www.divorcereality.com) and some of the stories in this newsletter will be shown at length in my blog embedded in the web site.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing by a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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The Mongoose is watching!

Candidates Begin to Announce for the 306th Family District Court

Assuming that Judge Jan Yarbrough will not seek re-election (or perhaps assuming that a Republican will win that post), attorneys have begun to announce their candidacies for the Spring 2014 GOP primary for 306th Family District Court in Galveston County. Candidates cannot accept donations until June but they can now start campaigning and spending their own money.

Texas City attorney Anne Darring, who has practiced family law in this county for 23 years, has announced she is running for the 306th as a Republican. Darring has handled thousands of divorce and child custody cases and has been very active in Republican activities. [Click here](#) to read Darring's announcement.

Assistant District Attorney Jennifer Burnett (formerly Jennifer Dunne) has also announced her candidacy. Burnett is now Head of the Family Division of the DA's office that handles CPS and juvenile cases. Burnett has been licensed since November 2003 and she has worked in the DA's office of Galveston and Brazoria counties except for 20 months in private practice with Kathleen Collins. [Click here](#) to read Burnett's announcement.



Correction to My January 16 Newsletter Regarding Kathleen Collins

My last newsletter included a story about Judge Dupuy that mentioned Kathleen Collins in two paragraphs. I wrote that at a pre-trial conference just before Dupuy hired Collins and then recused himself, that Collins was not prepared. Ms. Collins strongly disputes that statement. Her opposing counsel, Jack Ewing, has a different recollection. I was not there and I simply should have written that both counsel appeared for the pre-trial conference.

My story also mentioned that Ms. Collins had picked up Judge Dupuy's children from school once and hosted them at her house a few times (as testified to by Dupuy's ex-wife and admitted to by Ms. Collins). Ms. Collins is upset that some people interpret those facts to mean there was a romantic relationship between Collins and

Judge Pratt Orders Silence



No family judge in Harris County provides more fodder for the gossips than Judge Denise Pratt. Almost every attorney has a story to share about Judge Pratt not showing up for work or leaving early or not signing orders or appointing amicus attorneys when the parents are not even disagreeing or giving custody or visitation to non-parents or even non-parties. Judge Pratt has started hearings then called for a recess and left the courtroom as if taking a short break but then left the courthouse without informing the attorneys. Judge Pratt is approving agreements but then failing to sign the orders for months. Most egregiously, Judge Pratt is constantly refusing to accept agreements made by parents who love and know their children without hearing any evidence and then appointing amicus attorneys who are not needed.

A few weeks ago, I alerted a few dozen family lawyers via e-mail about a "gag order" Judge Denise Pratt had signed. [Click here](#) to see this most unusual order that was signed by Judge Pratt on January 23, 2013. My e-mail got shared and shared and talked about and may have shot down this order before it was actually applied. The problem is that no one knows if the gag order is in effect or, if it is, why the First Amendment has been suspended.

This order entitled "Gag Order" appears to be a blanket order applying to all cases involving children and it would purport to order attorneys to not discuss the case with the media or "with any person not associated with the case." This would mean lawyers could not discuss their cases with the other attorneys. The order would appear to prevent attorneys from talking to me about their adventures in Pratt-Land.

It seems that the "gag" order has been applied to Judge Pratt's staff because no one in her court will talk to me about the order or explain which cases it applies to or whether it is in effect. I have e-mailed Judge Pratt directly, but I have not received any reply, so apparently she is also gagged by her own order. My e-mail to the judge asked several questions all attorneys are asking about the order and said:

I would greatly appreciate it if you would answer these questions before I send out my newsletter this weekend. I want to get the facts right and be fair to you:

1. *Is this gag order in effect?*
2. *Does the gag order apply to all cases with children in your court or just some cases?*
3. *How are you notifying parties and attorneys so that they know to obey your order?*
4. *What is the statutory or constitutional basis for this order?*
5. *Why have you decided to issue this order?*

Dupuy. I never intended to suggest that and Ms. Collins makes it clear no such romantic relationship ever existed. Dupuy told me they were not dating and I know of no evidence that suggests they were. My article was meant to be about Dupuy's recusals because he hired Collins to represent him and then his refusal to recuse himself in other cases involving Collins.

More than anyone, I do not want to see innocent people embarrassed by publicity about Dupuy. I apologize to Ms. Collins if my story upset her or wrongly caused folks to think ill of her.

Associate Judge Radcliffe Resigns After Ethics Opinion Agrees with Me: It is Wrong to Be a Part-time Judge and Practice Law

This little newsletter can actually cause change in our judicial system! I started writing in this newsletter last September that it was just not right to allow a part-time Associate Judge to also practice family law in the same county. I made quite a few arguments why the practice was not proper and in the process made two good ladies who wear black robes quite unhappy with me. Then, Judge Dupuy jumped on my bandwagon and ordered our two-day-a-week CPS AJ, Suzanne Radcliffe, to stop practicing family law. Dupuy then held Radcliffe in contempt when she ignored his order. The Court of Appeals granted Radcliffe a mandamus which Dupuy ignored. However, the Center for the Judiciary on February 5 issued an ethics opinion which states it is improper to allow a part-time associate judge to practice law in any county. [Click here](#) to read the ethics opinion. Radcliffe promptly resigned. Funding was obtained for a CPS Impact Court and former County Court Judge Roy Quintanilla is now hearing CPS cases one day a week on Tuesdays.

The shame is that something was not done long ago to create a full-time AJ position who could hear CPS cases and help Judge Baker hear other family cases (or perhaps also hear juvenile cases).

Suzanne Radcliffe did a wonderful job hearing CPS cases and we all owe her a huge "thanks" for her years of selfless service.

6. How do you respond to the reaction of most lawyers that this gag order seems more designed to stop criticism or gossip about your rulings rather than protecting children?

7. Does this gag order apply to you and your court staff?

In *Grigsby v. Coker*, 904 S.W.2d 619 (Tex. 1995), the Texas Supreme Court considered a confidentiality order issued in a family law proceeding. The Texas Supreme Court said that two essential showings must be made before a confidentiality order can be issued. This two prong test is first that "an imminent and irreparable harm to the judicial process will deprive litigants of a just resolution of their dispute", and, second, that "judicial action represents the least restrictive means to prevent that harm."

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.

9, 2013 **HOUSTON CHRONICLE** TEXT SIZE SHARE

LIVE UPDATES Galveston judge may 'hurt or kill someone,' fellow judge says

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Harvey Rice

GALVESTON - A Galveston County judge is a threat to other judges and could "become violent and hurt or kill someone," a fellow judge wrote in an email to county officials Tuesday.

State District Judge Susan Criss wrote that County Court-at-Law Judge Christopher Dupuy is perceived by some as a threat to their safety.

"County employees, family members of county employees, litigants and attorneys are expressing concern to those in authority, such as judges, the sheriff, the district attorney and to me that they are afraid Judge Dupuy will become violent and hurt or kill someone," Criss wrote. "Those expressing concerns include many I have known for decades who never expressed such concerns before recently."

Dupuy responded via email: "Ah, Judge Criss. What a political nutcase and embarrassment. I think that completely sums up her ridiculous statements to you in six words. I wonder what her story would be if she was under oath and subject to perjury?"

Criss said in her email that Dupuy had published remarks on Facebook and made statements to his children "about carrying and acquiring firearms including a rifle and handgun and



Christopher Dupuy is the subject of multiple complaints meriting criminal investigation.

concealing them in a zipped pocket in his jacket. I understand the District Attorney has a taped recording of Judge Dupuy's children discussing this."

District Attorney Jack Roady said his office takes Criss' concerns seriously "and will be talking with the sheriff and the county judge."



Attorney Greg Enos

Madness in Galveston County

Here, in reverse chronological order is a short summary of the most recent insane developments involving County Court No. 3 Judge Christopher Dupuy:

- Feb. 27: Judge John Grady signed an order voiding a "show cause order" Judge Dupuy had signed purporting to hold me in contempt for filing a motion to recuse Dupuy. Dupuy had ordered me to appear in his court tomorrow, February 28 at

3:00 p.m. and had me served by a constable with an order to appear. As noted below, Judge Underwood granted my motion to recuse Dupuy without even a hearing and assigned Judge Grady to the underlying case.

- Feb. 24: The *Galveston Daily News* published an editorial written by its president and publisher calling on Dupuy to resign. This is the second editorial from the local paper during Dupuy's two years in office calling on him to step down. The editorial states in part, "...we feel more strongly than ever that he should resign for the good of the county." [Click here](#) to read this editorial.
- Feb. 22: The *American Bar Journal* e-edition ran a story about Dupuy's problems. You know you are big time when a national lawyer magazine writes about you.
- Feb. 19: District Judge Susan Criss sent an e-mail to her fellow judges and to other elected officials expressing concerns that Judge Dupuy poses a physical danger to his fellow judges. Criss said Dupuy could "become violent and hurt or kill someone." This comes after another judge requested that an armed bailiff attend judges' meetings that Dupuy will attend. [Click here](#) to read the *Houston Chronicle* story and Judge Criss' e-mail. This week, I have talked to two Republican judges who also expressed fears of Dupuy. Just before a crazy hearing the prior week in Dupuy's court (see story below), the elected Sheriff of Galveston County personally checked behind Dupuy's bench to make sure there were no weapons there.
- Feb. 18: District Attorney Jack Roady announced that he is referring all criminal investigations of Judge Dupuy to the Texas Attorney General. Roady said he has a conflict of interest since his office has thousands of misdemeanor cases in Dupuy's court. [Click here](#) to read the *Houston Chronicle* story.
- Feb. 14: District Attorney Jack Roady confirms he is investigating a criminal complaint I made against Judge Dupuy. [Click here](#) to read the *Houston Chronicle* story.
- Feb. 13: Regional Administrative Judge Olen Underwood signed an unusual order recusing Judge Dupuy from a case of mine without assigning a judge to hear my motion to recuse or even conducting a hearing. [Click here](#) to read this order which finds Dupuy's February 6 order holding me in contempt for filing the motion to recuse "has placed the judge in such an adversarial position that a reasonable member of the public...would determine the judge's ability to remain impartial in this case to be impaired." Judge Dupuy had voluntarily transferred all of my cases out of his court except for this one matter, which forced me to file a formal motion to recuse. Dupuy refused to recuse himself from this one case and he then signed an order purporting to hold me in contempt for daring to file my motion to recuse. [Click here](#) to read his order setting a "show cause" hearing against me for February 28. A constable served me with an order to appear before Dupuy on that date.
- Feb 12: Judge Dupuy's fiance, is a pro se mom in a custody case where I represent the father who has primary custody of the little girl. The mother filed a motion to recuse Judge Yarbrough from her custody case. The motion to recuse was faxed to me for the pro se mom by Judge Dupuy because the



fax header printed at the top of each page of the document says it is from "Christopher Dupuy." At the hearing on the motion to recuse Judge Yarbrough, his fiance testified that Dupuy faxed the motion to recuse to me from the fax machine in his chamber (this testimony bolsters the criminal complaint I filed against Dupuy for abuse of office). She also testified that Dupuy send a spy to our public meeting of attorneys organizing to get Dupuy removed from office and that photographs were taken of those present for Dupuy. His fiance's motion to recuse Judge Yarbrough was denied.

- Feb 12: Attorney Lori Laird, who had just been found in contempt by Dupuy for daring to file two motions to recuse him (Dupuy "suggested" 110 days in jail for Laird), started the hearings on her recusal requests. However, Dupuy stunned everyone by sending over orders purporting to recuse himself even though he had just held Laird in contempt for asking to recuse him in those very cases. The visiting judge went to Dupuy and made him sign orders that actually recused him from the cases. [Click here](#) to read the first order of recusal Dupuy signed then [click here](#) to read the order the assigned judge made him sign to assure that he really was recused.
- Feb 11 and 12: The most bizarre hearing in the history of Texas jurisprudence was conducted by Dupuy as he held Lori Laird in contempt of court. [Click here](#) to read my length, detailed description of this most unusul event. [Click here](#) to read the *Galveston Daily News*' story about this weird event.



Mental Disorder in the Court - The Most Bizarre Court Hearing Ever!

Lawyers in Galveston County now know how it felt to serve in Roman Emperor Caligula's court. We see and fear the madness that is cloaked in awesome power and never know when the mad ruler's ire will be aimed at us.

This was the scene in Emperor Dupuy's court on February 11 when he held a hearing to hold attorney Lori Laird in contempt for filing two motions to recuse him. There were eight armed bailiffs supervised by the elected Sheriff of Galveston County who was being advised by a lawyer from the County Legal Department. The Sheriff even checked behind the judge's bench for weapons before the hearing started. It seemed clear that the security was there to protect the attorneys from the judge. A felony prosecutor and the D.A.'s head investigator sat in the gallery taking notes about the judge. About 40

people were in the audience, including the County Judge and for a while one of our district judges. One counsel table was empty and at the other table sat Laird with her four attorneys.

By the end of the afternoon, we had watched the judge try to be both judge and prosecutor while at the same time not allowing the defendant's attorneys to really talk, object or present their case. The judge expelled his own ex-wife from the crowded courtroom and one of Ms. Laird's attorneys.

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This is an amazing but fairly long story, so please [click here](#) to read the entire story of what happened in this crazy hearing and also educate yourself about the law and procedure for recusal motions and contempt actions against attorneys.



The Mongoose



Together, family law attorneys can reform our family courts!
Published by attorney Greg Enos

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

This newsletter focuses on short, practical legal articles and forms you can use. I also review who is running for which bench now that the 2014 campaign season is underway.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing by a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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Check our new web site!

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[Family Law Appellate Decisions for
April 2013 Summarized](#)

*"What about those of us who knew better?
We who knew the words were lies and
worse than lies? Why did we sit silent?
Why did we take part?"*

Judgment at Nuremberg (1961 movie)



**Judge Dupuy Should Soon Be
A Disagreeable Memory**



The *Mongoose* is watching!

247th District Court (Judge Hellums) Now Requires Electronic Filing

Starting May 1, all filings in the 247th District Court (Judge Hellums) must be filed electronically just like in Judge Millard's court. Free filing using the District Clerk's FreeFax service will be available.

Texas Supreme Court Clarifies Rule That A Property Owner Can Testify About The Value of His or Her Own Property

It has long been the rule in Texas that the owner of a property can testify as to the property's value even if the homeowner cannot qualify as an expert witness. *Mata v. Mata*, 710 S.W.2d 745, 758 (Tex. App.- Corpus Christi 1986, no writ). The Texas Supreme Court in December 2012 limited that rule and held that the property owner must explain the basis for his or her opinion as to value.

[Click here to read the entire article on this new case.](#)

Who is Running For What In Harris County?

We have all enjoyed a few blissful, quiet months when judicial candidates could not hit us up for contributions. May 13 is when those carefree days end and incumbent judges and those who dream of being judges will start what seems to be a perpetual shake down for cash. The deadline to file for election is in January 2014!

Harris County is in that uneasy transition time when most know inevitable demographic changes will someday elect nothing but Democrats (as in Dallas county). But for now, almost everyone with judicial ambitions seems to forget they are pro-choice, anti-gun, open minded to gays and not wanting to impose their religious beliefs on others. In other words, they are claiming to be Republicans even as the true believers in the party try to sniff out RINO's (Republicans in Name Only).

May 2013 should be the month when Galveston County Court No. 3 Judge Christopher Dupuy gets hit with the results of the criminal investigation into his behavior and finally is served with a civil removal lawsuit that could result in his immediate, temporary suspension from office.

Lawyers from the Texas Attorney General's office and Texas Rangers have been meeting with Dupuy's victims and attending some of his more unusual court hearings.

Dupuy and his attorney, George Parnham, have reportedly talked about a deal with the AG, but it sounds like Dupuy has decided to hold on to his judicial paycheck for as long as he possibly can.

I finally finished the 87 page, single spaced draft removal lawsuit involving Dupuy with a foot of exhibits attached. I delivered it to the Assistant Attorney General in Austin who has actually filed and won removal suits against county officials. I have spent 30 hours or more a week for about three months on this project and I am totally ready to spend more time with my family, get back to this newsletter, my legal writing and research, my charity work, and researching London in 1880-81 for a book I am writing (who can say which famous "fictional" characters first met and worked together in the Winter of 1880-1881?).



The above photo from 1880 shows that Londoners knew all about traffic and mass advertising. [Click here to see an amazing video of Victorian London](#) that will make look 610 at the Galleria look tame. Who knew they could even make movies before there were automobiles?

Clear Lake Attorneys: Please Support The CCISD Bond Issue

Attorneys who live in Clear Lake and League City need to educate themselves about the CCISD bond election and then vote "Yes." [Click here for information](#) on this very important bond issue and voting dates and locations. Early voting has started and the election is May 11.

Most folks do not realize that in the Harris County GOP primary elections for judicial posts, candidates who get just a few key endorsements from political brokers are almost always elected. In the 2012 GOP primaries in Harris County, 91.7% of the primary candidates endorsed by Steven Hotze won, 82.6% of the candidates endorsed by Terry Lowry won and 79.5% of the candidates endorsed by Gary Polland won. [Click here to read a Houston Chronicle Blog on the subject.](#) The Houston Police Officers PAC is also extremely influential (ask Doug York).

This is what one GOP activist wrote last year on his blog;

As they have gutted the party, they have allowed a private pay-for-play system to evolve within our party, whereby primary candidates have to hire a specific consultant, and/or have to pay for "advertising" in a "newsletter," in order to have an opportunity to get the endorsement of one or more of three men whose mailing lists gets their endorsements into the hands of every GOP primary voter. A statistical analysis of the effect of these endorsements shows that these three men now effectively control who wins our primaries. Moreover, anecdotal observations of primary voters show that most of them take one of these three endorsement lists into the polling places as references as they vote, which reinforces the accuracy of the statistical analysis. This pay-for-play system not only effectively rigs the primary before a vote is ever cast, and constitutes a tax on our candidates just to participate in the electoral process; it also creates a public appearance of potential impropriety...

[Click here to read this blog.](#)

Here is what is currently known about candidates for family district courts in Harris County:

245th Judge Roy Moore is seeking reelection and has a steering committee which includes almost every family lawyer we know. Judge Moore is having a fundraiser on May 14 at Hughes Hangar, 2811 Washington Ave from 5:30 p.m. - 7:30 p.m.. There are no announced opponents for Judge Moore.

246th Judge Jim York is retiring. Associate Judge Charlie Prine from the 309th is running for the GOP nomination and given his long Republican history and connections, he basically has the nomination already sewn up (see note on GOP endorsements above). Best jump on this freight train early. The good news is that Judge Prine will definitely give fathers a fair shake (at least heterosexual dads) and he has learned a lot of family law working for Judge Dean. Prine seems to be as friendly and reasonable with attorneys as Judge York. No lawyers have announced as Democrats yet for this race.

247th Judge Bonnie Hellums is retiring. Republican candidates include Alicia Franklin, Melanie Flowers, and Meca Walker. I intend to write more about this interesting race and who is putting pressure on lawyers to support various candidates.

257th Judge Judy Warne is presumably seeking reelection if she is not appointed to an opening on the court of appeals.

280th Judge Lynn Bradshaw-Hull is presumably seeking reelection.

308th Judge James Lombardino will seek reelection if he is not appointed to replace Olen Underwood as the Administrative Judge



Interfaith Caring Ministries Golf Tournament

Local attorneys and golfers need to support the largest Clear Lake area charity serving the poor, Interfaith Caring Ministries, by participating in ICM's 17th Annual Golf Tournament on Monday, May 6 at South Shore Country Club. [Click here for more information.](#) I served as President of ICM's Board last year and I know what a very worthwhile organization ICM is. It operates a huge food pantry and provides emergency financial assistance to families in crisis. ICM also provides school supplies to low income children, runs a computer lab for needy kids, provides assistance for single parents to pay for daycare while the parent goes to school, and provides Christmas gifts for about 700 needy families each year.

What Have the Courts of Appeals Done to Family Law Lately?

Most mornings, I check the web sites of all 14 courts of appeals to see what opinions related to family law have been released. I think we need a separate family law court of appeals made up of board certified family law specialists, just like the we have the separate Court of Criminal Appeals. But, criminals continue to rank ahead of children and divorcing spouses, so here is what the courts of appeals have done to and for family law recently:

Error to disqualify an attorney because he is a witness unless he is the only witness to specific events, i.e. - necessary to establish an essential fact. Get over the notion that just because a lawyer may be a witness, that he or she must automatically be disqualified. Here, in this divorce action in Fort Bend County, the wife's lawyer took her to a bank to open an account and oddly took photographs to document the event, the attorney hired the wife to work in her office in spite of pleading the wife was unable to work, and the attorney helped the wife "financially or otherwise" with her psychological treatment. The court of appeals noted, "The hearing record reflects that there is no evidence that

for our judicial region, if Judge Underwood were to retire this year. All current and former GOP chairs are urging Judge Lombardino to stay right where he is however.

309th Judge Sheri Dean intends to seek reelection and also presumably remain my backyard neighbor despite the barking of my not so yellow, but intensely partisan, Democratic dogs. I have not heard of anyone running against her.

310th Judge Lisa Millard will be seeking reelection. No challengers have announced.

311th Judge Denise Pratt says she is seeking reelection. Phil Plazcek has announced he will run as a Republican against her even though he briefly ran as a Democrat for Judge in the last election. Prominent members of the family bar are still seeking a more mainstream GOP candidate to oppose Pratt.

312th Judge David Farr will seek reelection. No one has announced they are running in either party against him (which is a good thing).

There will likely be Democrats filing for most or all of the family court benches. But, unless a particular race will have more than one candidate, the Democrats do not feel the need to announce so very early like the Republicans.

The Ultimate Property Division Spreadsheet

Two years ago I organized a half day seminar for about 300 lawyers called the "Ultimate Property Division Seminar." I talked to a lot of judges about what they wanted and did not want to hear in a property division trial in preparing for that seminar. Here is the one thing all judges wanted -- a unified spreadsheet which shows both parties' values and proposed divisions and which provides space for the judge's ruling.

This ideal spreadsheet can only be prepared after you have both spouse's proposed values and divisions. The spreadsheet has to be printed on very wide ledger size paper (or two letter size pages taped together) and have columns for:

- Asset/Debt
- Husband's Proposed Value
- Wife's Proposed Value
- Court's Value (blank - for judge to fill in)
- Husband's Proposed Division
- Wife's Proposed Division
- Court's Division (blank)

The spreadsheet should also show the differences between the parties on what is separate property. I color code the columns in stereotypical pink and blue. A "working copy" of the exhibit should be provided the judge that can be written on in addition to the exhibit given to the court reporter.

This is a sample I just prepared for use in a trial that settled at the pre-trial conference.

relator's attorney is the only person in possession of facts regarding these allegations. Thus it was not shown the testimony of relator's attorney is necessary to establish an essential fact." The court of appeals also concluded there was "no evidence that actual prejudice would result if the attorney does testify as a fact witness." Mandamus granted. In re Stone, 14th Court of Appeals, 14-13-00311-CV, 4/19/2013.

How NOT to show failure to supplement when trying to strike evidence not supplemented 30 days before trial.

The wife's objection to financial documents which she said had not been produced at least 30 days before trial was properly overruled by the trial court because the wife did not show to the trial court that: (1) her discovery request specifically asked for the document, and (2) the objection to the wife's production request made by the husband was not ruled on by the trial court. Also, the husband's attorney said that his response stated the documents were available at his office for inspection and the wife's attorney never came to look at them. The wife would have had to prove that the documents were not really made available for inspection. Part of the moral to this story is that discovery requests and responses are not filed with the clerk, so a party who objects to evidence that was not disclosed in discovery must get the discovery request and response into the record, either as an exhibit in court or at least as an attachment to a motion to compel. This case also says that if the other party objects to your discovery request, you must get a court ruling on the objection before you can complain it was not produced. However, remember TRCP 193.4(c) that says a party may not use in any hearing or trial any material withheld from discovery under a claim for privilege without timely amending and supplementing. Richard v. Towery, 1st Court of Appeals, 01-11-00132-CV, April 18, 2013.

A party can do his own tracing of separate property!

This case is one of many examples of cases in which a party (in this case, the husband) did his own tracing of financial accounts to prove how much was separate property. In this case, the husband was an attorney and a CPA. There was no objection to his qualifications made to the trial court. The court of appeals reviewed some very complex financial account tracing and approved what the husband calculated. It certainly seems logical that if we allow a party to testify about the value of his house without being a real estate appraiser, that we should allow a party to testify about tracing as long as the methodology is explained and is proper. Richard v. Towery, 1st Court of Appeals, 01-11-00132-CV, April 18, 2013. Another case decided this month by the San Antonio Court of Appeals is another example of a party tracing (or trying to trace) his own separate property. Unfortunately, this is also a great example of how not to trace and what evidence is insufficient to prove separate property. Nalbach v. Nalbach, 4th Court of Appeals, 04-11-00802-CV, 4/17/2013.

Smith Divorce		12/10/2013		Husband's Value		Wife's Value		Court's Value		Husband's Proposed Value		Wife's Proposed Value		Court's Divisor	
Category	Item	Husband's Value	Wife's Value	Court's Value	Husband's Proposed Value	Wife's Proposed Value	Court's Divisor	Husband's Proposed Value	Wife's Proposed Value	Court's Divisor	Husband's Proposed Value	Wife's Proposed Value	Court's Divisor	Husband's Proposed Value	Wife's Proposed Value
ASSETS & DEBTS															
Real Estate	1227 French Fry Lane, League City, Texas (no mortgage)	\$ 255,000.00	\$ 125,000.00		\$ 255,000.00	\$ 125,000.00		\$ 255,000.00	\$ 125,000.00		\$ 255,000.00	\$ 125,000.00		\$ 255,000.00	\$ 125,000.00
Reimbursement	Community Estate (Husband's Separate Estate)	\$ 1,100,000.00	\$ 0.00		\$ 1,100,000.00	\$ 0.00		\$ 1,100,000.00	\$ 0.00		\$ 1,100,000.00	\$ 0.00		\$ 1,100,000.00	\$ 0.00
Accounts	H - Amco Fed. Credit Union - 7/10/02 (checking)	\$ 3,052.00	\$ 13,241.00		\$ 3,052.00	\$ 13,241.00		\$ 3,052.00	\$ 13,241.00		\$ 3,052.00	\$ 13,241.00		\$ 3,052.00	\$ 13,241.00
	H - Amco Fed. Credit Union - 7/10/02 (savings)	\$ 78.00	\$ 0.00		\$ 78.00	\$ 0.00		\$ 78.00	\$ 0.00		\$ 78.00	\$ 0.00		\$ 78.00	\$ 0.00
	J - JSC Fed. Credit Union - 8/10/02 (checking)	\$ 1,152.00	\$ 2,173.00		\$ 1,152.00	\$ 2,173.00		\$ 1,152.00	\$ 2,173.00		\$ 1,152.00	\$ 2,173.00		\$ 1,152.00	\$ 2,173.00
	J - JSC Fed. Credit Union - 8/10/02 (savings)	\$ 265.00	\$ 0.00		\$ 265.00	\$ 0.00		\$ 265.00	\$ 0.00		\$ 265.00	\$ 0.00		\$ 265.00	\$ 0.00
LIABILITIES															
	H - Amco Fed. Credit Union - 7/10/02 (checking)	\$ 3,052.00	\$ 13,241.00		\$ 3,052.00	\$ 13,241.00		\$ 3,052.00	\$ 13,241.00		\$ 3,052.00	\$ 13,241.00		\$ 3,052.00	\$ 13,241.00
	H - Amco Fed. Credit Union - 7/10/02 (savings)	\$ 78.00	\$ 0.00		\$ 78.00	\$ 0.00		\$ 78.00	\$ 0.00		\$ 78.00	\$ 0.00		\$ 78.00	\$ 0.00
	J - JSC Fed. Credit Union - 8/10/02 (checking)	\$ 1,152.00	\$ 2,173.00		\$ 1,152.00	\$ 2,173.00		\$ 1,152.00	\$ 2,173.00		\$ 1,152.00	\$ 2,173.00		\$ 1,152.00	\$ 2,173.00
	J - JSC Fed. Credit Union - 8/10/02 (savings)	\$ 265.00	\$ 0.00		\$ 265.00	\$ 0.00		\$ 265.00	\$ 0.00		\$ 265.00	\$ 0.00		\$ 265.00	\$ 0.00

A spouse is entitled to an offset against the value of a community property business for the value of separate property assets contributed to the business. Hooray for the attorney who cites a case from 1889 and wins! Perhaps we all should review Schmidt v. Huppman, 11 S.W. 175 (Tex. 1889), which held "Where it satisfactorily appears, as in this case, that one spouse brought into the partnership separate funds invested in a particular business, which business was carried on and the profits arising therefrom used in creating and building up the community estate, and the separate funds are employed in the same business at the dissolution of the partnership, upon settlement with the community estate we think the spouse furnishing such separate funds is entitled to reimbursement therefore."

At the trial of this divorce, 123 years after the Schmidt v. Huppman case was decided, the husband proved that his sole proprietor law firm on the date of marriage had \$383,233.35 in accounts receivable, \$175,391.70 in unbilled time for work in progress, \$5,000 in furniture and fixtures, \$22,003.74 in accounts payable and \$95,307.40 in accrued payroll. The husband convinced the trial court to value the law practice at a negative amount by subtracting the above figures from the current value of the law practice. The court of appeals upheld this finding and pointed out that it was uncontroverted that the husband contributed the above separate property assets to a business that was community property and so he was entitled to the offset. Richard v. Towery, 1st Court of Appeals, 01-11-00132-CV, April 18, 2013. Richard Orsinger of San Antonio brilliantly represented the husband in this case out of County Court No. 2 in Galveston County (Judge Dibrell before he retired).

The trial court did not abuse its discretion by conducting a two day divorce trial in April 2009, then abating the trial while IRS tax issues were resolved and then making a rendition of the divorce in November 2010 based on a cut off date of April 1, 2009 for characterizing and valuing property. The wife who complained on appeal about this unusual procedure did not object to the trial court at the time until she filed a motion for new trial after rendition and judgment. The court of appeals ruled that by participating in this procedure without objection, the wife waived any complaint on appeal. This case reminds us that objecting to a trial court ruling for the first time in a motion for new trial may be too late. TRAP 33.1(a)'s requirement that a complaining party on appeal must show he or she "made proper, timely and sufficiently specific objection or request in the trial court and obtained a ruling" is often not satisfied by waiting until the motion for new trial to object. Richard v. Towery, 1st Court of Appeals, 01-11-00132-CV, April 18, 2013.

Attorney cannot intervene for fees after

Judges who know how to use a spreadsheet should order the attorneys to prepare such spreadsheets for every trial and to provide a digital copy to the judge so the judge does not have to make calculations by hand. [Click here to download this form in Excel.](#)

Closing Costs Should Usually Not Be Deducted From the Value of a Home

A divorce court in Texas should usually not reduce the value of a house because of closing costs and realtor fees because that approach is not consistent with the definition of "fair market value," and because such closing costs are too speculative. There is no definitive Texas case law on point, but the majority of other states have held that closing costs should not be considered in the value of a house unless a sale is actually imminent or planned.

Two older Texas cases could be interpreted to approve of reducing the value of a house in a divorce by the cost of sale. In *Pelzig v. Berkebile*, 931 S.W.2d 398, 403 (Tex. App. - Corpus Christi 1996, no writ), the court of appeals said, "The judge's finding of a \$99,000 value after deducting ten percent closing costs was within the range of values suggested by the evidence." In *Cole v. Cole*, 880 S.W.2d 477, 484 (Tex. App. - Fort Worth 1994, no writ), it is not clear at all what method the trial court used in finding the house had a net value of \$180,440. An appraiser testified about a range of possible values and estimated closing costs. The court of appeals upheld the trial court and said, "It is possible that the court started with the figure of \$275,000 because it took into account the various deductions that would be made for closing costs and taxes." Neither of these cases involved an appellant specifically challenging the trial court's deduction of sales costs from the value of a house. In *Pelzig v. Berkebile*, the parties apparently both agreed to deduct the cost of sale from the value. It was not clear even to the court of appeals what methodology the trial court used in *Cole v. Cole* to value the house and there are no other Texas cases on point.

Case law and the Texas Pattern Jury Charge define "fair market value" as "the amount that would be paid in cash by a willing buyer who desires to buy, but is not required to buy, to a willing seller who

desires to sell, but is under no necessity of selling." Texas Pattern Jury Charges - Family & Probate (2012), PJC 203.1. The amount paid in cash by a willing buyer for a house is the total amount paid and the definition does not say "the net amount the seller walks away with after paying all costs and fees." If I sell my house to Sheri Dean for \$250,000, the fair market value according to the PJC is \$250,000 and not what I net after paying the real estate agent and all closing costs. The mortgage is taken into account in a divorce because it is a current community debt. If there are no current plans to actually sell the house, the amount of realtor fees and closing costs is speculative. It is likely a real estate broker will be used but some houses are sold directly without an agent. In some cases, the broker's fee is negotiated down from the usual six percent. Other typical closing costs for a seller include the cost of title insurance (which is negotiable and not always paid by the seller) and prorated property taxes and homeowners association dues (which are not paid in many situations). It is thus impossible to predict accurately what the cost of sale for a particular house will be, especially if the house is not for sale and may not be sold for years or decades. In a divorce, the trial court properly may not consider liabilities that are uncertain and speculative. *Means v. Means*, 535 S.W.2d 911, 914 (Tex. App. - Amarillo 1976, no writ)(trial court properly did not consider the potential liability of lawsuits against the husband's business because they were too speculative).

Courts from the vast majority of other states have held that the value of a house should only be reduced by the costs of sale if there is evidence in the record of an imminent sale and evidence of the estimated costs of sale. *In re Marriage of Berg*, 737 P.2d 680, 683 (Wash. App. 1987); *McDaniel v. McDaniel*, 829 P.2d 303 (Alaska 1992); *Coviello v. Coviello*, 605 A.2d 661 (Md. App. 1992); *Virgin v. Virgin*, 990 P.2d 1040, 1049 (Alaska 1999); *In re Marriage of Kopplin*, 703 P.2d 251, 253 (Or. App. 1985); *In re Marriage of Stenshoel*, 866 P.2d 635, 641-42 (Wash. App. 1993). See also *Taber v. Taber*, 626 So.2d 1089, 1089-90 (Fla. Dist. Ct. App. 1993); *In re Marriage of Benkendorf*, 624 N.E.2d 1241, 1245-46 (Ill. App. 1993); *Carlson v. Carlson*, 487 S.E.2d 784, 786-87 (N.C. App. 1997); *Waldow V. Waldow*, 491 A.2d 757 (N.J. App. Div. 1985). A minority of states have approved deduction of closing costs from the value of a home even if there are no current plans to sell the home. See e.g., *Abrams v. Abrams*, 516 N.W.2d 348, 350-351 (S.D. 1994).

Student Loans Incurred Before Marriage Are Separate Debt

A trial court cannot order one spouse to pay the student loans of the other spouse which were incurred before the marriage. The Houston First Court of Appeals has ruled:

The obligation to pay the loans arose before marriage and should be treated as Sophia's separate debt-separate debt that could not be assigned to the non-incurring spouse. Accordingly, we conclude the trial court erred in assigning Sophia's premarital student loan debt to Albert because that student loan debt constituted Sophia's separate debt.

Love v. Love, 217 S.W.3d 33, 35 (Tex. App. - Houston [1st Dist.] 2006, no pet.).

Gifts to Family Members Are Not Always Constructive Fraud or Waste

judge approves MSA and renders judgment. This case involves our colleague, Julia Maldonado, who represented the wife at mediation where the parties settled then at the prove up where the judge approved the agreement. Maldonado then filed a motion to withdraw, which was granted, and then attempted to intervene for her fees. The trial judge granted a motion to strike the intervention. Held: an intervention filed after judgment, including after rendition of judgment, is not timely. *Maldonado v. Rosario*, 1st Court of Appeals, 01-12-01071-CV, 4/2/2013.

Divorce decree without step-down language terminated child support when "any" child turned 18, even if the younger child was still a minor and still in high school. This 1993 divorce involved two children, yet the decree ordered the father to pay child support, "...until the date of the earliest occurrence of one of the following events: a. any child reaches the age of eighteen years,... b. any child marries..." There was no step down provision that said "thereafter he pays \$xxxx.xx until..." Judge Farr and then the First Court of Appeals ruled that the decree means what it says and the father's child support obligation ended in 2003 when the oldest child turned 18 even though the younger child did not turn 18 until 2008. Thus, the trial court properly denied the mother's request to confirm a child support arrearage for payments due after 2003. *Smith v. Goodrum*, 1st Court of Appeals, 01-11-00784-CV, 4/18/2013. Moral: always include the full step-down provision in child support orders.

Trial cannot proceed with just 11 jurors unless the juror is stricken because he or she is constitutionally disqualified. A trial court should declare a mistrial if a juror realizes during the trial that he knows some of the people involved in the case and thus might be impartial. It violates the constitutional right to a jury trial to proceed with 11 jurors absent agreement of the parties unless the juror is disqualified within the meaning of the Texas Constitution (physical or mental incapacity of the juror, not caring for a sick family member and not realizing he or she might be biased). *In re M.G.N.*, 4th Court of Appeals, 04-12-000108-CV, 4/24/2013.

Marshall v. Marshall, 735 S.W.2d 587 (Tex. App. - Dallas 1987, writ ref'd n.r.e.), involved a two and a half year marriage and a husband who, during the marriage, earned \$542,315.72 and gave \$63,375.58 (11.7%) to his daughter and grandson. The trial court's ruling that these gifts were not constructive fraud, was upheld by the court of appeals, which said:

The courts consider three primary factors in determining whether the wife's claim of constructive fraud exists: the size of the gift in relation to the total size of the community estate, the adequacy of the estate remaining to support the wife in spite of the gift, and the relationship of the donor to the donee.

We conclude that the evidence supports the trial court's finding of no constructive fraud. The community received \$542,315.72 during the marriage as Woody's special community property. The contested gifts of \$63,375.58 are only 11.7 percent of this amount. The remaining \$478,940.14 in community funds from the partnership was sufficient to support the wife. Finally, Woody made the gifts to his daughter and grandson, the natural objects of his bounty. We also agree with the trial court's finding that there was no intent to deceive Arlene. She knew about the gifts, and although she may not have actively consented to them, there is also no evidence that she objected to them. We overrule Arlene's complaint of the trial court's denial of her claim for reimbursement for gifts to Debra and Dustin.

Id. at 596-7.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos





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International Journal on the Reform of Family Courts

The Mongoose



Together, family law attorneys can reform our family courts!
Published by attorney Greg Enos

Issue: No. 21

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

It is both a good day and a pathetically sad day for our judicial system. Judge Dupuy has been indicted on two felony and six misdemeanor counts, arrested and booked. Dupuy was also hit with a civil removal lawsuit powered by the Texas Attorney General. The good news is that the system actually works (as long as you do not include the worthless Commission on Judicial Conduct as part of the system). The bad news is that our system of electing judges that is dominated by straight ticket voting selected Dupuy in the first place and that he then proceeded to so gloriously screw such a golden chance.

The 99% of lawyers who gossiped and whined but never took action need to personally thank those few who risked a lot to stand up to Dupuy: Greg Hughes, Lori Laird, Tad Nelson, Suzanne Schwab-Radcliffe, Greg Russell, Jack Ewing and Cynthia Tracey. Judges Criss and Yarbrough did what they could. I could not have been more proud of how Judges Roberts and Grady took what corrective actions were available and reminded us each day of what dignified, caring, law abiding judges are like. County Judge Mark Henry is the elected official who has done the most behind the scenes to fix the "Dupuy problem" and he certainly deserves a lot of credit.

May 22, 2013

"I have fancied myself a rebel, but at every critical moment of my life, I have been exactly the child my parents raised."

~Robert Brault



Patricia Grady Announces For The 212th District Court

Attorney Patricia Grady has announced that she will seek the Republican nomination for the 212th District Court of Galveston County. Judge Susan Criss has said she will not seek re-election. Patricia Grady has long been active in local GOP politics and is an attorney well known in our county. She recently worked

Now here is the truly sad and slightly scary angle to this story: everyone named above has been told over and over by many folks that we are in danger now that Dupuy is losing everything. A lawyer at a fundraiser last week loudly predicted I would be shot within the month. My office has increased security, several of my employees and my fiancé are now armed and we have all stopped working after hours at my office. Other judges became so concerned about Dupuy that they insisted that an armed bailiff attend judges' meetings. Dupuy's former fiancé has signed an affidavit accusing him of planning to kill his ex-wife. That ex-fiance testified to the grand jury and the ex-wife has filed for a protective order alleging that Dupuy poses a threat of violence to his ex-wife and children and is a flight risk. The application for protective order filed today against Dupuy in Cause No. 12FD1807 states in part, "The acts of abuse committed by Respondent that constitute family violence were planning the murder of the children's mother and planning to flee the country."

I have, for example, criticized Judge Hellums' policies but I was never worried she would jump out of a bush and club me with an empty whiskey bottle. This situation with Dupuy is something else indeed. I have decided to take sensible precautions. But, fear is what keeps tyrants in power and this guy deserves our pity, not our fear.

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[Check our new web site!](#)

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The *Mongoose* is watching!

Not In My House!

Judge Dupuy Indicted, and Arrested, Civil

for County Judge Mark Henry and is married to County Court No. 1 Judge John Grady. Mrs. Grady has to immediately be considered the front runner in this race.

Judge Pratt Ordered To Do Her Job

The First Court of Appeals conditionally granted a writ of mandamus directing Judge Denise Pratt to get off her kiester and issue a ruling in an enforcement case she heard in June 2012! [Click here](#) to download this opinion, which involves just one example of many cases in which Judge Pratt has not ruled, signed an order or otherwise done the job she was elected to do.

A Quote to Give a Judge Who Feels Resolving a Case Quickly Is More Important Than a Fair Trial

The Supreme Court of Texas has stated:

Although a goal of our system is to resolve lawsuits with "great expedition and dispatch and at the least expense," the supreme objective of the courts is "to obtain a just, fair, equitable and impartial adjudication of the rights of litigants under established principles of substantive law." **This means that "convenience and economy must yield to a paramount concern for a fair and impartial trial."** And basic to the right to a fair trial--indeed, basic to the very essence of the adversarial process--is that each party have the opportunity to adequately and vigorously present any material claims and defenses.

Southwestern Refining Co., Inc. v. Bernal, 22 S.W.3d 425, 437 (Tex.2000)(citations omitted).

7th Floor Problems? File For a Mandamus If a Judge Refuses to Sign an Order Or Set a Hearing

The Houston First Court of Appeals granted a writ of mandamus against a trial judge who refused to set a civil case for trial in case of *In re Harrell*, No. 01-11-00760-CV (Tex. App. - Houston [1st Dist.] 1/26/2013) (mem. op.)(orig. proc.). The Court of Appeals stated:

A court of appeals may not prescribe the manner in which a trial court exercises its discretion, but it may, by mandamus, require a trial court to exercise its discretion in some manner. **A trial court may not arbitrarily halt proceedings in a pending case, and mandamus will lie to compel a trial court to entertain and rule on motions pending before it. A trial court is required to consider and rule upon a motion within a reasonable time.** If a motion is properly filed and pending before a trial court, the act of

Removal Lawsuit Filed

Galveston County Court Judge Christopher Dupuy has been indicted for felony counts of official oppression, retaliation and abuse of official capacity arising out of his actions toward attorneys Lori Laird, Suzanne Radcliffe and me. Dupuy has attacked attorneys who stood up to him by holding us in contempt and disqualifying us from cases without pleadings, notice or hearing. Two weeks ago, Dupuy sua sponte sanctioned me \$25,000 for criticizing him and he has tried to hold me in contempt for daring to file a motion to recuse him. He did the same and actually worse to Lori Laird and Suzanne Schwab-Radcliffe.

Dupuy was arrested at the courthouse, received his magistrate warnings and was booked today. He will probably be released because his bonds are very low.



Here is a summary of the eight charges against Dupuy:

13CR1363 - Retaliation against Lori Laird

13CR1364 - Official oppression and abuse of official capacity against me.

13CR1365 - Misuse of government property for using his county computer and fax to help his fiancée in her custody case in which I represent the father of the child. This is the original criminal complaint I filed with the D.A. in December 2012.

13CR1366 - Official oppression against Lori Laird

13CR1367 - Official oppression against Suzanne Schwab-Radcliffe

13CR1368 - Abuse of official capacity involving Lori Laird

13CR1369 - Abuse of official capacity involving Lori Laird

13CR1370 - Abuse of official capacity involving me.

A civil removal lawsuit was also filed today with attorney Greg Hughes as the "relator" on behalf of the State of Texas. The lawsuit was prepared by the Texas Attorney General and is largely based on the lawsuit I drafted and provided the AG last month. The case is

considering and ruling upon that motion is ministerial, and mandamus may issue to compel the trial court to act.

(citations omitted).

When Does An Inmate Have The Right To Participate In Trial?

At some point, we all handle cases where the opposing party is incarcerated and pro se. The recent case of *Camp v. Camp*, No. 07-11-00282-CV (Tex. App. - Amarillo 8/3/2012, no. pet.)(mem. op.) summarizes the law on when the inmate is entitled to be present at trial. [Click here](#) to read this opinion. The Texas Supreme Court in the case of *In re Z.L.T.*, 124 S.W.3d 163, 165-6 (Tex. 2003) also noted the factors courts should consider in making arrangements for the inmate to be brought to court or to participate in some alternate fashion (by telephone, deposition or even affidavit):

Following the Seventh Circuit's decision in *Stone v. Morris*, [546 F.2d 730](#), 735-36 (1976), Texas courts of appeals have recognized a variety of factors that trial courts should consider when deciding whether to grant an inmate's request for a bench warrant. These factors include the cost and inconvenience of transporting the prisoner to the courtroom; the security risk the prisoner presents to the court and public; whether the prisoner's claims are substantial; whether the matter's resolution can reasonably be delayed until the prisoner's release; whether the prisoner can and will offer admissible, noncumulative testimony that cannot be effectively presented by deposition, telephone, or some other means; whether the prisoner's presence is important in judging his demeanor and credibility; whether the trial is to the court or a jury; and the prisoner's probability of success on the merits.



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filed in Cause No. 13CV0701. A civil removal suit against a county official is a very unusual case. A judge first has to review the petition before the District Clerk can even docket the case. The respondent has only five days to answer the citation. The Galveston County District Attorney recused himself and, as pre-planned, the Texas Attorney General was appointed as attorney pro-tem. The AG controls the case and Greg Hughes' role as plaintiff is basically over. A visiting judge from another county will conduct a hearing on June 7 to determine if Dupuy should be temporarily removed from office while the removal suit is pending.

I will send out a newsletter before the end of this week that has links to all of the pertinent documents.

Here are my predictions and questions:

- Dupuy will be removed. A temporary replacement judge will be named. That judge will get a longer appointment (through December 2014) once Dupuy resigns or is finally removed.
- Once he is out on bond, Dupuy could show up for work until there is an order removing him from office. In theory, the piece of crap Commission on Judicial Conduct could file for his immediate removal based on the indictments, but do not expect any such decisive action to protect the public from the "Protect Judges At Any Cost Commission."
- Dupuy will likely be suspended without pay in the civil removal lawsuit. There will be tremendous pressure for him to make a deal that involves his permanent resignation and a resolution of the criminal charges.
- Dupuy's child custody case will definitely heat up and is not likely to go well for him. Judge Hardin from Brazoria County is assigned to that case and he is in the process of selecting an amicus attorney from Brazoria County.
- A few questions need to be asked: Why does it appear Dupuy was given special consideration that other accused felons do not receive? Why are his bonds so low given the allegation of planned murder and fleeing the country? Why don't the conditions of his bonds require him to stay away from me, Lori and Suzanne (his victims)?
- How much do those of us who stood up to Dupuy need to worry for our own safety? Is it coincidence that this judge has, in just the last few months, dated two women my little law firm had custody cases against? Dupuy sua sponte fined me \$25,000 two weeks ago largely for criticizing him in this newsletter without a hearing or evidence. My law firm's motto is "Helping families through tough times." How would you interpret this post from Judge Dupuy on his court's Facebook site from last week:



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



I have turned down the offer of a bullet proof vest but I am watching a lot more reruns of "Kung Fu Panda" to sharpen my self defense skills.

Just as a sad reminder, this is the public letter I wrote to Judge Dupuy in early January when this newsletter first called for his removal:

Dear Chris:

It hurts me to think you are going to read this just like it hurts me to feel compelled to write this because of your actions. Please do not come shoot me or hurt yourself because of this newsletter. **Please just focus on the job you were elected to do and just stop issuing crazy orders and insane e-mails about your fellow elected officials. Start recusing yourself as soon as anyone asks you to and stop holding lawyers and your fellow judges in contempt and please, stop drafting pleadings and freedom of information request letters for your new girlfriend and do not fax them to me from the courthouse. If you cannot control yourself (and it may well be too late), you are going to lose your bench, your law license and custody of your kids.** This is one time when you really should listen to me. I am sorry it has come to this because I truly tried to help you. My goal was always and simply to see you do a good job.

Greg



Attorney Greg Enos

Important New Case on Waste in Divorce Cases is a Game Changer

A recent decision from the First Court of Appeals out of Judge Hellums' court (won by Michael Childs) provides a new twist to claims of waste or constructive fraud. In *Puntarelli v. Peterson*, No. 01-11-01120-CV (Tex. App. - Houston [1st Dist.] Feb. 14, 2013), the wife asked the age old question "where did all of the money he earned go?" The wife was awarded a \$196,000 judgment for wasting community funds because the husband could not account for how he spent his significant income during the five years this informal marriage/divorce case was pending. **The important message from**

this case that should prompt almost all non-monied spouses to allege constructive fraud is this - the wife did not have to prove any specific improper transfers of community funds. The wife merely had to show that the husband's expenses were much less than his income and then the burden shifted to the husband to show where the money went. Proving how one spent money years ago is often not easy, but failure to do so can result in a large judgment, as happened here. Of course, the husband did not help himself by failing to disclose his primary bank account in his sworn inventory or by failing to support the common law spouse during the pendency of the case. [Click here](#) to download this case.

The Court of Appeals stated (citations omitted):

"A fiduciary duty exists between a husband and a wife as to the community property controlled by each spouse." A presumption of "constructive fraud, " i.e., waste, arises when one spouse disposes of the other spouse's interest in community property without the other's knowledge or consent.



No "dishonesty of purpose or intent to deceive" must be established; such proof of subjective intent is "only required for actual fraud on the community, as opposed to constructive fraud on the community."

Once the presumption arises, the burden of proof then shifts to the disposing spouse to prove the fairness of the disposition of the other spouse's one-half community ownership." The three primary factors for determining the fairness of the dispositions are: (1) the size of the property disposed of in relation to the total size of the community estate; (2) the adequacy of the estate remaining to support the other spouse after the disposition; and (3) the relationship of the parties involved in the transaction or, in the case of a gift, of the donor to the donee.

A claim for the improper depletion of the community estate may be resolved by the trial court with an unequal division of the community estate, or a money judgment in order to achieve an equitable division of the estate.

....

While waste claims often are premised on specific transfers or gifts of community property to a third party, a waste judgment can be sustained by evidence of community funds unaccounted for by the spouse in control of those funds.

....

The trial evidence that Puntarelli failed to disclose at least one bank account containing community funds into which his income was deposited, along with his failure to account for or explain the depletion of the community funds in his control over the five-year pendency of the divorce proceedings spent without Peterson's consent was sufficient to shift the burden to Puntarelli to establish the fairness of his use of these community funds. He did not attempt to meet this burden.

Because we have rejected Puntarelli's argument that Peterson needed to identify specific transfers of community property (rather than indentifying unaccounted-for community funds in Puntarelli's sole control) to shift the burden to

Puntarelli to show the fairness of his use of those funds in his control, and because Puntarelli does not otherwise challenge the trial court's waste judgment or argue that he established his depletion of community assets was fair to Peterson, we hold that the trial court's waste judgment was within its discretion.

The Texas Constitution Has Two Guarantees to the Right to a Jury Trial

I recently argued to Judge David Farr that the amount of reimbursement due the community estate is not a jury question because reimbursement is once again an equitable remedy and historically, juries were not used in courts of equity. Judge Farr went with the Pattern Jury Charge book but then the parties stipulated on the amount. It turns out my argument was wrong because the Texas Constitution contains two provisions which guarantee the right to trial by jury (at least in district courts).

Taylor v. Taylor, 63 S.W.3d 93, 99 (Tex. App. - Waco 2001, no pet.) provides this explanation:

Article I, section 15 is a part of our Bill of Rights. See TEX. CONST. art. I, § 15. It provides in pertinent part:

The right of trial by jury shall remain inviolate. The Legislature shall pass such laws as may be needed to regulate the same, and to maintain its purity and efficiency.

TEX. CONST. art. I, § 15. Article I, section 15 guarantees the right of trial by jury for those causes of action or analogous causes of action for which a jury trial was available when the 1876 Constitution was adopted. A brief review of prior decisions reflects that a jury trial could be had for divorce cases before the 1876 Constitution was adopted. Accordingly, a party to a divorce proceeding has a constitutional right to a jury trial under article I, section 15.

Article V of the Texas Constitution governs the judiciary. See TEX. CONST. art. V. Section 10 provides:

In the trial of all causes in the District Courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury; but no jury shall be empaneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum, and with such exceptions as may be prescribed by the Legislature.

Our Supreme Court has defined the term "cause" to include "any legal process which a party institutes to obtain his demand or by which he seeks his right." Because a divorce proceeding involves disputes over property rights and frequently the custody and support of children, we hold that it is a "cause" for which a party has a constitutional right to a jury trial under article V, section 10.

(citations omitted).



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International Journal on the Reform of Family Courts

The Mongoose



Together, family law attorneys can reform our family courts!
Published by attorney Greg Enos

Issue: No. 22

May 24, 2013

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

Judge Dupuy is gone. This little newsletter has played a modest role in the removal or resignation of a District Clerk, an Associate Judge and now a statutory County Court Judge. Starting next month, I am setting my sights on a Harris County District Judge.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing by a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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[Check our new web site!](#)

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Trey Apffel Elected State Bar President!

Trey Apffel of League City won the run-off to be the State Bar of Texas President-Elect. It is awesome to see such a good thing happen to one of the planet's truly fine human beings (and a great attorney). Trey was in the middle of a medical malpractice jury trial in County Court No. 3 when Judge Dupuy was indicted and arrested. The judge called the lawyers to the bench right after lunch and indicated he had to be gone that afternoon and might not be able to go forward the next day. Sure enough, the judge had some other business to attend to and a mis-trial was declared.



The *Mongoose* is watching!

Judge Dupuy Removed Without Pay

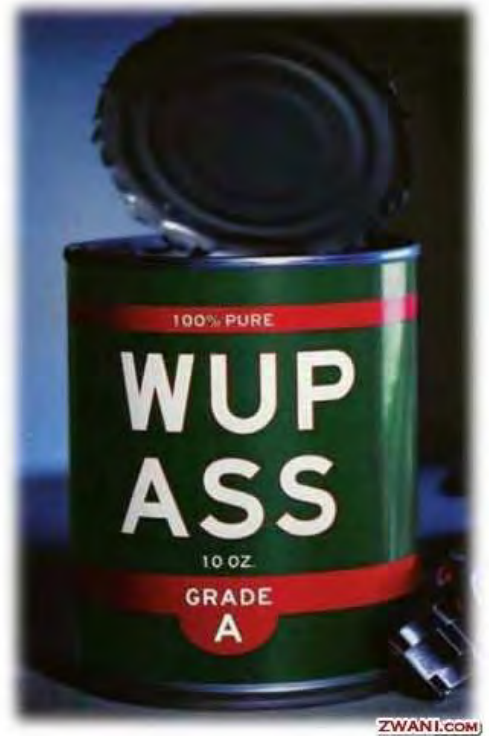
Galveston County Court Judge Christopher Dupuy has been suspended without pay by the Texas Unethical Judge Protection Commission (also known as the Commission on Judicial Conduct). The Commission for months did nothing about dozens of complaints from lawyers, fellow judges and elected officials but quickly acted after Dupuy was indicted Wednesday. Dupuy had the nerve to appear back in court on Thursday and preside over his criminal docket the day after he was indicted and arrested. Word was quickly sent to Austin and the suspension order was delivered about 4:20 p.m. yesterday. Dupuy's security access is terminated and the locks on his court and chambers have been changed.

Here are the pertinent documents:

[Click here](#) to read the Judicial Conduct Commission suspension order which attaches copies of the eight indictments.

[Click here](#) to read the civil removal lawsuit filed by the Texas Attorney General using attorney Greg Hughes as the relator and mostly the language I wrote over the last three months for the Attorney General. Contact me if you are interested in removing a county official under the Texas Local Government Code. I have every version of the statute since 1874 and a copy of every appellate case involving the removal law.

Dupuy has a hearing this morning involving custody of his kids and on June 7 he faces the hearing in the removal lawsuit that should result in his temporary removal and appointment of a replacement judge. A visiting judge will be used for the next two weeks in County Court No. 3.

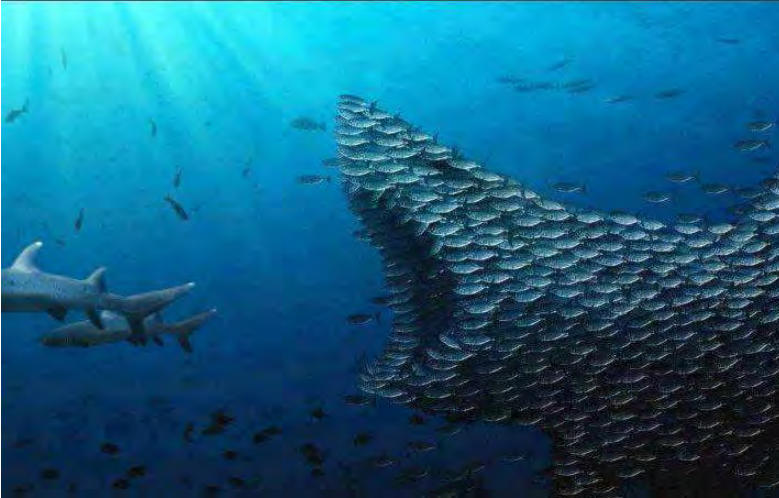


Judge Pratt Ordered To Do Her Job by the Fourteenth Court of Appeals

The Fourteenth (not the First) Court of Appeal issued the first of what I predict will be many conditional writs of mandamus directing Judge Denise Pratt to do her job. [Click here](#) to download this opinion.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.

DON'T PANIC, ORGANIZE!



Attorney Greg Enos





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Greetings!

This issue reviews who is running for judge in Galveston County and discusses the crime of witness tampering, a topic that has arisen as a result of allegations made by both sides in Chris Dupuy's child custody case. Dupuy's former fiancé (who plead the Fifth, then testified Dupuy plotted murder then partially recanted, on three successive days of testimony), recorded her many conversations with the various attorneys trying to get her to testify or not testify. I understand the recordings are very interesting on many levels. [Click here](#) for a *Houston Chronicle* story that tries to summarize the weird twists and turns of Dupuy's custody case.

Mr. Dupuy deserves a fair trial in all of his many cases, just like he should have provided litigants in his court. Our justice system works only if everyone involved follows the rules; including judges, lawyers, prosecutors and witnesses.

The good news is that another of my odd hobbies has born fruit – the **2013 Harris County Family Law Directory** is ready!

June 4, 2013

"The hard necessity of bringing the judge on the bench down into the dock has been the peculiar responsibility of the writer in all ages of man."

- Nelson Algren, *Chicago: City on the Make*



2013 Harris County Family Law Directory is Here!

The newest edition of the Harris County Family Law Directory is now available for free download at www.divorcereality.com. You can order a bound, color version of the directory at \$25 per directory by mailing a check payable to "The Enos Law Firm" to 17207 Feather Craft Lane, Webster, TX

2013 Harris County Family Law Directory

Page 5

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Law Offices of Judith E. Blanchard, P.C.	Legal Assistant:			Fax: 281-286-7747
16826 Titan Drive	Houston 77058			jblanchard@blanchlaw.com
Bludworth	Billy	Mr.	Bar No. 02510000	Tel: 713-225-8505

This 142 page directory lists over 800 attorneys who practice family law in Harris County. The directory also has court listings for Harris and surrounding counties, custody evaluators, forensic accountants, computer experts, mediators, process servers, etc. as well as legal articles on property division issues. You can download a free PDF version at www.divorcereality.com or purchase a bound, color copy of the directory for \$25. The database of attorneys is searchable on-line for free and you can create a link for your smart phone. See details in the column to the right. Also, my web site has been changed to make it easier to find prior editions of *The Mongoose*.

Greg Enos
The Enos Law Firm
(281) 333-3030

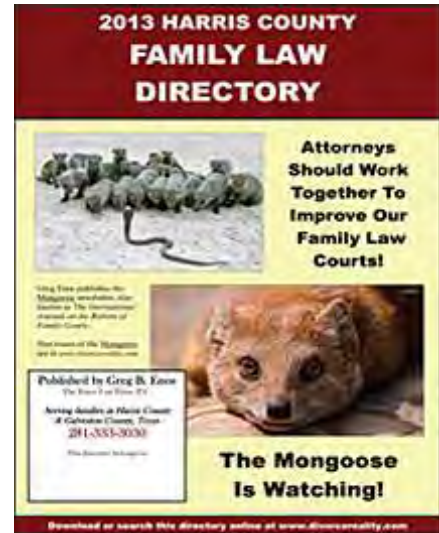
[Check our new web site!](http://www.enoslaw.com)

greg@enoslaw.com



The Mongoose is watching!

77598. The directory has listings of attorneys, family courts, AG offices, custody evaluators, real estate appraisers, court reporters and much more. This year I included practical and useful legal articles from the 2012 "Ultimate Property Division Seminar" I organized with the judges in Galveston County.



The Harris County Family Law Directory is also searchable on-line at www.divorcereality.com and you can use our Internet forms to send us corrections or updates to your listing.

Harris County Family Law Directory

Last Name	enos
First Name	
MI	
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Zip	
Board Certified in Family Law	☐ Yes ☐ No
Mediator	☐ Yes ☐ No
Search	

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[Click here](#) to go directly to my legal directories page.

Judge Pratt Is Hard at Work!

Judge Denise Pratt apparently became very energized after my last newsletter. Judge Pratt has been issuing ruling after ruling on cases heard months ago. For example, last week she issued a ruling in a case she heard in September 2012. Oddly, she dated her ruling in early February. Judge Pratt has even been taking her work home with her. An

Judicial Candidates In Galveston County

Galveston County will very likely complete its transition to being a county with all Republican judges next year and the few Democratic incumbents know it. Here is the breakdown of who is running or not

running:

306h Family District Court - Judge Jan Yarbrough is expected to retire but she is not officially confirmed she will not seek reelection. Anne Darring and Jennifer Burnett are the only announced candidates on the Republican side.

212th District Court - Incumbent Judge Susan Criss has already said she will retire. Now, it is rumored that she may well resign this Fall to run for the State Representative seat being vacated by the retiring Craig Eiland. That district is clearly winnable by a Democrat and Criss would be trying to follow in the footsteps of her father, former Rep. Lloyd Criss. A Criss resignation would allow Governor Perry to appoint someone to fill out the term. The appointee would become the *de facto* incumbent and have big advantage in the 2014 Republican primary.

Announced candidates for the 212th District Court on the GOP side are Patricia Grady and Keith Gross. Brett Griffin is rumored to be considering entering this race.



It is a little hard to swallow the notion that Republican Governor Rick Perry might appoint Democrat Judge Susan Criss' replacement if Judge Criss resigns this Fall to run for State Representative

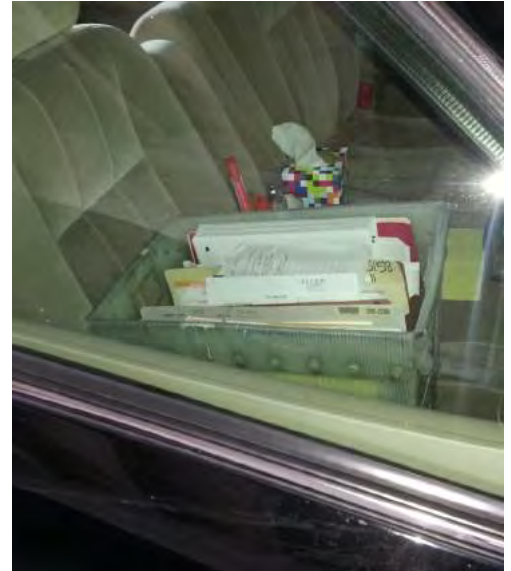
County Court No. 3 - It is safe to assume that Christopher Dupuy will not be the Republican nominee again for County Court No. 3. Announced candidates for the Republican nomination so far are Donnie Quintanilla, Jack Ewing, Phillip Morris, and G. Byron Fulk. A Vinson & Elkins associate attorney named Holly Rumbaugh is being introduced as a likely candidate for CC3 at political functions, even though her experience seems to be in oil and gas and not family, criminal or juvenile law.

If Judge Dupuy is temporarily removed as part of the removal lawsuit filed by the Texas Attorney General, a temporary replacement judge would be appointed and that lawyer could also become a *de facto* incumbent and change the nature of this race. If Dupuy is not removed in the removal lawsuit but rather remains suspended by the Texas Commission on Judicial Ethics, only assigned visiting judges will be handling cases in CC3. Contrary to rumor, Dupuy is expected to remain suspended without pay until he resigns or his criminal cases are resolved regardless of the outcome of the civil removal lawsuit filed by the AG.

122nd District Court - Judge John Ellisor is running for reelection and there are no announced candidates to oppose this fine judge.

County Courts No. 1 and No. 2 - Judges John Grady and Barbara Roberts will seek election to their second terms and are not

anonymous citizen sent me a photograph of Judge Pratt's car clearly showing a box of court files sitting on her front passenger seat (to protect the judge, this photo has been cropped to conceal the make of the car and the location where it was parked).



You can see a court docket sheet and what appear to be original court documents in this box. The cause number on one case in this photo is even visible - 2000-32280. The people in that case turned in an agreed final order in a modification suit in January 2012. Judge Pratt all on her own changed the order to read "Temporary Orders" when she signed the order on January 5, 2012. There are no pending motions according to the District Clerk website, so it is not clear why Judge Pratt is taking this file away from the courthouse. I can only hope that the attorneys and parties involved in this case realize that they still have a pending case. I also hope the good judge's car is not stolen or broken into while she has original District Clerk files in her car.

Upcoming Campaign Events

With apologies to candidates who have already hosted campaign events, I am going to try to post notices for upcoming campaign functions for all races in Galveston County and family court races in Harris County. Candidates: please send me your notices and I will help get the word

expected to face opponents.

Probate Court - Judge Kim Sullivan is going to run for reelection and she does not have an opponent.

District Clerk and County Clerk - Republicans John Kinard and Dwight Sullivan are up for reelection and so far neither has announced opponents.

District Attorney - Jack Roady is already running hard for reelection and despite grumbles from criminal defense attorneys, no one has filed against him.

The Crime of Witness Tampering

The crime of tampering with a witness applies to both civil and criminal cases and can involve either offering or providing "any benefit" to the witness or acting to coerce a witness. Witness tampering can involve influencing a witness to testify falsely, influencing a witness to avoid testifying or influencing a witness to not press criminal charges. "Any benefit" is a very broad term and could include promises of money, assistance with a lawsuit or helping covering the costs of a move or vacation. Case law summarized below shows that it does not take much to be considered coercion. All lawyers should be very careful in dealing with witnesses, especially those witnesses who are crazy, who have a history of making false allegations or who tape record the promises and threats they receive about their testimony. The best practice is to tell any potential witness, "I just want you to tell the truth," early and often.

Section 36.05 of the Texas Penal Code states in part:

Sec. 36.05. TAMPERING WITH WITNESS.

(a) A person commits an offense if, with intent to influence the witness, he offers, confers, or agrees to confer any benefit on a witness or prospective witness in an official proceeding or coerces a witness or prospective witness in an official proceeding:

- (1) to testify falsely;***
- (2) to withhold any testimony, information, document, or thing;***
- (3) to elude legal process summoning him to testify or supply evidence;***
- (4) to absent himself from an official proceeding to which he has been legally summoned; or***
- (5) to abstain from, discontinue, or delay the prosecution of another.***

(b) A witness or prospective witness in an official proceeding commits an offense if he knowingly solicits, accepts, or agrees to accept any benefit on the representation or understanding that he will do any of the things specified in Subsection (a).

(c) It is a defense to prosecution under Subsection (a)(5) that the benefit received was:

- (1) reasonable restitution for damages suffered by the complaining witness as a result of the offense; and***
- (2) a result of an agreement negotiated with the assistance or acquiescence of an attorney for the state who represented the state in the case.***

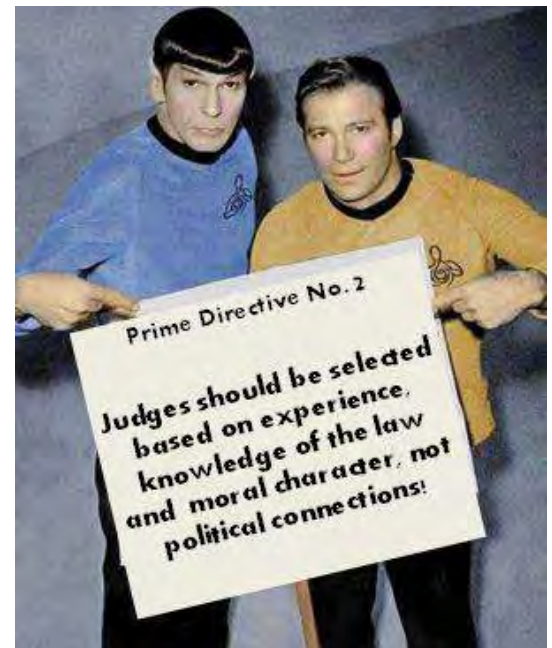
out and please stop holding secret exclusive events for just a few big fat cats that us little people are not invited to!

Anne Darring Campaign Kickoff
Wednesday, June 5 at 5:30 pm
La Brisa on the Creek,
501 N. Wesley at IH 45, League
City

Judge David Farr Campaign Event
Wednesday, June 12, 5:30 p.m. until 8
p.m.
The Cadillac Bar
1802 Shepherd Drive Houston, TX 77007

**County Clerk Dwight Sullivan
Campaign Kickoff**
Thursday, June 13 at 5:30 p.m.
DSW Homes, 1021 61st Street,
Galveston, Texas 77551

Judge Charley Prine Campaign Kickoff
Thursday, June 20 at 5:30 PM
The Cadillac Bar
1802 Shepherd Drive Houston, TX 77007



(d) *An offense under this section is a felony of the third degree, except that if the official proceeding is part of the prosecution of a criminal case, an offense under this section is the same category of offense as the most serious offense charged in that criminal case.*

Arnold v. State, 68 S.W.3d 93 (Tex.App.- Dallas 2001, pet. ref'd) provides a good historical review of this crime. In that case, a former stripper worked for a lawyer and the lawyer paid for her to leave town to avoid testifying in the drug possession trial of a Dallas Cowboy star. The conviction and two year sentence for the lawyer was upheld.

Nunez v. State, 27 S.W.3d 210, 216 (Tex. App. - El Paso 2000, no pet.) involved a lawyer who took a client's \$6,000 insurance settlement check. After the client filed complaints with the State Bar, the District Attorney and the police, the lawyer met with his former client at a restaurant. The attorney asked the client to drop the charges in exchange for future payments of \$3,000 within a few weeks and the remaining amount owed within three months. If the client decided not to drop the charges, then the attorney assured the client that the attorney would "drag it on as long as he could" so that there would be a good chance that the witness would never see any money. The attorney was convicted of witness tampering and sentenced to 180 days in jail. The conviction was upheld in part because of the recording the client made of the attorney saying:

"All you have to do is go and withdraw that criminal complaint at the D.A.'s office and write a notice to the State Bar that you're withdrawing your complaint. That's all I'm asking you and you can have that immediately. That's going to be much better than what's going to happen to me. That's all I can do. You can have the Cadillac if you want."

Davis v. State, No. 13-08-00406-CR, 13-08-00407-CR (Tex. App. - Corpus Christi August 26, 2009)(mem. op.) involved the infamous "mom's boyfriend" who threatened to kick a 15 year old out of his house after she gave a statement about having sex with an adult who was a friend of the homeowner.

Landers v. State, No. 10-11-00408-CR (Tex. App. - Waco 8/30/2012)(mem. op.) is an example of a mother trying to get her nine year old daughter not to testify that her step-father sexually molested her. The mother was convicted of tampering with a witness for telling the child she was a liar and driving her daughter to a deposition and telling her "not to tell what happened" (even though the child was not asked about the sexual assault at the deposition).

Morlett v. State, 656 S.W.2d 603 (Tex. App. - Corpus Christi 1983, no pet.) involved a fellow who was indicted but then acquitted of murder. He still got life in prison for tampering with a witness enhanced by two prior felony convictions. The coercion of a witness in this case involved the following:

One of the State's witnesses against appellant in that trial was Rodolfo Herrera. In the trial of the cause now before us Herrera testified that prior to the murder trial appellant phoned him at least three times and said (in Herrera's words) "... I better not say anything in the trial, you know, say that if--I mean that if he didn't want it to have a bad grudge on me or something like

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



that, you know." He further testified that when he (Herrera) entered the courtroom to testify appellant made two silent gestures to him. The first was to place a finger over his lips and the second was to make a fist. Herrera interpreted these gestures to indicate a threat. He then proceeded to retract a statement he had earlier given to the prosecutor and refused to implicate appellant in the murder.

Attorney Greg Enos





[Click here for the archive](#) of prior Mongoose newsletters.

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International Journal on the Reform of Family Courts

The Mongoose



Together, family law attorneys can reform our family courts!
Published by attorney Greg Enos

Issue: No. 24

July 15, 2013

The Enos Law Firm

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Web site: www.divorcereality.com

**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

Attorneys standing up for what is right can make a true difference. In Galveston County, indicted Judge Dupuy has been suspended and temporarily removed and a wonderful replacement judge, Kerri Foley, appointed. This newsletter explains who Judge Foley is and how she came to be appointed.

In Harris County, Family District Judge Denise Pratt continues to boggle the collective legal conscience with her unreasonable rulings and total ignorance of the law. Judge Pratt is actually worse than Judge Dupuy in many ways. Judge Pratt is making unreasonable rulings contrary to the law several times a day and she is harming far more families and children than Dupuy ever did.

The encouraging news is that Harris County family law attorneys are actually willing to say when enough is enough. The vast majority of attorneys are refusing to contribute to Judge Pratt's campaign. For the first time since I started practicing family law, I am seeing lawyers actually willing to stick their necks out and speak out against an incumbent judge. I plan to post a "List of Shame" of the few attorneys who have contributed to Pratt's campaign and explore how well those attorneys do with appointments or juicy awards of fees in her court.

"It is from numberless diverse acts of courage and belief that human history is shaped. Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring those ripples build a current which can sweep down the mightiest walls of oppression and resistance."

Robert Kennedy, June 6, 1966
Cape Town, South Africa

NEWSLETTER INDEX

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**BREAKING NEWS:
Judge Pratt Faces**

Two years ago, the GOP selected one Democratic judge who had tattoos and who had ruled the death penalty unconstitutional to be the judicial poster child for how bad it is when Democrats get elected judge. That TV ad campaign was very effective. Some are suggesting that Judge Pratt play the same role next year, except she would be used to smear all of the Republican judges, as if they all had terrible work habits and made crazy rulings in total ignorance of the law. That would not be fair to our really good family court judges who deserve to be reelected.

I apologize for the length of the article on Judge Pratt, but sadly it barely scratches the surface of the problems she is causing by not showing up to work, not ruling or (when she does rule) ignoring the law and common sense.

Greg Enos
The Enos Law Firm
(281) 333-3030

[Check our new web site!](#)

greg.enoslaw@gmail.com



The Mongoose is watching!

Latest in Dupuy Saga

Numerous gag orders in former judge Dupuy's various cases have been issued. I am not a party or attorney in any of those cases, but I am an alleged victim in some of the criminal cases. Assuming *arguendo* that my First Amendment rights have been temporarily suspended by an order I was never served with, I have been forced to find other topics to share my opinions about. The following is public information that can be confirmed by a simple Google search or a search on the website of District Clerk or the *Galveston Daily News* on these cases involving Dupuy:

1. 9 criminal cases - Consolidated into 13CR1363. Set for trial on December 9. Hearing set for July 25 on Motion for Contempt filed by State against Dupuy and Dupuy's motions to dismiss 7 of the 9 charges.
2. Removal lawsuit - 13CD0701 - Set for trial in January 27, 2014, Mr. Dupuy's mandamus denied. Motion for contempt filed by AG against Dupuy set for July 30.
3. Judicial Conduct Commission vs. Dupuy - Dupuy's appeal of the order suspending him without pay denied.

A New Challenger

Attorney Anthony Magdaleno, a rising star in the Harris County GOP, announced today that he is running against Judge Denise Pratt for the Republican nomination for the 311th Family District Court.



Magdaleno joins Phil Placzek in challenging Judge Pratt in the March 2014 GOP primary.



Family Law Appellate Decisions for May 2013

I am running a little behind in my monthly summary of new appellate cases involving family law. [Click here for the complete summary](#) or review the individual cases below and click the headline to go to a summary of just that case.

[This father did not have a prayer! Ordering a father to give up a few hours on every one of his Sunday mornings so that the mother can take the children to religious education does not violate the Establishment Clause of the First Amendment. \[Terrible decision\]](#)

[Land acquired with wife's separate property but deeded to husband and wife was not a gift of a 50% interest to the husband.](#)

[Detailed discussion of the acceptance-of-benefits doctrine which commonly arises in divorce cases when a former spouse accepts certain assets awarded in the judgment but then tries to appeal the remainder of the](#)

4. Mr. Dupuy's child custody case - 09FD0420 - After days and days of explosive testimony, temporary orders switched custody to Dupuy's ex-wife and at least for now provide for no visitation by Dupuy with his kids. Dupuy's application for writ of mandamus was denied.

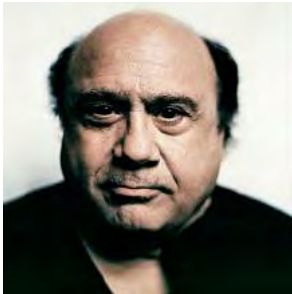
5. Uncle's lawsuit vs. Dupuy on note - 13CV0069 - Summary judgment granted for uncle with a judgment for \$16,823 plus interest against Dupuy, who has said he will appeal.

6. Child custody cases of Dupuy's former/current fiances - There is on-going litigation pending and the number of children Dupuy cannot be around is growing.

7. Mr. Margarita legal malpractice suit vs. Dupuy - 09CV1183 - Trial set for November 15, 2013. Dupuy ordered to submit to a deposition.

8. Dupuy's lawsuit against the parenting coordinator appointed to help him and his ex-wife work together - Dupuy's lawsuit dismissed and the coordinator was awarded \$8,491.07, including \$5,550.00 in attorney fees against Dupuy.

9. Book and screenplay - Several lawyers and reporters rushing to get their stories in print first. Danny Devito is interested in playing Dupuy.



Devito smells Oscar all over this project!

Judge Kerri Foley

What if instead of uninformed voters blindly selecting judges based on straight party voting, judges were selected by informed officials based on actual qualifications, experience and judicial track records? The results might produce new judges like Kerri Foley, who has been appointed to be the temporary judge of County Court No. 3 as a result of Christopher Dupuy's removal.

Dupuy (who was elected thanks to straight ticket voting) was temporarily suspended by the Judicial Conduct Commission after he was indicted, but that only resulted in a need for visiting judges to handle the business of County Court No. 3. The removal lawsuit filed by the Texas Attorney General under Chapter 87 of the Local Government Code resulted in an order by assigned visiting Judge Robert Kern that Dupuy was temporarily removed and Kerri Foley appointed as his temporary replacement. As is usual in this sort of suit to remove a county official, the assigned judge hearing the case, Judge Kern, consulted with local officials including our County Judge, Mark Henry. Judge Henry had already discussed the best possible replacements with the other statutory county court judges and a majority of the county commissioners. No lawyers are really complaining about this selection other than those who are already running for this position and a few die-hard Democrats.

This appointment means that Foley will serve as long as the removal

[judgment.](#)

[Interesting example of how a court can divide assets that were not awarded in the original divorce.](#)

[Mystery payment to husband from his business can be considered an asset in calculating community property division.](#)

[It is error for a court to issue a wage withholding order for contractual alimony unless the parties agreed to wage withholding per Tex. Fam. Code Sec. 8.101\(b\)\(1\) \[Note: new law would change this result unless the law is unconstitutional\].](#)

[Divorce court cannot award reimbursement to a spouse's separate estate if the spouse did not trace her separate property.](#)

[A divorce decree cannot order a party who wants to file a modification to pay the other parent \\$25,000 on the date the modification is filed or face dismissal.](#)

[When an agreement incident to divorce is approved by the court and incorporated into the divorce decree, the agreement constitutes part of a valid and binding final judgment and is enforceable as part of the decree.](#)

[Grandparents win move away modification case over only living parent.](#)

[When a case is transferred from one county to another, the attorney must make sure the clerk copies and sends all important documents.](#)

[Dallas Court of Appeals allows a trial judge to deny a late filed motion to recuse and then proceed with trial before the administrative judge hears the motion to recuse.](#)

[Modification default reversed because mother failed to present any evidence of changed circumstances.](#)

[Fishy facts support denial of mother's motion for enforcement for failure to pay child support.](#)

2013 Harris County Family Law Directory

The newest edition of the Harris County Family Law Directory is now available for free download at www.divorcereality.com. You can order a bound, color version of the directory for \$25 per directory by mailing a check payable to "The Enos Law Firm" to 17207 Feather Craft Lane, Webster, TX 77598. The directory has listings of attorneys, family courts, AG offices, custody evaluators, real estate appraisers, court reporters and much more. This year I included practical and useful legal articles from the 2012 "Ultimate Property Division Seminar" I organized with the judges in Galveston County.

lawsuit is pending, which we now know will be at least through January 2014. If (or really when) the State wins the removal lawsuit and the office is declared vacant, then the County Commissioners will appoint a "permanent" replacement to serve until the votes in the November 2014 general election are canvassed. It is obvious that Foley would almost certainly win that appointment, so it is fair to assume we will be dealing with Judge Foley for the next year and a half. Judge Foley is going to seek re-election and her campaign treasurer is Amy Henry, the wife of County Judge Mark Henry. We may be getting to know Judge Foley for the next 20+ years.

Kerri Foley has practiced law in Galveston County for 18 years. Foley worked as a CPS caseworker while she went to law school at night. Foley worked as counsel for the Texas Department of Criminal Justice, followed by six years as a criminal prosecutor in the Galveston County District Attorney's Office. Foley has served as the Presiding Municipal Judge for League City for ten years and was selected to be the Associate Judge for juvenile cases last year. Foley handled primarily family law and criminal cases when she was in private practice. Judge Foley, unlike most of her competition in the GOP primary, has actually been an active Republican for a long time. Foley has served as officer in various Republican Women's groups and she does not have to explain a switch of party affiliation (like Ronald Reagan or Rick Perry or Lonnie Cox did).

Judge Foley has brought her staff from the juvenile court. The new Court Coordinator for County Court No. 3 is Melissa Williams and the Court Reporter is Kate Piper.

Judge Lisa Burkhalter, a former county court at law judge from Angelina County (Lufkin), is serving as interim juvenile master after Foley has to resign to take her new post. The permanent post as juvenile master has been posted by the county. Kathleen McCumber was appointed to replace Foley as the Municipal Judge of League City.

Galveston County Judicial Races

Here is latest summary of who is running for contested judicial races in Galveston County in the 2014 Republican primary:

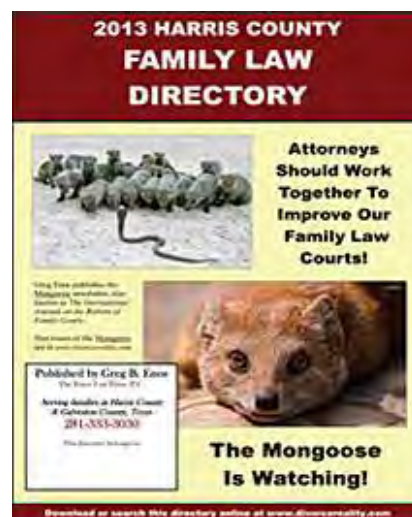
306h Family District Court - Judge Jan Yarbrough is expected to retire but she is not officially confirmed she will not seek reelection. Candidates are:

Jennifer Burnett
Anne Daring
Wilfried Schmitz

212th District Court - Incumbent Judge Susan Criss has already said she will retire. If Judge Criss resigns in December to run for State Representative, then an appointment by the Governor to this bench could dramatically change this race. Announced candidates are:

Patricia Grady
Brett Griffin
Keith Gross
Jonathan Kieschnick

County Court No. 3 - This race has been totally changed by the removal of Judge Dupuy and the appointment of Judge Kerri Foley, who will seek the GOP nomination. Foley has a long history of activism in the local Republican circles and she has a stellar track record as League City Municipal Judge and the Galveston County Juvenile Associate Judge. Foley was suggested by Republican elected officials and she will be able to run as the incumbent, meaning lawyers will be willing to donate to and



The Harris County Family Law Directory is also searchable on-line at www.divorcereality.com and you can use our Internet forms to send us corrections or updates to your listing.

Harris County Family Law Directory

Last Name	enos
First Name	
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City	
Zip	
Board Certified in Family Law	☐ Yes ☐ No
Mediator	☐ Yes ☐ No
Search	

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[Click here](#) to go directly to my legal directories page.

Why isn't *Subpoenae* the Plural of *Subpoena*?

Subpoena is a singular English noun -- it was never a Latin noun. Rather, the English word *subpoena* derived from the Latin phrase *sub poena*, meaning "under penalty" or "under pain." The *Oxford English Dictionary* dates *subpoena* from the late 15th century. And the plural *subpoenas* appears in English law as early as 1509 in the title of a statute "for Subpoenas and Privy Seals."

Jesus and Divorce

For those divorce attorneys with a theological interest, I came across a very interesting sermon by a biblical scholar and pastor on "Jesus and Divorce." Apparently, it helps to interpret the Bible if you understand the culture and laws that existed at the time Jesus began his religious revolution. [Click here](#) to read a thought provoking sermon by Dr David

support her campaign now (instead of waiting to see who wins before sticking their necks out as is usually the case). Candidates for this position are:

Judge Kerri Foley
Jack Ewing
G. Byron Fulk
Phillip Morris
Donnie Quintanilla



Judge Pratt Must Go!

I am writing out of respect for our system of justice and out of concern for the parents and families of Harris County. The only two contested trials I ever presented to Judge Denise Pratt were won by my clients, so I am not a sore loser. I am a board certified family law attorney with 27 years experience who cares deeply that courts reach the right decisions and follow proper procedures. Like most folks, I believe family court judges must protect children, follow the law, apply common sense and treat everyone fairly. I know full well the powers the family court judges wield and I know that this article will anger Judge Pratt and some rich, powerful attorneys who seem to do so well in her court. I am not running for political office and I have no personal gain at stake other than the satisfaction of seeing mothers and fathers and children treated fairly. In fact, my law firm loses money because I am turning down cases that are pending before certain judges.

However, the truth is the truth and this article is based on 100% provable facts. I will print verbatim in my newsletter any rebuttal from Judge Pratt or the attorneys involved in these cases if they have facts to submit which contradict what I write here. I am not repeating rumors swirling around the courthouse about Judge Pratt's personal life because I simply do not believe them until I see proof. Judge Pratt is still a judge and her office deserves our respect and she deserves to be treated fairly by her legal colleagues. Just as I expect Judge Pratt to rule in her court on the basis of evidence, I am content to prove Judge Pratt's incompetence with facts and not gossip.

Judge Pratt has six basic problems as a judge:

Instone-Brewer.

Upcoming Campaign Events

I am going to try to post notices for upcoming campaign functions for all races in Galveston County and family court races in Harris County. Candidates: please send me your notices and I will help get the word out and **please stop holding secret exclusive events for just a few fat cats that us little people are not invited to!**

Patricia Grady Campaign Kickoff

Thursday, July 25, 4 - 7 p.m.
Esteban's Fiesta Shack, League City

Judy Warne Re-election Kickoff

Tuesday, August 13 from 5:30 - 8 p.m.
La Griglia, 2002 West Gray



Goodbye Otto

Dogs (more than most other pets and humans I know) provide unquestioned love, loyalty and fun. Dogs enrich our lives but it sure hurts when you lose one. Since this is my newsletter and I get to write about whatever I want, I am taking a moment to say good bye to Otto the Doberman. In fact, I would do well to be like Otto and go out the way he did (except I want a Viking funeral with a burning longship pushed off into a fjord).

Otto always did his job. His booming bark greeted anyone who entered the house and, if it was a stranger, Otto knew how to intimidate until it was clear the newcomer was okay. Otto once attacked a larger Rottweiler who was getting too aggressive with Otto's owner, Toni, and the bigger dog was killed. Yet, Otto was great with kids and he let Toni's little boys climb all over him. Otto was big and scary but

1. Judge Pratt's work ethic is terrible. She often does not come to work or leaves early or refuses to hear cases or reschedules hearings for months or years in the future. She has been known to start a hearing, then take a break, and then just leave the courthouse forcing her staff to tell the bewildered attorneys that the hearing will have to resume at a later date. It can take months to get a ruling from Judge Pratt. Lately, Judge Pratt has "backdated" some of her rulings to make it appear that she ruled months or weeks earlier than the date the rendition or order was actually signed.

2. Judge Pratt routinely refuses to accept agreements between parents who know and love their children. Pratt makes her own handwritten changes to orders that the parties have not agreed to and for which there has been no hearing or evidence and then she signs the orders!

3. Judge Pratt appoints amicus attorneys when no other judge on the planet would consider an expensive third attorney necessary. Communications between Judge Pratt and some of the amicus attorneys she appoints is a whole other, even more ominous, issue, and that will be addressed in a later newsletter.

4. Judge Pratt follows bizarre policies that clearly are not based in reality. For example, she refuses to approve for any child, even a 17 year old, to fly on an airline unaccompanied for visitations out of fear of "human trafficking." She will not let fathers have overnight possession of very young children even when the parents agree and they have been doing it for months!

5. It is widely believed that a small group of attorneys can get almost anything they ask for from Judge Pratt.

6. Most importantly, Judge Pratt clearly does not know the law, she does not follow the law and she does not make common sense decisions regarding children.

Here are but three examples, of so many I could provide, which should be enough to blow the mind of any lawyer or judge or caring parent. [Click on this link to download my full article on Judge Pratt](#) which provides details about these amazing cases.

2002-59200. Mother with primary custody of an 11 year old boy hit with TRO that eliminates her possession just because she did not take the boy to baseball practices and might not take him to a state tournament.

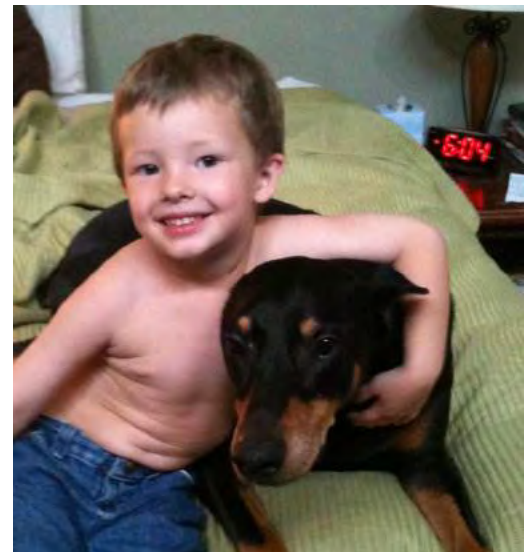
2012-35606. NFL star gets raped in paternity case and ordered to pay \$500,000 in interim attorney's fees even though his lawyers were not at the hearing and the mother's attorneys at best only "prove up" \$362,000 in fees.

2011-07230. Pratt "sua sponte" without evidence temporary gave custody of a 3 year old to a non-party step-grandmother and then left the child with the step-grandmother for another four months after the step-grandmother tested positive for marijuana and cocaine.

Judge Pratt needs to resign or be defeated in either the Republican primary or the November 2014 general election.

he just wanted love and to be petted. Visitors to our house found his head in their laps and they would pet him for hours, somewhat afraid to stop.

Otto loved his Toni (as much as I do) and he missed her like crazy when she was away. He would go to her closet and gently take one of her leather shoes to his bed without leaving a tooth mark so he could lay next to something that smelled like Toni until she returned. Otto survived back surgery and the indignity of eventually not being able to get up on the human bed to sleep. As always, Otto was well behaved, even on his last visit to the vet, where he fell asleep forever looking at his grieving mom with those sweet, black trusting eyes. Good bye my buddy. Your Toni and your human and dog family really miss you.



Over Guideline Child Support

I have put together a packet regarding "over guideline child support" that includes summaries of all recent appellate cases on the subject, the law and a handy chart.

[Click here to download the packet on "Over Guideline Child Support"](#)

I used a spreadsheet in a recent trial to that show a mother's total expenses and assign some expenses to the children to justify an award of child support over guidelines. [Click here to download that sample spreadsheet.](#)



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Financial Information Statement

Deborah Lincoln
NO. 14FD2002

Wife's Income & Expenses

Monthly Net Pay	\$	2,800.00	
Other Income			
Child Support	\$	2,875.00	Requested (\$1,000.00 over guidelines)
Spousal Support	\$	3,000.00	Requested
Total Net Income	\$	8,475.00	Estimated/Requested
Total Expenses	\$	9,683.00	
Monthly Deficit	\$	(1,108.00)	

**EXPENSES**

	Wife	2 Children	Total
Mortgage	\$ 840.00	\$ 1,260.00	\$ 2,100.00
Insurance on Home	\$ 130.00	\$ 195.00	\$ 325.00
Property Taxes	\$ 380.00	\$ 570.00	\$ 950.00
Homeowners' Association	\$ 44.00	\$ 66.00	\$ 110.00
Electricity	\$ 140.00	\$ 210.00	\$ 350.00
Nat. Gas	\$ 30.00	\$ 45.00	\$ 75.00
Water	\$ 48.00	\$ 72.00	\$ 120.00
Cable TV	\$ 64.00	\$ 96.00	\$ 160.00
Internet & Telephone	\$ 32.00	\$ 48.00	\$ 80.00
Lawn Service	\$ 56.00	\$ 84.00	\$ 140.00
House maintenance	\$ 80.00	\$ 120.00	\$ 200.00
Food/Groceries	\$ 350.00	\$ 700.00	\$ 1,050.00
Entertainment-for Adult	\$ 300.00	\$ -	\$ 300.00
Entertainment-Child	\$ -	\$ 250.00	\$ 250.00
Haircuts & Nails	\$ 180.00	\$ 40.00	\$ 220.00
Laundry	\$ 10.00	\$ -	\$ 10.00
Housekeeper	\$ 180.00	\$ 180.00	\$ 360.00
Health Insurance for Wife	\$ 420.00	Father pays	\$ 420.00
Medical/Prescriptions	\$ 40.00	Father pays	\$ 40.00
Dental care	\$ 20.00	Father pays	\$ 20.00
College Expenses	\$ -	\$ -	\$ -
Lunches/School Supplies	\$ -	\$ 160.00	\$ 160.00
Car Insurance	\$ 65.00	\$ 200.00	\$ 265.00
Auto Loans	\$ -	\$ -	\$ -
Gas/Oil	\$ 320.00	\$ 140.00	\$ 460.00
Life Insurance	\$ 130.00	\$ -	\$ 130.00
Pool Service	\$ 60.00	\$ 60.00	\$ 120.00
Clothes-Adult	\$ 140.00	\$ -	\$ 140.00
Clothes-Child	\$ -	\$ 120.00	\$ 120.00
Cell Phone	\$ 80.00	\$ 80.00	\$ 160.00
Pets	\$ 50.00	\$ -	\$ 50.00
Alarm Service	\$ 40.00	\$ -	\$ 40.00
Memberships (gym, Sam's)	\$ 125.00	\$ 33.00	\$ 158.00
Total Credit Card(s)	\$ 250.00	\$ -	\$ 250.00
Misc.	\$ 200.00	\$ 50.00	\$ 250.00
Total Expenses	\$ 4,804.00	\$ 4,779.00	\$ 9,583.00

Less Guideline Support \$ (1,875.00)
 Children's Expenses over Guideline Amount \$ 2,904.00
 % of Excess to Father 34%
 % of Excess to Mother 66%
 (assuming Father pays \$2,875.00 support)



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International Journal on the Reform of Family Courts

The Mongoose



Together, family law attorneys can reform our family courts!
Published by attorney Greg Enos

Issue: No. 25

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

I hope you will visit my booth at the Advanced Family Law Seminar in San Antonio next week and pick up a free "Mongoose" coffee mug.

Attorneys have duties to their individual clients but we also have a duty to protect and improve the judicial system we work in. I hope you will join me in my efforts for reform of our family courts based on ethics, the law, 100% provable facts and fundamental fairness. This effort is bearing fruit as two judges involved in my stories are no longer judges and one Harris County judge is finding that most lawyers are refusing to support her politically or financially. More and more attorneys seem willing to speak out against outrageous judicial misbehavior.

Attorneys can also help our judicial system by taking on pro bono cases involving ridiculous instances of injustice. I pat myself on the back in a story below about a pro bono appeal I handled for an openly gay father who was treated horribly by a smart associate judge who clearly knew better. The fact that Associate Judge Charlie Prine is likely to be elected a family district judge next year did not make it any easier to write that story. The fact that Prine's boss, District Judge Sheri Y. Dean, is my next door neighbor and long-time colleague certainly complicated things. However, there are several important lessons all attorneys and judges can draw from this decision, so I hope you read on.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that

August 3, 2013

*"Those who have the privilege to
know have the duty to act."*

-- Albert Einstein

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asking too much? Stay tuned.

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[Check our new web site!](#)
greg.enoslaw@gmail.com



The Mongoose is watching!

Why I Cannot Discuss Former Judge D***y

The judge who is presiding over former Judge Christopher Dupuy's criminal cases has issued a comprehensive gag order. [Click here to read this gag order](#) and understand why I cannot join in on the courthouse gossip about Mr. Dupuy. For those who are curious, here are the cause numbers on the pending cases involving Dupuy, which can be viewed on the Galveston County District Clerk's web site. The following is all public information and is offered without comment in a way that does not violate gag order.

1. Dupuy faces two new felony indictments for aggravated perjury (all involving alleged false testimony about me). [Click here](#) to read the *Galveston Daily News* story about these new indictments. [Click here](#) to see the indictment in 13CR2027. [Click here](#) to read the indictment in 13CR2028. [Click here](#) to read Dupuy's answer he filed to the indictments.
2. Nine prior criminal cases - Consolidated into 13CR1363. Set for trial on December 9, 2013.
3. Removal lawsuit - 13CV0701 - Set for trial in January 27, 2014, [Click here](#) to read the second application for mandamus filed by Dupuy in this case with the court of appeals. [Click here](#) to read the stay order stopping a hearing on a motion to hold Dupuy in contempt for violating the gag order in that case. The Attorney General is ordered to file a reply brief by August 12, 2013.
4. Mr. Dupuy's child custody case - 09FD0420.
5. Mr. Margarita legal malpractice suit vs. Dupuy - 09CV1183. A motion was filed to hold Dupuy in contempt for not submitting to a deposition as ordered and not paying an earlier \$7,500 sanction.



Subpoena a Child to Court?

How do you compel a child to appear in court? You could file a motion asking the court to order a parent or conservator to bring the child to court. *In re Z.A.T.*, 193 S.W.3d 197 (Tex. App. - Waco 2006, pet. denied) suggests that you should subpoena a child since TRCP 176.2(a) relates to a subpoena commanding a "person" to attend trial. The Code of Criminal Procedure Sec. 24.011(a) and the Juvenile Justice Code, Family Code Sec. 53.06(c), have specific provisions for a "subpoena directing a person having custody, care, or control of the child to produce the child in court." The Rules of Civil Procedure do not have any similar provision for getting children to court. The lead opinion in *Z.A.T.* seems to suggest that you should serve a subpoena on the child. A concurring opinion suggests that if a child has an amicus attorney, the subpoena can be served on the amicus per TRCP 176.5(a).

Thomas Jefferson's Favorite Book

Attorneys who are interested in religion, philosophy and history should read the book *The Swerve* written by Stephen Greenblatt. If you have never heard of Thomas Jefferson's favorite Roman poet and philosopher, Lucretius, and his amazing view of the world written about 50 years before the birth of Jesus, [click here](#) to read my short summary of *On the Nature of Things*.

2013 Harris County Family Law Directory

The newest edition of the Harris County Family Law Directory is now available for free download at www.divorcereality.com. You can order a bound, color version of the directory for \$25 per directory by mailing a check payable to "The Enos Law Firm" to 17207 Feather Craft Lane, Webster, TX 77598.

My booth at the Advanced Family Law Seminar will be selling bound directories at the special price of \$20, so please stop by our booth!

The directory has listings of attorneys, family



Flowers v. Flowers: Judges Cannot Grant Relief Unless It Is Requested in Pleadings or Tried by Consent

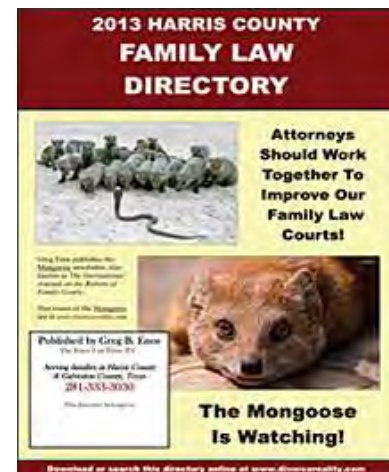
No judge or judicial candidate should want to read this headline: **"Court of Appeals reverses judge who screwed gay dad."** Sadly, treating gays and lesbians unfairly is currently good politics if you are a Republican worried only about winning a primary in Texas. Sadder still is what happened to William Flowers in his modification lawsuit in the 309th District Court.

I only handled the appeal, but I personally would have counseled a gay father that winning custody in a jury trial in Harris County would be very unlikely, no matter who the judge was. However, Mr. Flowers asked to switch primary custody of his three children to him. By agreement, Associate Judge Charlie Prine presided over the trial. The jury heard the evidence and decided that the mother should retain the right to determine the children's primary residence. No question was submitted to the jury about changing the geographic residence restriction because neither party's pleadings asked for any such change and not a single word of evidence was introduced on the subject. Nonetheless, Judge Prine in his rendition and final order lifted the geographic residence restriction. Prine also changed five parental rights to the father's detriment even though the mother had no pleadings asking for those changes and there was no discussion of changing those rights at trial.

Just to make it really tough on the gay father who lived with a man he had married legally in another, less God-fearing state, Prine also enjoined Mr. Flowers from allowing any person not related to the children by blood or adoption to care for any of the children during the father's periods of possession unless the mother approved of the person first. This meant that the father could not leave the children with his "husband," a teenage babysitter, Barbara Bush, the Dalai Lama, a Sunday school teacher or even Charlie Prine unless the mother agreed first. Even if the father went straight and married a woman, the new wife could not care for the children without the mother's approval. This broad injunction was not requested by the mother or discussed at trial either.

I agreed to represent Mr. Flowers on the appeal at my special "Don Quixote"

courts, AG offices, custody evaluators, real estate appraisers, court reporters and much more. This year I included practical and useful legal articles from the 2012 "Ultimate Property Division Seminar" I organized with the judges in Galveston County.



The Harris County Family Law Directory is also searchable on-line at www.divorcereality.com and you can use our Internet forms to send us corrections or updates to your listing.

Harris County Family Law Directory

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MI	
Firm	
City	
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Board Certified in Family Law	☐ Yes ☒ No
Mediator	☐ Yes ☒ No
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[Click here](#) to go directly to my legal directories page.

New TRCP 91a Allows Quick Dismissal of Wacko Causes of Action That Have "No Basis in Law of Fact"

Family attorneys often deal with causes of action that do not arise under the Family Code. For example, one spouse might sue the other spouse as part of a divorce for assault or breach of fiduciary duty. A new Texas Rule of Civil Procedure 91a applies to all cases, including those pending on March 1, 2013, other than cases brought under the Texas Family Code or in inmate litigation.

Under new Rule 91a, a party may move to dismiss a cause of action that has "no basis in law or fact." A claim has no basis in law if the allegations, taken as true,

hourly rate of zero even though I genuinely like that charming rogue Charlie Prine and despite the fact that his boss, Judge Sheri Y. Dean, is my next door neighbor and long-time legal colleague in Clear Lake. It took the 14th Court of Appeals way too long to decide the case, but this all Republican panel of justices at least got it right.

[Click here to read this opinion](#), which you probably will need to frequently cite to trial judges who think pleadings are not really needed in a case involving children. My synopsis of this opinion is:

1. A family court cannot grant relief unless there are pleadings asking for the relief or the issue was tried by consent. **The Rules of Civil Procedure even apply in family cases involving children.** The court of appeals did not have to get to my point of error that a change in the geographic restriction is a jury issue and in a jury trial that question must be submitted to the jury.
2. An issue is not tried by consent if it is never mentioned or discussed at trial.
3. It is error for a court to issue an overly broad injunction that is not requested in pleadings or supported by the evidence.

Interestingly, while this appeal was pending, Judge Dean decided to modify the order being appealed to further limit the father's rights and access to his children even though she clearly had lost the plenary power to do so while the appeal was pending, see *In re Norris*, 371 S.W.3d 546, 554 (Tex. App. - Austin 2012, orig. proceeding)(temporary order signed after trial court's plenary power expired during appeal was void). Judge Dean also held Mr. Flowers in contempt for not paying \$817.50 in uninsured medical expenses and sentenced him to 180 days in jail and actually put him in jail. Even the mother's lawyers were horrified since they at most expected him to be placed on probation. I was able to get Mr. Flowers released after a weekend in jail with the cooperation of the very ethical and professional attorneys on the other side (as well as Judge Dean, who felt she had gotten her message across).



Brass Balls Award

Patsy Wicoff wins the first "Brass Balls Award" granted to an attorney who professionally and ethically stands up to judicial misbehavior.

Hamilton v. Hamilton (2006-68864) is a divorce case that has been pending since

together with any reasonable inferences, "do not entitle the claimant to relief." A claim has no basis in fact if "no reasonable person could believe the facts as pleaded." A motion to dismiss a baseless case under Rule 91a must: state that it is made pursuant to Rule 91a; identify each cause of action to which it is addressed; and specifically state the reasons that the cause of action has no basis in law, fact, or both.

A Rule 91a movant must file the motion within 60 days after the first pleading that contains the cause of action at issue is served on the movant and at least 21 days before the hearing on the motion. Each party is entitled to 14 days' notice of the hearing, although the court may decide the motion on the written submissions. The response is due seven days before the hearing. If the respondent amends the cause of action at least three days before the hearing, the movant may withdraw or amend the motion.

The court must rule on the motion within 45 days after its filing/ The court may not consider any evidence in deciding the motion.

The prevailing party on a Rule 91a motion is entitled to an award of fees and costs incurred on the challenged cause of action, except in litigation by or against the government.



Any Judge in the Building Can Sign Your Order

You do not need a transfer or an assignment from the Administrative Judge to allow another judge in the courthouse to sign an order for you if the judge of the court where your case is pending is not available (assuming the clerks and the other judge cooperates).

Texas Government Code Sec. 79.094 says:

Sec. 74.094. HEARING CASES. (a) A district or statutory county court judge may hear and determine a matter pending in any district or

2006. Many of the motions and orders in this case are not imaged on the District Clerk's web site. There was a trial and an appeal and a reversal and a remand. Upon the case returning to Judge Pratt's court, the wife's attorneys started in February 2012 trying to get a hearing on temporary orders regarding the two children but never could get a hearing. Other motions were filed by both sides and not heard. Hearings would be started but adjourned and never resumed. Finally, there were over a dozen motions pending and both sides agreed for Associate Judge Newey to hear the motions because Judge Pratt was "unavailable."

The hearings, which both sides had agreed Judge Newey would hear, had been set for about six weeks before the wife brought Bobby Newman in on the case to join her attorney, Michael Childs, as lead counsel. Bobby Newman came into the case the Thursday before the Monday hearings. Childs filed a motion to continue the hearings, which the husband's attorneys opposed. Newman let the attorneys know he objected to Judge Newey hearing the motions and somehow unilaterally got the wife's motion for continuance of the hearings moved to an earlier time before Judge Pratt instead of the date already set with Judge Newey. The amount of interim attorney's fees the wife was requesting went from the \$15,000 originally requested by Mr. Childs to \$150,000 once Mr. Newman joined the wife's legal team. The husband's attorneys, Patsy Wicoff and Amy Harris, then filed a motion to recuse Judge Pratt. At the hearing that Newman had set before Judge Pratt, the husband's attorneys reminded Judge Pratt that she could not take any action on the case while the recusal motion was pending. Pratt looked at Newman and asked him if that was correct and he confirmed it was, so Pratt did not proceed with the hearing.

Ms. Wicoff subpoenaed Judge Pratt's court coordinator and clerk to the recusal hearing. Both confirmed the way hearings are usually set and reset and both confirmed the above sequence of events. Mr. Newman was questioned about his political support of Pratt and the fundraising he has done and is doing for her. The husband (himself an experienced civil litigator) testified about why he was concerned that Judge Pratt would not be fair to him. **The husband even raised what he had read in the *Mongoose* and Wicoff tried to admit a copy of the *Mongoose* under the commercial publication exception to the hearsay rule, TRE 803(17), but the judge ruled the *Mongoose* was not a commercial tabulation or listing of the sort that fits that exception (she should have tried to admit the *Mongoose* as a learned treatise!).** The assigned judge took the matter under advisement but denied the motion to recuse [Click here to read the motion to recuse](#). I intend to obtain a transcript of this hearing, even if I have to pay for it myself, so expect to read that in a future edition.

The motion to recuse may have been denied, but my prediction is that Judge Pratt will handle this case differently now that someone has stood up to her and called her out for how this case has been handled.

Fees For Judicial Appointments Must Be In an Order and Reported

Transparency is one way to curb the abuses involved in judges' appointments of amicus attorneys, discovery masters and mediators. However, I cannot tell you easily who, for example, Judge Pratt is appointing in private cases and how much those appointees are being paid because almost no one is following a Supreme Court order that requires reporting of all appointees' fees.

Scandals involving judicial appointments in Harris County courts in the mid-1990's caused the Texas Supreme Court to issue an order that is still in effect but largely ignored. [Click here to see full order](#). The 1997 order states in part:

Section 1. Every appointment made in a civil case, probate case, or proceeding governed by Titles 1, 2, or 4 of the Family Code, by a regular or assigned judge of any district court, constitutional county court, statutory county court, statutory probate court, court master or court referee of a person to a position for which any type of fee may be paid shall be made by written order.

Section 2. Every application or request for the payment of a fee by such an

statutory county court in the county regardless of whether the matter is preliminary or final or whether there is a judgment in the matter. The judge may sign a judgment or order in any of the courts regardless of whether the case is transferred. The judgment, order, or action is valid and binding as if the case were pending in the court of the judge who acts in the matter. The authority of this subsection applies to an active, former, or retired judge assigned to a court having jurisdiction as provided by Subchapter C.

Upcoming Campaign Events

I am going to try to post notices for upcoming campaign functions for all races in Galveston County and family court races in Harris County. Candidates: please send me your notices and I will help get the word out and **please stop holding secret exclusive events for just a few big fat cats that us little people are not invited to!**

Judy Warne Re-election Kickoff
Tuesday, August 13 from 5:30 - 8 p.m.
La Griglia, 2002 West Gray

Fundraiser for Judge Sheri Y. Dean
Thursday, August 15 from 6:30 PM - 8:30 PM
Mo's the Place For Steaks
1801 Post Oak Boulevard

Maximum Guideline Child Support Set to Increase September 1

On September 1, 2013, the cap on maximum monthly net resources used to calculate guideline child support in Texas will rise from \$7,500 per month to \$8,550 per month. This means that the maximum guideline child support amount will go from \$1,500 per month for one child to \$1,710; from \$1,875 for two children to \$2,137.50; and from \$2,250 for three children to \$2,565 (assuming the obligor has no other children he or she is obligated to support). Texas Family Code Section 154.125 requires the Office of the Attorney General to adjust the maximum amount of monthly net resources used to calculate guideline child support every six years based on increases in the consumer price index.

Witnesses and Parties Should Be Respectfully Addressed in Court

In court, attorneys should properly refer to the parties and witnesses as "Mr. Smith" or "Dr. Green" or "Ms. Olivares." Lawyers should not refer even to their own clients by just their first names in court. Attorneys often seem to forget that formality and decorum and politeness (not to mention civility) are both expected in court and necessary to earn the proper respect court proceedings require. Avoiding use of first names for witnesses and parties was also once a matter of basic civil rights.

appointee shall be approved by the court of the judge making the appointment. This approval shall be accomplished by a separate written order.

The Supreme Court order requires the District Clerk to collect all orders for appointments and fees and compile a monthly report that must be available to the public. The Office of Court Administration compiles all of the reports state-wide and posts them on line in an Excel spreadsheet. [Click here to see the state-wide report.](#) However, the spreadsheet is too big and covers the entire state. I have taken the period September 2012 through June 2013 and created spreadsheets for each of Harris County's family district courts and sorted by bar number, so you can see who is getting reported appointment fees. [Click here to see my analysis of reported appointments for Judge Pratt in the 311th District Court.](#) My next newsletter will include a similar analysis for each of the Harris County Family District Courts.

These reports on appointment fees, however, only show fees paid by the county (such as CPS cases) and almost ALL of the lucrative amicus appointments in private cases and most appointed mediations are not being reported. As we all know, one lucrative child custody case can yield a fee for an amicus attorney equal to the fees paid by the county in a hundred CPS cases. A review of the reported fees in Judge Pratt's court for this nine month period shows the following top fee earners on appointments in CPS and other cases where the county paid the fees:

Alicia Franklin	\$51,725.00
Claudia Canales	\$29,376.00
George Clevenger	\$29,376.00
Gary Polland	\$25,325.00
Bobbie Young	\$22,700.00
Katrina Griffith	\$17,880.00
Ronnie Harrison	\$16,205.56

Here are three examples of amicus fees in private cases awarded to George Clevenger by Judge Pratt which were not reported to the state:

Date	Case	Fee Amount (each party pays 50%)
3/19/13	2011-33344	\$1,500.00
4/16/13	2012-22999	\$3,000.00
4/29/13	2013-18774	\$1,500.00

I am not saying that Mr. Clevenger did not deserve these modest amicus fees. Rather my point is that these fees are examples of the hundreds of fee award orders that were not reported at all and therefore I cannot tell you which lawyers are receiving the big, juicy amicus fees in any family court. It is thus not possible to draw correlations between the attorneys who receive appointment fees and those who support a particular judge with political contributions.

It is hard to even find out who is being appointed amicus because in many cases in Judge Pratt's court, the orders appointing amicus attorneys or awarding amicus fees are not scanned and imaged. So, the only way to find those amicus orders is to review every single file document by document or find out about cases from other attorneys.

In all of the family courts, the fees for amicus attorneys and court appointed mediators in private cases are not being reported. None of the very large fees for court appointed custody evaluators, accountants, special masters and receivers are being reported. All of that violates the Supreme Court order and deprives all of us from knowing who is getting a lot of money in particular courts. We have all seen the Supreme Court's Court Appointment and Fees Report that many mediators file with the clerk after mediations. It would be a simple matter for each court or the local rules to require these forms to be filed by every amicus, ad litem, mediator, receiver, custody evaluator and special master and then the clerks could easily spot the fees to report.

Hamilton v. Alabama, 376 U.S. 650 (1964) is also remembered as the "Miss Mary" case. At the time, black witnesses and defendants in courts in the South were called by just their first names, unlike white people who were referred to as Mr. or Mrs. or Miss. When Mary Hamilton was arrested at a civil rights protest in Alabama in 1963, the prosecutor referred to her as just 'Mary' and she refused to answer his questions until he addressed her with the same level of respect that was given to white people. For her impudence, she was charged with contempt, fined \$50, and jailed. Miss Hamilton was allowed out on bond after five days but she refused to pay the fine and appealed her case to the Alabama Supreme Court, which rejected her appeal. The United States Supreme Court in 1964 granted certiorari and summarily reversed the trial court without oral arguments. So, thanks to Mary Hamilton (who died in 2002), now everyone has the right to be addressed respectfully in court by their title and last name.

The opinion of the Alabama Supreme Court in *Ex parte Hamilton*, 156 So.2d 926 (Ala. 1963) sets forth what happened when this brave young woman appeared in the trial court:

Q: What is your name, please

A: Miss Mary Hamilton.

Q: Mary, I believe-you were arrested-who were you arrested by

A: My name is Miss Hamilton. Please address me correctly.

Q: Who were you arrested by, Mary

A: I will not answer a question--

BY ATTORNEY AMAKER: The witness's name is Miss Hamilton.

A: -your question until I am addressed correctly.

THE COURT: Answer the question.

THE WITNESS: I will not answer them unless I am addressed correctly.

THE COURT: You are in contempt of court--

ATTORNEY CONLEY: Your Honor-your Honor--

THE COURT: You are in contempt of this court, and you are sentenced to five days in jail and a fifty dollar fine.

A Poem for the Attorney Who Will Not Return Calls

I sometimes deal with lawyers who will simply not talk to me about a case. My calls, faxes and e-mails are ignored. In extreme cases, I have composed a poem and sent it to the AWOL lawyer and every time the attorney immediately called me back. Poetry works! Here is an example:



*I've called four times and faxed you twice.
Each time I was polite, professional and nice.*

*But each time my communication was met with
stone silence
and now I'm worried you are sick, lost or a
victim of violence.*

*I am so very desperate to talk to you about the
O'Hara case,
that if you call me back I will send flowers and
even kiss your face.*

*So, if you breathe, pick up the phone and call
my office or cell.*

*But, if you have passed, let me know and I will
send my faxes to Hell.*

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos



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International Journal on the Reform of Family Courts

The Mongoose



Together, family law attorneys can reform our family courts!
Published by attorney Greg Enos

Issue: No. 26

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

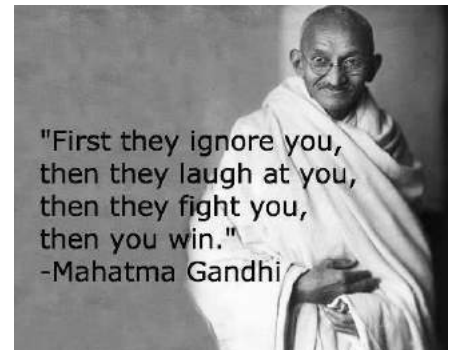
Judge John Grady in Galveston likes to ask me, "Who is watching the Mongoose?" That is a really good question. Over a thousand lawyers and judges read each issue of my newsletter and I get to criticize and complain about judges without anyone really having a chance to reply to or refute what I say. Ethics rules prevent judges from commenting on their rulings in individual cases and common sense tells most of them it is not a good idea to e-mail or write me with their side of the story. A few lawyers, like Bobby Newman, e-mail me or call me with their counter views on my stories.

I am very aware that judges and lawyers can be very embarrassed and upset by what I write and sometimes this newsletter can actually effect people's careers. I take it as a very serious obligation and I try really hard to be fair and get facts right. I do screw up. In my last issue I misspelled Charley Prine's first name as 'Charlie' ("ey" and not "ie").

Here is how I try to keep things fair and avoid being a journalistic bully:

1. I do not write about close judgment calls that judges make. I write about judicial rulings that are so extreme and ridiculous that almost everyone can agree the judge was way out of line.
2. I take positions that frankly almost all other family lawyers agree with. I am not on the cutting edge of the legal conscience here. I am just putting in writing what most lawyers are thinking and saying privately.
3. I really do try to check my facts by looking at case files and talking to participants. I am going to try much harder to call or e-mail the attorneys on both sides of a case before I write about specific cases.

August 26, 2013



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4. Almost all of my newsletters are reviewed by two very smart, ethical and common sense women who are not bashful about telling me to change or delete what I have written.

5. I usually only quote documents and I never quote or attribute opinions to lawyers without their permission. I receive horror stories from lawyers and increasingly the public every day. I do not name my sources but I do my best to verify what I am told before I write about it. Facts rather than rumors and gossip are what I am writing about.

Please do not hesitate to e-mail me or fax me with corrections to my stories or your opinions that disagree with my positions. As long as what you write is concise and does not defame anyone but me, I will print it. However, I feel that if I am willing to put my name on this newsletter, that anyone who wants to disagree with me should allow his or her name to be published and not do so anonymously.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm
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[Check our new web site!](#)

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The Mongoose is watching!

Potential Donors Avoid Pratt's August 29 Fundraiser

Most family lawyers are shunning Judge Denise Pratt's requests for political donations. One high dollar attorney stunned one of the few lawyers even willing to solicit contributions for Pratt by refusing to give a cent and saying, "I am a whore but I am not that big of a whore...she needs to go." A select few attorneys received a "By Invitation Only" invite to a \$500 a plate dinner for Judge Pratt. I somehow was omitted from the mailing list but a bunch of attorneys promptly e-mailed me their invitations. Word is that almost no lawyers have RSVP'd for this exclusive event. I plan to be at the Wedge Restaurant on August 29 with a photographer to see who attends.

[Judges: Is Threatening Lawyers Who Support a Specific Candidate a Crime?](#)

[Fees for Judicial Appointments Part 2](#)



Another Mandamus Granted Against Judge Pratt

The First Court of Appeals has granted yet another writ of mandamus against Judge Denise Pratt for appointing Donna Detamore as a Discovery Master in a highly unusual custody case and ordering the parties to pay Detamore \$10,000 to get started. [Click here to read the opinion.](#) Steve Lindamood filed for the mandamus and represents the mother in this case. The child before the court is very disabled and the child's father is totally disabled. The father's guardian is the child's paternal step-grandfather.

Nancy Rommelman represents the guardian/grandfather who is seeking custody of the child. [Click here](#) to read the plea to the jurisdiction in this case which Judge Pratt denied and will likely result in another mandamus action.

2013 Advanced Family Law Seminar Was Way Too Fun!

Yes... I am clearly bug ass crazy to publish this newsletter and ruffle powerful judicial feathers like I do. The only crazier thing to do would be to spend few thousand dollars and be a vendor with a booth at the Advanced Family Law Seminar in San Antonio. That is of course exactly what I did and it was a great hit with attorneys and a lot of fun. A young employee and two friends of my daughter worked as Mongoose Girls passing out free *Mongoose* coffee mugs, printed copies of my last newsletter and handouts on legal topics.

Re-Elect Judge Denise Pratt

Your presence is requested at a fundraiser
in honor of Judge Denise Pratt

By Invitation Only

The 43rd Restaurant & Lounge

The Wedge International Tower
1415 Louisiana Street, 43rd Floor
Houston, Texas 77002

Thursday, August 29, 2013

5:30 p.m. Cocktails/Cash Bar

6:00 p.m. Dinner

Minimum contribution per person is \$500.00

RSVP by August 23, 2013 to:
shannon@slb-law.com

Payment requested by August 26, 2013

Newman! I am not Really Picking on Bobby

If I were a multi-millionaire (unlikely) getting a divorce (never again), I might well hire Bobby Newman because he is a very good attorney. I would hire Newman because of his skills and not his political stroke. The problem with Newman's success is not Newman – it is how other lawyers and especially a few judges perceive his success and stroke. The widely held view that Newman can get anything he wants in some courts is an exaggeration and something of an insult to Newman's skills. On the other hand, that reputation is almost certainly good for Bobby's new business.

I am not picking on Newman even though his name appears in most of the stories I write about Judge Pratt. I am trying to motivate judges to do what is right with this newsletter. Super talented and successful lawyers are beyond my reform efforts.

All lawyers, from the big shot high dollar types to those who represent regular folks without much money, should: (1) only ask for relief that the law says our clients are entitled to, and (2) be willing to tell a judge when he or she is going too far in granting relief, even if it benefits our clients or our own pocket books.

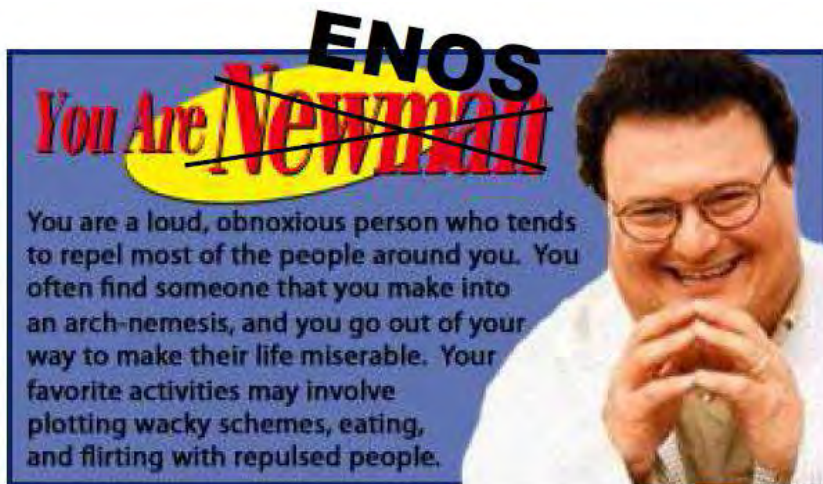


Judge Charley Prine spells his first name "EY" and not "IE!"

Charley (not "Charlie") Prine was a good sport and stopped by the *Mongoose* booth on the very first day to pose for a photo and get an autographed *Mongoose* coffee mug. His request started a trend and before I left San Antonio on Wednesday, we had given out 800 autographed coffee mugs. ALL of the elected family court judges from Harris County stopped by to visit (with two exceptions) as did most of the AJs. Lawyers from other cities were intrigued by my reform efforts and it is apparent that I could open *Mongoose* franchises in many other counties in Texas.



I was surprised to receive an award at the seminar for the Best CLE Article of the Year. I shared this honor with Joe Indelicato for a paper we wrote for our presentation at Advanced Family Law last year in Houston.



Could The Democrats Possibly Win Harris County in 2014?

I am a liberal Democrat when it comes to national and state-wide politics. However, I would be really sick to see some of our wonderful Republican family judges go down in defeat in November 2014 if changing demographics and a well financed, high tech Democratic get-out-the vote effort does what we all know will happen sometime in this decade. I also do not want to see a spectacularly bad judge like Denise Pratt bring her really good Republican judicial colleagues down with her.

Under the headline, "Harris County Republicans in Trouble in 2014?" David Jennings wrote in his *Houston Chronicle* blog ([click here](#) to read the full story):

Then, you have a problem with some gosh awful incumbent judges (*who will cost some very good incumbent judges their benches*). I, and many of us in the party, will not push a "Vote Straight R" message unless these judges are upset via the primary, which is a very difficult thing to do. The Straight R campaign has been the bedrock of the last two campaigns - without it, we're going to lose a few points and certainly increase the down ballot undervotes. Imagine a Harris County judicial system 75% in the control of Democrats because that is what it will look like after 2014.

Consider these numbers: in 2010, a total of 756,769 votes were cast in the race for the 311th District Court. Denise Pratt got 414,817 votes in the general election (54.81%). Three years later, in June 2013, over 400,000 people showed up for a Gay Pride in Festival in Houston. Harris County is even more Hispanic and less Anglo than it was just four years ago.

The Texas Observer in May 2013 ran a story about how Democratic efforts in Texas in 2014 will be focused on Harris County. [Click here](#) to read that analysis.

My learned colleague Jared Woodfill's worst nightmares (when he can get any sleep with that new baby) involve something called the "Colorado Model" and the millions of dollars that will be spent in the next 18 months by Battleground Texas in Harris County. [Click here](#) to read a story from *The American Spectator* that explains all this. Jared, the chair of the Harris County Republican Party (when he is not living on the 7th floor of the Family Law Center) can give a passionate analysis why 2010 was actually such a great election for Republicans and how Attorney General Abbott at the top of the ticket against Senator Wendy Davis will only boost GOP turnout in 2014.

Woodfill is a great guy and a very smart politician who knows his stuff, but as GOP chair he has to predict a Republican victory. Jared is, of course, reluctant to discuss with a shady character like me exactly what the two political parties are doing now to lay the groundwork for a victory in 2014. [Click here](#) to read about one of several



A.G. Abbott Once Believed In Lawsuits for Injuries

The *New York Times* ran a very interesting and highly ironic story about how our tort reform loving Attorney General, Greg Abbott, once filed a lawsuit against some divorce lawyer named Roy W. Moore (the father of our current Judge Moore) because his oak tree fell on Abbott as he jogged past and paralyzed him. [Click here](#) to read this story.

Everyone's Daughter Should Get Such A Sweet Deal If Arrested for Drug Possession

I really like the job Galveston County District Clerk John Kinard is doing and I can certainly feel for him as father and a "straight arrow" public official after the *Galveston News* ran a lengthy story about his 28 year old daughter's arrest for a small amount of cocaine. I am way too close to this story since my son-in-law is the officer who made the arrest and my good friend, Greg Russell, was the defense attorney. District Attorney Jack Roady is embarrassed because he appointed Sam Finegan as a special prosecutor to avoid the appearance of impropriety and yet, that is exactly what he got. A lot of criminal defense attorneys are mad because they feel Roady threw Finegan "under the bus" even as they wonder why their clients do not get the same sweet deal.

The video from the officer's car clearly shows the burnt out license plate light that lead to the stop. The passenger allegedly had pot and a drug pipe in his lap. Ms. Kinard, the driver, when asked what was in the bag she was trying to hide in the car, admitted it was cocaine after being very clearly told about her right to remain silent. I am so very proud of my son-in-law every day, but if you want to see him in action, the video of this arrest is on

expensive experiments done by Democrats in Harris County in 2012 (funded by out-of-state donors) to increase Hispanic voter turnout. The methods that proved effective in those limited experiments will be used county-wide in 2014.

My extremely Republican neighborhood in Clear Lake has already been canvassed at least three times by "public interest" groups identifying voters who are really interested in the environment, social security and modest immigration reform. Someone is spending a lot of money to have these intelligent, articulate young people go door to door collecting information on people who are very interested in certain issues that seem more aligned with the Democratic party. This is what the Democrats did in Virginia leading up to the 2010 election and their massive database was able to peel off enough seemingly conservative voters to give Obama a victory in that state that has historically voted for Republicans for President.

I am not saying a Democratic judicial sweep of Harris County will happen in 2014 and I frankly think it is unlikely, but it could and it almost certainly will happen by 2018.

Judge Pratt Finally Rules

The divorce decree in *Messier v. Messier* (No. 2009-45158) awarded the wife "a portion of the benefits, if any, received by [the husband] upon exercise of the following ConocoPhillips Stock option awards, representing 60% of the community portions from [husband's] employment, subject to all related actual tax liabilities and withholdings..." The husband was not ordered when to exercise his stock options.

Two years later, the ex-wife had Bobby Newman file a lawsuit because the ex-husband had not exercised many of his stock options. Judge Pratt conducted a trial on December 19, 2012. Judge Pratt ruled that Mr. Newman would be granted almost all of the relief he was asking for (contempt, declaratory judgment, "clarification" that dramatically changed the ex-husband's obligations regarding the stock options, and \$77,000.00 in attorney's fees).

An entry hearing was set for March 25 and counsel appeared, including Don Fullenweider and Sallee Smyth for the ex-husband. After waiting for over an hour, the attorneys were told by the court coordinator that Judge Pratt would not come out into the courtroom if they were there. The lawyers were asked to leave their various motions and responses for the judge to read later. An attorney asked the coordinator if that meant that all of the other people in the courtroom waiting for a hearing would be denied a hearing if the lawyers in the *Messier* case refused to leave the courtroom. Mr. Jeffcoat, the coordinator at the time, predicted that if they stayed that Judge Pratt would simply not leave her chambers. So, the lawyers left their pleadings with Mr. Jeffcoat and left. They then waited and waited for a ruling. Ms. Smyth e-mailed the coordinator several times and he assured her that she would be notified when a ruling was made.

On June 5, Mr. Fullenweider received a notice that an order had been signed on March 25, the day of the entry hearing. That was odd since Mr. Jeffcoat had e-mailed Ms. Smyth on April 3 and said that he had not received any ruling from Judge Pratt and that he would let the attorneys know when a ruling was made.

The order as submitted by Mr. Newman is signed by Judge Pratt and is dated in her handwriting "March 25, 2013." By the time the ex-husband's attorneys received the notice from the District Clerk that an order had been signed, it was in theory too late to file a notice of appeal. The new order as submitted by Newman dramatically changed the husband's obligations and is clearly a substantive change from the divorce decree. The order submitted by Newman only awarded him \$59,198.75 in attorneys fees (instead of the \$77,000 Pratt had granted) but also orders the ex-husband to pay the ex-wife \$25,000.00 for her appellate attorney fees within one day of posting notice of appeal of this order. Interestingly, the order Newman submitted granted his client less relief than what Pratt had ruled. For example, the ex-husband was not held in contempt as Pratt had ruled (probably since the decree did not order him to exercise any of the options). Newman's order did find that the ex-husband had breached his fiduciary duty and ordered him to exercise each stock option as soon as its price reached the strike price if the ex-wife requested him to do so. The ex-husband was prospectively "fined" \$5,000 for each day he fails to exercise the stock options as ordered in the future.

Ms. Smyth filed a motion under TRCP 306a and TRAP 4.2 to extend the deadline to

YouTube ([click here](#) to see the video).



Traffic stop — The Daily News

I am of course also impressed with the deal my friend Greg Russell was able to win for his client in this case.

Mr. Finegan never presented the case to the grand jury and the defendant never got a nano-second of probation. She was allowed to do 14 hours of public service, a drug education class and drug testing and counseling. Finegan says he did not know that his own daughters were Facebook friends with the defendant and had at one time socialized with her.

No matter what quotes the participants give the media, those of us who work at the courthouse all know that these kind of deals are not given the vast majority of young men and women caught with cocaine. That is what stinks about this situation.

The *Galveston News* editorial presented the question of fairness in ways a good liberal like me can totally appreciate:

Does anyone still believe that society is better served by putting people in similar circumstances on trial on felony charges - charges that could lead to prison or at least to a life under the cloud of a criminal record? That terrible rhetorical question, of course, is the problem. In Texas, we still do overwhelming damage to the lives of too many people who are accused of first-time offenses. That's the way the system works most of the time in Texas.

What happened in this case should not happen just to the daughter of a good public servant and prominent man but to the sons and daughters of all people.

The problem for Mr. Kinard and Mr. Roady, is that most Republican voters will not share those liberal sentiments. They will be angry (like the law enforcement community is) that Ms. Kinard did not get jail time or at least probation.

Again, none of this should reflect poorly on John Kinard, but I am afraid it will. John Kinard is a fine public servant who did nothing wrong and is not responsible for his adult daughter's actions or for how bad the deal she got looks to the rest of us.

I have written to Mr. Roady asking him for information on all cases in which a special prosecutor was appointed in the last three years, including the fees paid and the cause numbers so that I can see if any other sweet

appeal because of late notice that the order had been entered. The affidavits attached to that motion tell the very odd story summarized above. Newman agreed to that motion and now the ex-husband is appealing this order.

It seems very likely that Judge Pratt did not sign this order on March 25 as she wrote when she signed the order. Her own coordinator was telling attorneys weeks later that no ruling had been made. The District Clerk did not get a signed order until early June when it sent out the required notice. On May 22, this newsletter ran a little article under the headline "Judge Pratt Ordered To Do Her Job." The first sentence of that article said, "The First Court of Appeals conditionally granted a writ of mandamus directing Judge Denise Pratt to get off her kiester and issue a ruling in an enforcement case she heard in June 2012!" Lawyers started noticing after that article ran that Judge Pratt then began making rulings in cases she had heard months before. Some lawyers have reported that the orders they received were dated weeks or even months before the orders appeared in the court files.

The Texas Penal Code, Sec. 37.10 states in part:

Sec. 37.10. TAMPERING WITH GOVERNMENTAL RECORD. (a) A person commits an offense if he: (1) knowingly makes a false entry in, or false alteration of, a governmental record;

A judge who accidentally writes in the wrong date when she signs an order lacks the *mens rea* to have committed this crime. However, a judge who intentionally back dates an order she signs by a few months has made a "false entry" and would have committed a Class A Misdemeanor. I cannot say what Judge Pratt intended to do in this situation.

Judges: Is Threatening Lawyers Who Support a Specific Candidate a Crime?

The Texas Penal Code, Sec. 39.03 states in part:

Sec. 39.03. OFFICIAL OPPRESSION. (a) A public servant acting under color of his office or employment commits an offense if he:

(1) intentionally subjects another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;

(2) intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful; or

(3) intentionally subjects another to sexual harassment.

(b) For purposes of this section, a public servant acts under color of his office or employment if he acts or purports to act in an official capacity or takes advantage of such actual or purported capacity.

A sitting judge who tells a lawyer that he had better support Ms. XXX for the YYYth Family District Court or "you will never get any more appointments in my court" has grossly breached judicial ethics, but has probably not violated Sec. 39.03 because the "mistreatment" has not occurred but only been threatened. If a judge makes such a threat and then carries it out and stops appointing the lawyer in his or her court, it could well be a crime. **If there is any attorney out there with proof that any judge is making such threats, please bring the proof to me and I will personally go to the District Attorney to see if a crime has been committed.**

Fees For Judicial Appointments Part 2

Transparency is one way to curb the abuses involved in judges' appointments of amicus attorneys, discovery masters and mediators. However, I cannot tell you easily who, for example, Judge Pratt is appointing in private cases and how much

deals were made for those who are connected to elected officials.

[Click here](#) to read the *Galveston News* story. [Click here](#) to read the *Galveston News* editorial. It is a pain, but I do urge everyone to subscribe to the Internet edition of the *Galveston Daily News*.



Upcoming Campaign Events

I am going to try to post notices for upcoming campaign functions for all races in Galveston County and family court races in Harris County. Candidates: please send me your notices and I will help get the word out and **please stop holding secret exclusive events for just a few big fat cats that us little people are not invited to!**

Monday Night Football with Judge Sheri Dean

Monday, September 9 from 7 pm - final whistle
Wolfie's Sports Bar and Restaurant
463 Bay Area Blvd., Webster (Clear Lake)

Julia Maldonado for 246th District Court

Thursday, September 12 from 5:30 - 7:30 pm
Gloria's Latin Cuisine
2616 Louisiana, Houston



those appointees are being paid because almost no one is following a Supreme Court order that requires reporting of all appointees' fees. The prior edition of *The Mongoose* quoted the 1997 Supreme Court order that requires all fees for judicial appointments to be approved in a separate order. The District Clerk is required to collect data from all such orders and report the fees in a monthly report to the state Office of Court Administration.

[Click here to see the state-wide report.](#) However, the spreadsheet is too big and covers the entire state. I have taken the period September 2012 through June 2013 and created spreadsheets for each of Harris County's family district courts and sorted by bar number, so you can see who is getting reported appointment fees.

The last *Mongoose* analyzed Judge Pratt's reported appointments. This issue analyzes the appointments of three more family district courts and I will publish numbers for the other courts in my next issue.

These reports on appointment fees, however, mostly only show fees paid by the county (such as CPS cases) and almost ALL of the lucrative amicus appointments in private cases and most appointed mediations are not being reported. As we all know, one lucrative child custody case can yield a fee for an amicus attorney equal to the fees paid by the county in a hundred CPS cases.

A review of the reported fees in the courts of Judges Dean, Lombardino and Moore show the following:

Judge Lombardino during this nine month period approved the following fees for the top seven highest paid judicial appointees in his court ([click here](#) to see the appointment fee report for the 308th District Court - almost all of which was for CPS cases except for Mr. Woodfill's large private amicus cases that were reported):

Jared Woodfill	\$77,029.70 (included several private cases)
Lacey West	\$31,225.00
Bobbie Young	\$24,100.00
Susan Solis	\$19,350.00
Theodore Trigg	\$18,175.00
Angela Phea	\$16,425.00
George Clevenger	\$14,770.00

Judge Sheri Y. Dean during this same nine month period approved the following fees for the top five highest paid judicial appointees in her court ([click here](#) to see the appointment fee report for the 309th District Court - almost all of which was for CPS cases):

Susan Solis	\$54,175.00
Claudia Canales	\$48,691.50
Laura Arteaga	\$45,725.00
Bobbie Young	\$30,737.00
Chung Yuan Lee	\$11,024.00

Judge Roy Moore in the nine month period approved the following fees for the eight highest paid judicial appointees in his court ([click here](#) to see the appointment report for the 245th District Court - almost all of which was for CPS cases except for Bavousett's mediations):

Bobbie Young	\$46,125.00
Steve Bavousett	\$25,400.00 (all mediations)
Patrick Upton	\$18,550.00
Ronnie Harrison	\$15,339.25
Eric McFerren	\$14,850.00
Donna Everson	\$12,675.00
Claudia Canales	\$12,125.00
George Clevenger	\$11,375.00

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos



In all of the family courts, the fees for amicus attorneys and most court appointed mediators in private cases are not being reported. None of the very large fees for court appointed custody evaluators, accountants, special masters and receivers are being reported. All of that violates the Supreme Court order and deprives all of us from knowing who is getting a lot of money in particular courts. We have all seen the Supreme Court's Court Appointment and Fees Report that many mediators file with the clerk after mediations. It would be a simple matter for each court or the local rules to require these forms to be filed by every amicus, ad litem, mediator, receiver, custody evaluator and special master and then the clerks could easily spot the fees to report.

be this guy



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International Journal on the Reform of Family Courts

The Mongoose



Together, family law attorneys can reform our family courts!
Published by attorney Greg Enos

Issue: No. 27

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

Just kidding - there was no spycam at Judge Pratt's intimate "by invitation only" fundraiser. The fact is that I did not go because the restaurant management e-mailed me directly to tell me very clearly that the restaurant was closed to the public because of a private event. So, Toni and I went out with friends and had a great time in a non-political environment.

I am publishing a newsletter again so soon after the last issue because of extraordinary developments in the Judge Dupuy saga (see story below).

I also want everyone to know about an Ad Litem/Amicus Seminar on September 12 and 13 which I have helped organize. This seminar is high quality CLE for a low price and it is required to be on the appointment list in Galveston County.

My most recent newsletter prompted a lot of encouraging e-mails from attorneys, including this one:

Greg-another really good issue. Those of us who applaud you, and there are many, feel like such "gravy trainers" mostly agreeing with you (except maybe your politics), cheering you on from our padded bleacher seats which are protected as in a hockey arena by a plexiglass shield from fallout. You fire the bullets for all of us yet you are the only one to take the bullets in return. Hopefully we can supply some Teflon. Thanks for what you do

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect

September 1, 2013



Legal Assistant Job Opening

The Enos Law Firm in Clear Lake is looking for a legal assistant with a minimum of 2 - 3 years experience in family law (private divorce and custody cases) in Harris County. High quality health insurance is provided employees at no cost. We invest a lot in equipment and training and we tend to be hyper-organized. Salary based on experienced and a happy, positive attitude. Send resumes to krystal@enoslaw.com.

judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

**Greg Enos
The Enos Law Firm
(281) 333-3030**

[Check our new web site!](#)

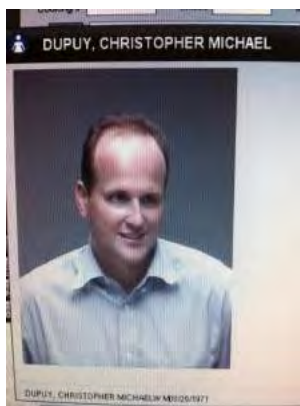
greg.enoslaw@gmail.com



The Mongoose is watching!

Former Judge Dupuy is in Jail

Former Judge Christopher Dupuy is now a resident of the Galveston County jail after being held in contempt by the judge presiding over his criminal cases for repeatedly violating the court's gag order. [Click here to read the Houston Chronicle story](#) on this highly ironic turn of events. Dupuy originally got in trouble for trying to hold me and other attorneys in contempt of court for standing up to him and now he is the one in jail on a contempt charge. The judge not only held Dupuy in contempt, he also ordered a mental exam of Dupuy and imposed new bond conditions including house arrest and a monitoring bracelet. [Click here](#) to read the contempt order. [Click here](#) to read the order for mental exam. [Click here](#) to see the bond conditions.



On August 13, the same judge who just jailed Dupuy dismissed some of the criminal charges against Dupuy based on judicial immunity. The *Galveston Daily News* reported:

The cases [Judge] Patrick dismissed pertained to allegations, lodged by the state through charges of official oppression and abuse of official capacity, that

Revised 2013 AG Tax Tables

[Click here](#) to download the revised 2013 child support tax tables issued by the Texas Attorney General.



Upcoming Campaign Events

I am going to try to post notices for upcoming campaign functions for all races in Galveston County and family court races in Harris County. Candidates: please send me your notices and I will help get the word out and **please stop holding secret exclusive events for just a few big fat cats that us little people are not invited to!**

Monday Night Football with Judge Sheri Dean

Monday, September 9 from 7 pm - final whistle
Wolfie's Sports Bar and Restaurant
463 Bay Area Blvd., Webster (Clear Lake)

Julia Maldonado for 246th District Court

Thursday, September 12 from 5:30 - 7:30 pm
Gloria's Latin Cuisine
2616 Louisiana, Houston



What lips my lips have kissed, and where, and why (Sonnet XLIII)

Dupuy harmed family law attorneys Lori Laird, Greg Enos and Suzanne Schwab-Radcliffe. The attorneys filed motions seeking to have Dupuy removed from cases. Dupuy filed orders that sought jail time and fines for Laird, \$26,000 in fines for Enos and to remove Schwab-Radcliffe from a family law case. Patrick let stand two misdemeanor indictments of official oppression, which accuse Dupuy of subjecting Laird and Schwab-Radcliffe to mistreatment that Dupuy knew was unlawful while acting as a public servant.

Dupuy still faces six other felony and misdemeanor charges.

The mandamus action Dupuy filed to dismiss the civil removal action against him is pending in the First Court of Appeals. [Click here](#) to read the State's response to his application for writ of mandamus. Dupuy is still suspended without pay by the Commission on Judicial Conduct, so he is still off the bench until his criminal charges are resolved no matter how this mandamus action turns out.

Galveston County Ad Litem, Amicus Seminar Sept. 12 - 13

All attorneys are invited to attend Galveston County's annual Ad Litem and Amicus Seminar. This is a required course for attorneys seeking appointments in Galveston County, but it also provides really good CLE at a low per-hour cost.

Where

Galveston County Courthouse - Jury Assembly Room

When, Topics [Click here to see a detailed course description](#)

Probate Ad Litems - Thursday, September 12th, 12:30 p.m. to 4:00 p.m.

Family Law/CPS Amicus and Ad Litems - Friday, September 13th, 8:25 a.m. to 12:30 p.m.

Ad Litems in Minor Settlement Cases - Friday, September 13, 1:00 p.m. to 4:30 p.m.

Course Hours 11.0 CLE hours.

Cost

\$120.00. Please make checks payable to the Galveston County Bar Association. Mail checks to:

Galveston County Bar Association
P.O. Box 36 Galveston
Texas 77553.

Please note on your check that the payment is for the 2013 GCBA Ad Litem Seminar

Course Directors

Trey Appfel, Greg Enos, Michael Dahlenberg, Genevieve McGarvey

A Fun Fundraiser for a Judge Who Invites Everyone

Here is an invitation to an unusual judicial fundraiser that is open to everyone:

by Edna St. Vincent Millay

What lips my lips have kissed, and where, and why,

I have forgotten, and what arms have lain
Under my head till morning; but the rain

Is full of ghosts tonight, that tap and sigh
Upon the glass and listen for reply,

And in my heart there stirs a quiet pain

For unremembered lads that not again

Will turn to me at midnight with a cry.

Thus in winter stands the lonely tree,

Nor knows what birds have vanished one by one,

Yet knows its boughs more silent than before:

I cannot say what loves have come and gone,

I only know that summer sang in me

A little while, that in me sings no more.



Aargh!

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to

COME SUPPORT JUDGE SHERI Y. DEAN AND THE HOUSTON TEXANS

Monday Night Football with Judge Dean 7—10 p.m. on September 9 in Clear Lake



Attorneys, staff, family and neighbors are invited
to a fun and unique fundraiser for our own Judge Sheri Y. Dean at

Wolfie's Restaurant and Sports Bar

463 Bay Area Boulevard (same strip center as Perry's), Webster, Texas

Host Committee

Greg Enos	Maisie Barringer
Steve Lindamood	Becky Reitz
Christina Tillinger	Marcia Zimmerman

Attorneys and guests will buy their own drinks and meals but appetizers will be provided.
Political Donations are requested but not required. This event not affiliated with NFL, ESPN or Houston Texans.
Dress casual and wear your Texans shirts and gear!

Political Advertisement Paid for by the Sheri Y. Dean Campaign, Lance Dean Treasurer.
No government funds were used for this advertisement.

Please RSVP to greg.enoslaw@gmail.com

help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos



Be this guy



[Click here for the archive](#) of prior Mongoose newsletters.

To view properly, please click option to DISPLAY IMAGES!

International Journal on the Reform of Family Courts

The Mongoose



Together, family law attorneys can reform our family courts!
Published by attorney Greg Enos

Issue: No. 28

The Enos Law Firm

17207 Feather Craft Lane, Webster, Texas 77598

(281) 333-3030 Fax: (281) 488-7775

E-mail: greg.enoslaw@gmail.com

Web site: www.divorcereality.com

**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

I was in court to watch former judge Christopher Dupuy tearfully plead guilty and resign from the bench. Unlike some in the courtroom that day, I felt no joy or vindication, just sadness. It was truly sad to behold what this man has done to himself, his family and the judiciary in Galveston County. My story below provides the details of what happened and what this means for Judge Kerri Foley, Dupuy's replacement.

Judicial misbehavior in Harris County (at least in one court) continues to amaze attorneys and frighten other really good incumbent judges who are worried their reelection chances might be effected by a colleague who won't work and who doesn't know or follow the law.

In an article entitled, "The Republican Problem with Judge Pratt" I encourage attorneys to accurately rate Judge Pratt in the HBA On-line Judicial Evaluation Poll that is going on right now. I also encourage lawyers to send letters about Judge Pratt to two of the three men whose endorsements pretty much decide the GOP nominations for judge in Harris County.

In another article, I discuss how Judge Pratt once again has "misdated" an order under circumstances that make it appear she may have intentionally backdated the order in some bizarre attempt to make herself "look good" to the court of appeals. **I announce my intent to file a criminal complaint against Judge Pratt so that the DA can investigate and determine if a crime was committed.** I am hoping it was judicial incompetence and not intentional, criminal misconduct on Pratt's part, but either way it looks awful. Pratt's ex parte letter to the court of appeals in the same case just makes her look out of touch with legal reality (which sadly, is what we have come to expect from her).

September 25, 2013

In This Issue...

Judge Dupuy Pleads Guilty, Resigns

The Republican Problem With Judge Pratt

Article on Children Testifying

2013-2014 School District Calendars

A Better 2013 Child Support Tax Table

Upcoming Campaign Events



New Court Coordinator for County Court No. 2

Jose Mejia is the new court coordinator for Judge Barbara Roberts in County Court No. 2. Patricia Bolton-Legg retired to work in the family business. Patricia will be missed but Jose is already doing a great job. Go by and meet him!

How crazy is it when a "good rumor" going around the courthouse is that a sitting judge took and passed a drug test showing no illegal drug use in recent weeks? Of course, if the judge did not do the drug test with Bruce Jefferies and the judge had a haircut before the test and the test was not a "zero tolerance" test, how good is it? A drug test intended to reassure the three GOP endorsers who decide primary elections would probably not fool most family law attorneys. I hereby offer to print any judicial drug test results provided by any judge or anyone with credible chain of custody evidence supporting how a hair sample was taken from a judge.

The seminar I started almost 16 years ago that is required for those seeking appointment as an ad litem or amicus attorney in Galveston County was well attended in September. In this issue, I present an expanded version of the paper I presented at that seminar, "[Rules Involving Children's Testimony in Family Court](#)." This lengthy article covers every aspect of children testifying in court, the various alternatives to a child sitting on the witness stand in court and the hearsay rule exceptions that often apply to a kids' out-of-court statements.

Just as I thought I had finished this newsletter I came across a story of judicial misconduct so remarkable that it actually ranks as worse than anything Judge Pratt has done. I am confirming some details, but I predict it will merit its own special edition of *The Mongoose*. This story involves a judge appointing himself mediator in a case he was hearing just before he went off the bench, as well as ex parte communications with an elected judge that are clearly unethical and probably criminal. Stay tuned.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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[Check our new web site!](#)

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The Mongoose is watching!

Another Week, Another Appellate Court Order Telling Judge Pratt To Do Her Job and Another "Misdated" Order Signed by Judge Pratt

A prior issue of this newsletter discussed Judge Denise Pratt's actions in a post-judgment enforcement and clarification matter in the *Messier* case, No. 2009-45158. Those actions included the suspicious dating of the order Judge Pratt signed and the generous award of attorney's fees to lawyer Bobby Newman.

[Click here](#) to read that earlier story in which it appeared Pratt either intentionally or carelessly "misdated" the judgment. She did after all, hand date that order with a date that was well prior to the dates of e-mails from her coordinator stating she had not yet addressed the proposed order. That earlier article cited the Texas Penal Code, Sec. 37.10, which states in part:

Sec. 37.10. TAMPERING WITH GOVERNMENTAL RECORD. (a) A person commits an offense if he: (1) knowingly makes a false entry in, or false alteration of, a governmental record;

Pratt's ruling in favor of Newman's client in the *Messier* case is now on appeal. On September 12, 2013, the Fourteenth Court of Appeals ordered Judge Pratt to issue findings of fact and conclusions of law, which had been timely requested but never signed. The Court of Appeals abated the appeal and ordered Pratt to do her job. The very next day, September 13, according to the District Clerk web site, Judge Pratt signed findings which had been drafted and submitted by Mr. Newman. However, the actual document signed by Pratt is seemingly "misdated" again and bears the date of August 19. This time the date on the order is stamped rather than handwritten, but Judge Pratt dates her own orders. [Click here](#) to read the Appellant's Motion filed in response to these "misdated" findings which describes the highly suspicious sequence of events.

How likely is it that in the same case, Pratt again accidentally misdated a key order that effects the appellant's chances to overturn her? Why would the clerks type into the system that Pratt signed the findings on September 13 if she had really signed the findings a month earlier? Given that the court of appeals issued its ruling on September 12, isn't it more likely that Pratt actually pulled the findings out of the stack of papers on her desk or in her car in response to the court of appeals order and signed the findings on the 13th as the clerks said?

Dupuy Pleads Guilty and Resigns

Former Judge Christopher Dupuy appeared in a green jailhouse inmate jumpsuit and slippers and tearfully plead guilty to two class A misdemeanor charges (both involving me). Dupuy, who was still serving a 45 day jail sentence for contempt of court, also resigned his bench effective 5:00 p.m. on the following day. Dupuy's resignation gave County Commissioners time to call an emergency meeting for this past Monday morning so that they could appoint Kerri Foley to the vacant post. Foley, who was originally appointed to temporarily replace Dupuy by a visiting judge in the civil removal suit filed by the Texas Attorney General, will now serve as the "permanent" replacement judge for County Court No. 3 until the votes in the November 2014 general election are canvassed. Foley is running for re-election to the position and is opposed in the Republican primary by Byron Fulk, Donnie Quintanilla and Jack Ewing.

Dupuy plead guilty to two Class A Misdemeanor charges:

- Perjury in 13CR2027 (reduced from the felony aggravated perjury) for falsely testifying in his child custody case about when he knew I had filed a criminal complaint against him. Dupuy was sentenced to ten days in jail and given credit for time served. [Click here](#) to read the Indictment and Judgment of Conviction in this case. Dupuy testified in his child custody case that he learned I had filed a criminal complaint against him on May 22, 2013 when he really knew in January 2013 since this very newsletter reported that fact and he discussed my criminal complaint with a reporter for *The Galveston Daily News* in January 2013.
- Abuse of Official Capacity in 13CR1365. Dupuy was sentenced to 20 days in jail but he was placed on two years deferred adjudication in this case on the condition that he pay the county \$2,890.80 for the cost of his court appointed attorneys, pay court costs, perform 80 hours of community service and (1) resign as judge of County Court No. 3, (2) not run for or hold public office, (3) "not file any frivolous or baseless or harassing grievances, complaints or lawsuits against any State's attorneys, parties, witnesses or victims" and (4) stop "accessing Facebook or other social media platforms or any other electronic media to communicate about the offense, the attorneys, the parties, the victims and the witnesses." This criminal charge involved my original allegation made in December 2012 that Dupuy used his office time and equipment to help his girlfriend in her own child custody case (where I represent the father of the child). [Click here](#) to read the Indictment and the Order of Deferred Adjudication.

Dupuy also signed a "Voluntary Statement" in which he admitted to the above crimes and to the charge of Official Oppression in 13CR1366 for what he did to attorney Lori Laird. Dupuy also stated he found no evidence of witness tampering by the prosecutors in the case involving his former girlfriend, which he had alleged many times on Facebook which resulted in part in him being jailed for contempt. [Click here](#) to read Dupuy's "Voluntary Statement."

Judge Ryan Patrick, a Harris County criminal judge assigned to hear the criminal cases against Dupuy, told Dupuy the following after the guilty plea was accepted:

And in this whole episode you've brought incredible dishonor to yourself, your name, and our profession. Anybody who reads about this case, knows about this case, it makes our job as judges harder because of what you did. I don't mind coming down here to Galveston for vacation; but coming down here to see you and deal with this case, I don't want to do it any more. As you stand there now in a green jumpsuit, you've put yourself in this position. And I don't feel sorry for you, but I do feel sorry for your children that you've had to put them through this public humiliation. I don't wish any ill will on you, sir. I hope you successfully complete this probation. I hope we never have to have another conversation again. But the fact of the matter is through this episode you've been an embarrassment to the bench and to attorneys. You've just added one more reason why we've all become the butt of jokes. Particularly here in Galveston County, you've probably eroded the respect of your fellow judges in this building and of the criminal justice system. Go with the bailiff, sir.

[Click here](#) to read the complete transcript of Dupuy's sentencing hearing.

The other remaining criminal cases against Dupuy will be dismissed as will the various appellate actions and the civil removal lawsuit filed by the Attorney General.

Does anyone think that the two excellent appellate attorneys in this case, Sallee Smyth and Pamela George, could not have figured out whether findings had been filed before a motion to abate for lack of findings was filed with the court of appeals?

Pratt has now made things worse for herself by apparently sending a letter on her court letterhead directly to the court of appeals, without apparently sending a copy to the appellate counsel. [Click here](#) to see this highly unusual letter dated September 19 in which Pratt makes clear she signed the findings before the motion to make her do so was filed with the court of appeals. A few comments about this letter:

1. A trial judge who is being appealed does not write the court of appeals directly or file findings of fact herself. The judge signs the findings and the clerk prepares a supplemental record which the clerk files with the court of appeals.
2. Nothing is supposed to be sent to the court of appeals about a case unless it is sent to all counsel of record with a proper certificate of service.
3. Even this letter is "misdated" since it has a fax date on the top of 9/20/2013 but the body of the letter had the date of September 19, 2013. It is almost as if Pratt wants it to appear that she wrote this letter before Mr. Messier filed a motion in the court of appeals about the suspicious dating of the findings of fact. Again, it at least strongly appears that Pratt plays around with the date to make it look like she did her job in a timely fashion before attorneys complained or the court of appeals told her what to do.

It now appears that Pratt is saying she really did sign the findings on August 19 but either Pratt forgot to give the findings to her clerks or an innocent clerk is about to be "thrown under the bus" and blamed for not timely entering the findings into the computer system. Assuming the clerks properly did their jobs, either Pratt is grossly incompetent or out to sabotage Mr. Messier's appeal or she committed the crime of tampering with a government record. I personally hope it is just incompetence and not venal or criminal behavior, but the evidence is not in Judge Pratt's favor. I am guessing the clerk involved will testify she entered the findings into the system as soon as she received them from the judge.

I intend to file a criminal complaint with the District Attorney about this backdating of court orders by Judge Pratt and they can investigate and interview clerks and attorneys

A special thanks needs to go to David Glickler and Kent Richardson from the Attorney General's office for the hard work and personal attacks they endured in pursuing the criminal and civil cases against Dupuy. Texas Ranger Joe Haralson did a lot of work investigating the various cases. Most of the judges in Galveston County did what they could to help the few attorneys battling with Dupuy. The real credit goes to the small band of attorneys who were willing to take on this rogue judge. Of the over six hundred attorneys who work primarily in Galveston County, these few warriors for justice stuck their necks out and spent a ton of time and even risked jail trying to stop Dupuy: **Greg Hughes, Jack Ewing, Greg Russell, Greg Enos, Lori Laird, Tad Nelson, Suzanne Schwab-Radcliffe, and Cynthia Tracy.** *The Galveston Daily News* ran a nice story Sunday that discussed what Greg Hughes, Lori Laird and I went through. [Click here](#) to read the News story. District Judge Kerry Neves posted a very nice note on Facebook about us.



Everything Judges and Attorneys Need to Know About Children Testifying in Court and Alternatives to a Child Appearing in Court

[Click here](#) to download in PDF a lengthy paper that is revised and more detailed than the paper I presented earlier this month at Galveston County's bi-annual Ad Litem and Amicus Seminar on **"Rules Involving Children's Testimony in Court."** This paper covers these topics:

- When Should a Child Be Called as a Witness?
- Subpoena a Child to Court?
- The Alternatives to Live Testimony in Court

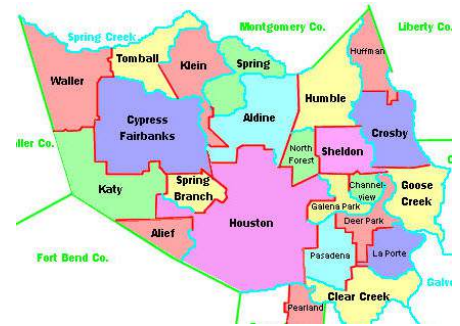
Interview of a Child in Judge's Chambers
Texas Family Code's Alternatives to Live Testimony
Recorded Interview of Alleged Abuse Victim Under Age 13
Pre-Trial Videotaped Testimony of Child
Remote Testimony by Closed Circuit Television
Other Technological Alternatives to Live Testimony
The Amicus Attorney as an Alternative to a Child Testifying
The Custody Evaluation as an Alternative to Live Testimony

- Local Court Rules Concerning Child Witnesses
- Clearing the Courtroom When a Child Testifies
- Competency of a Child to be a Witness
- Experts Repeating What the Child Said

and review files to see if a crime was committed.

Attorneys with evidence of other orders backdated or "misdated" by Judge Pratt should contact me.

I hope Pratt reads the article in this newsletter about the downfall of Judge Dupuy and realizes it all started with a simple complaint I filed with the District Attorney about that judge's misuse of office.



2013 - 2014 School District Calendars

Attorneys often need to know when school is dismissed or when school holidays occur in order to advise clients on which parent is entitled to a child and when the child has to be returned. [Click here](#) for links to the 2013-2014 calendars for all 54 Houston area school districts.

A Superior Alternative to the AG Child Support Tax Tables

The recently revised AG tax tables for child support take up too many pages and provide too much data. Attorneys want to calculate child support and they do not need all of those columns showing the amount of income tax, medicare tax, etc. We just want the gross amount and the net amount. Each year I prepare my own Child Support Tables which are shorter, easier to use and which include a lot of additional, helpful information. [Click here](#) to download the Enos Child Support Chart for 2013.

- Hearsay

Is the Statement Hearsay as defined by Rule 801(d)?
 Is the Statement Not Considered Hearsay under Rule 801(e)?
 Even If the Statement Is Hearsay, Does an Exception Apply?
 Hearsay Statement of Child Abuse Victim
 Present Sense Impression
 Excited Utterance
 Then Existing Mental, Emotional or Physical Condition
 Statements for Purpose of Medical Diagnosis
 How to Lay the Predicate for a Child's Hearsay Statement

[Click here](#) to download this article. Please send me your feedback and any corrections or suggestions for additions.



The Republican Problem with Judge Pratt

On the local level, I support and socialize with many Republican elected officials. In the last election cycle, I hosted seven parties at my office for judges or judicial candidates – all were Republicans and all won. I contributed to and supported many other local Republican candidates. I speak several times a day with GOP candidates or elected officials (the incumbent judges I confer with ALL like and support *The Mongoose*). Republicans may disagree with me on national issues such as The Affordable Care Act, but it is clear that we totally agree on the following:

- Elected officials are public servants and they should work full time.
- Judges should know and follow the law.
- Judges should accurately date their orders not create the appearance of committing the crime of tampering with a government record.
- Judges must be respectful of the mothers and fathers who litigate in their courts and not waste everyone's time and money.
- Judges should protect children and usually not allow known drug users to have primary care of young children.
- Judges and the government should usually respect the agreements and decisions made by parents, knowing that the government only has a limited ability to intrude into the rights of parents to raise their children.

The Republican problem with Denise Pratt is that she does not follow any of these precepts that every Tea Party activist, business owner, conservative Christian housewife and precinct chair would support.



Upcoming Campaign Events

I am going to try to post notices for upcoming campaign functions for all races in Galveston County and family court races in Harris County. Candidates: please send me your notices and I will help get the word out and **please stop holding secret exclusive events for just a few big fat cats that us little people are not invited to!**

Denise Pratt Re-election Party

Wednesday, September 25, 5:30 pm - 7:00 pm
 Irma's Southwest Grill
 1314 Texas Avenue, Houston 77002

Anthony Magdaleno for 311th District Court

Wednesday, October 2 from 5:30 - 7:30 pm
 Home Plate Bar & Grill
 1800 Texas, Houston

Judge David Farr Fundraiser Dinner

Wednesday, October 17 at 6:30 p.m.
 Dinner at Cullen's
 11500 Space Center Blvd, Houston, TX 77059
 RSVP to Dennis Slate (everyone welcome, but dinner is \$500 per person).

Phil Placzek for Judge Fund Raiser

Wednesday, October 17, 6 pm - 8 pm
 Hughes Hangar on Washington

Re-elect D.A. Jack Roady BBQ Party

Thursday, October 24, 6 pm - 8 pm
 Joe's BBQ, Highway 6 and 35, Alvin



I get Pratt stories literally every day, but here is a sadly typical story I was told in the parking garage last week:

The mother and father had reached agreement in their divorce case and the lawyers prepared temporary orders, which were signed and submitted to the court. The family was following their agreement and the parents and children liked what they were doing. Weeks went by and Pratt would not sign the orders. Finally, she had her staff tell the attorneys that Pratt refused to sign the agreed orders and she scheduled a hearing on temporary orders which neither side wanted. Both attorneys objected to any hearing because they said their clients were in total agreement and there was nothing to argue about. Yet, they were still ordered to appear before Judge Pratt. The hearing was set for 9:00 a.m. By 11:00, Judge Pratt had not appeared and finally the attorneys were told that the judge was not coming to work that day, so they were given a new hearing date. These working parents were charged over \$1,000 each by the attorneys and got nothing for it because the judge decided to stay home, even though the judge insisted on the hearing, which these parents did not want or need.

What true Republican would think this was proper behavior for a judge?

The documented cases where Pratt allowed children to stay in the care of adults who had tested positive for illegal drugs would be hard to explain at any Republican gathering. Lawyers may have theories why Pratt is sometimes so tolerant of illegal drug usage, but her rulings would be really hard to defend on the campaign trail.

The appearance of favoritism to a small group of lawyers who make so much money in Pratt's court would also not sit well with most Republicans I know.

The brutal truth is that no true Republican who follows the precepts of Ronald Reagan or the Tea Party can support Denise Pratt.

Maybe Pratt will say that I am a liberal Democrat who is attacking her for partisan political reasons. The problem with that argument is my track record of doing a lot for good Republican candidates and working so closely with elected Republicans in Galveston County. There is also the fact that I have given some Democratic judges a pretty hard time in this newsletter - just ask good Judge Yarbrough or former Associate Judge Radcliffe. More importantly, attorneys who are very clearly hard core Republicans are disgusted by Pratt and are now willing to stand up and oppose her.

My firm belief that a true patriot's job is to question the government and hold elected officials accountable should make me eligible to join the Tea Party. My work as President of the Board of Interfaith Caring Ministries could very well make me acceptable to evangelical Christians. In short, I have plenty in common with even the most ardent Republican even if I have held membership in a union, the NAACP, the Sierra Club and the ACLU and was once proudly a convention delegate for Jesse Jackson (I was the burnt orange in the rainbow coalition).

A fair, efficient justice system that mostly lets parents make the decisions about their own children is not a partisan, political issue. It is something we all want and expect, whether we are Democrats or Republicans and regardless of our religious beliefs.

Attorneys who are fed up with Judge Pratt should refuse to contribute to or support her re-election campaign and should shame those few toadies who do.

Most importantly, attorneys who want to do something about Judge Pratt should:

1. Write letters about the problems with Judge Pratt and mail them to these two men whose endorsements are so incredibly influential in the Republican primary:

Terry Lowry
12337 Jones Road, Suite 450
Houston, TX 77070

Dr. Steve Hotze
Conservative Republicans of Texas
1E Greenway Plaza, Suite 225
Houston, Texas 77046

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos



2. Be sure to participate in the Houston Bar Association Judicial Evaluation Poll (which can only be done on-line from September 25 through October 16) and accurately and fairly evaluate Judge Pratt so that the entire world can see what most attorneys think of her.

Here are directions on how to participate in the HBA Online Judicial Evaluation poll:

The Houston Bar Association's online Judicial Evaluation Questionnaire will be launched tomorrow. The questionnaire allows members to evaluate the performance of city, county, state, and federal judges. An e-mail will be sent from Ballot Box to all members for whom the HBA has an individual email address. **Please set your spam filter to allow the following: BallotBox@BallotBoxOnline.com.**

The closing date and time for the questionnaire is 11:45 p.m. on October 16, 2013.

The email will be from: Houston Bar Assn Online Voting
<HoustonBar@BallotBoxOnline.com>

The Subject Line: BallotBox: New Poll '2013 HBA Judicial Evaluation Questionnaire'

Once you open your BallotBox e-mail, click on the link "Click here to vote." It will take you to a login page. You will create a password of your choosing following the directions. (Please be sure to remember and make note of your password, as you will need it to access a saved questionnaire.) After you create your password, you will be taken straight to a Web page that summarizes the Judicial Evaluation Questionnaire.





[Click here for the archive](#) of prior Mongoose newsletters.

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International Journal on the Reform of Family Courts

The Mongoose



Together, family law attorneys can reform our family courts!
Published by attorney Greg Enos

Issue: No. 29

The Enos Law Firm

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

A single letter written by a person concerned about injustice can make a real difference. "J'accuse" (French: "I accuse", or, in context, "I accuse you") was an open letter published on January 13, 1898 in the newspaper *L'Aurore* by the famous writer Émile Zola. Zola's letter was a world-wide sensation and focused attention on the "Dreyfus Affair," in which a young French army officer was sentenced to life in prison for espionage despite judicial errors and lack of serious evidence. Zola was charged with libel and had to flee the country but his letter caused a public re-examination of the "Dreyfus Affair." Dreyfus, who had served five years in the Devil's Island Penal Colony, was granted a new trial and eventually all the accusations against Dreyfus were disproven. In 1906, Dreyfus was exonerated and reinstated as a major in the French Army.

In this issue, I summarize evidence that creates the appearance that Judge Denise Pratt has repeatedly committed the crime of tampering with a government record. I wrote to Judge Pratt and gave her a chance to respond, but she has not. I faxed each attorney involved in these cases to confirm the facts I wrote about and I rewrote parts of my story based on their feedback. The evidence summarized below has been presented to the District Attorney, the Harris County District Clerk and the Commission on Judicial Conduct. The very lengthy complaint against Judge Pratt which I filed with the District Attorney was in a thick binder with 22 exhibits. The District Attorney is already actively interviewing attorneys and all of Pratt's former and current clerks. One clerk has already lost her job over misdating an order in Pratt's court which

October 26, 2013

***"Freedom is the right to
question and change the
established way of doing
things."***

Ronald Reagan, speech at
Moscow State University, May
31, 1988



New Court Coordinator for CC3 Judge Foley

Galveston County Court No. 3 Judge Kerri Foley has a new Court Coordinator - Mitzi Stoll. Mitzi used to work in the District Attorney's office. [Click here](#) to download my updated chart of Galveston County courts and their personnel.

was signed by Judge Pratt under highly suspicious circumstances.

[Click here to download my criminal complaint against Judge Pratt.](#)

If you do not think the court documents and sequence of events in the six cases described in my complaint do not prove that Pratt backdated her orders, please let me know.

The Democrats are giddy with the thought they can make Judge Pratt the "poster child" for what is supposedly wrong with Republican judges and use that in the Fall 2014 election to try to defeat all of the good GOP incumbents up for re-election. After all, a judge who has apparently broken the law, who often does not show up for work and who so often makes strange rulings (such as letting people who have tested positive for illegal drugs keep custody of children), is going to be an easy target for print and television advertisements. Big headlines in the *Chronicle* and television news crews camped outside Pratt's courtroom are going to just make the Democrats' job easier. It does appear, however, that GOP leaders are already discussing how to get Pratt to resign or at least not run for re-election.

Republican Judge Pratt is being investigated by the office of the newly appointed Republican District Attorney, who is also up for election. Of course, the Democrats will squeal if nothing happens to Pratt, but also try to make hay if the DA does her job and goes after Pratt. My bet is that the highly professional members of the DA's Public Integrity Unit will treat Pratt like any other government worker who has tampered with records and apply the law fairly to her as well. Politically of course, prosecuting Pratt would actually make the new DA look good to all voters. Let's hope that politics has nothing to do with what happens or does not happen with these criminal charges.

The Harris County District Attorney is now investigating Judge Pratt because of my complaint. That is what happened in Galveston County and my original accusation against former Judge Dupuy ultimately resulted in his indictment, removal, resignation and conviction (based on the hard work of eight brave local attorneys who stood up to Dupuy, the Texas Rangers and the Attorney General's special prosecutor).

I am not out to get Pratt because I am a bitter, disgruntled attorney. My clients always won their contested trials in her court (although in odd ways that made me question Pratt's grasp on reality even as my clients were winning). I am very actively supporting Republican judges and District Clerks for re-election, so this is not about politics. This is about what is right and the integrity of our judicial system.

I hope attorneys with evidence of other instances of Judge Pratt backdating orders and renditions will contact me or the Public Integrity Unit of the District Attorney's Office.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
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**Support Our Great
District Clerks!
November 13 Party to
Honor Harris County
District Clerk
Chris Daniel and
Galveston County
District Clerk
John Kinard**

The District Clerks and their hard working staffs actually make more difference in the daily lives of attorneys than any single judge. I am hosting a party at my office on Wednesday, November 13, to honor these Republicans seeking re-election next year: District Clerk Chris Daniel of Harris County and District Clerk John Kinard of Galveston County. I hope you and your staff can join us at this event from 5:00 p.m. - 7:00 p.m. [Click here](#) to download a flyer about this party.

How Far Can A Lawyer Go in Criticizing A Judge?

Rumor has it that part of the splashback against me from the judges who do not like *The Mongoose* and their cronies will be a grievance against me complaining to the State Bar that I have improperly impugned the dignity of those judges I have criticized. The bad news for them is that The First Amendment applies to attorneys (as does the even stronger protection of free speech contained in the Texas Constitution).

Here is an excerpt from "A Primer on What Lawyers Can Say About Judges" published in *Texas Lawyer* on August 5, 2008 by Bruce Campbell.

Attorneys, generally, are prohibited from making false statements verbally and in writing concerning the qualifications or integrity of judges.

Rule 8.02(a) of the Texas Disciplinary Rules of Professional Conduct provides: "A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory official or public legal officer, or of a candidate for election or appointment to judicial or legal office."

What happens when an attorney makes a false statement about a



The Mongoose is watching!



I Accuse Judge Pratt of Tampering With Government Records

I intentionally delayed sending out this newsletter until the District Attorney had a few days to look into my criminal complaint against Judge Pratt and I waited a day so that the *Houston Chronicle* could run its story about this situation first. Here is part of what the *Chronicle* published today about Pratt and my criminal complaint against her in a big article on the top of the first page:

Judge accused of falsifying court records

Lawyer's complaints that filings were backdated touch off probe in state court and lead clerk to resign

member of the judiciary? Will the offending attorney be disciplined? Perhaps, but not necessarily.

In 1964's *Garrison v. State of Louisiana*, the U.S. Supreme Court held that the First and 14th Amendments to the U.S. Constitution protect lawyers who make false statements about judges from imposition of civil, criminal and disciplinary sanctions unless the statement is made "with knowledge of its falsity or in reckless disregard of whether it was false or true."

Indeed, the Colorado Supreme Court noted in 2000's *In the Matter of Green* that "if an attorney's activity or speech is protected by the First Amendment, the disciplinary rules governing the legal profession cannot punish the attorney's conduct."

But attorneys should not view the First Amendment as a license to disparage the judiciary. The test that has been uniformly applied to challenged lawyer statements about judges is a version of that set out in the U.S. Supreme Court's 1964 decision in *The New York Times Co. v. Sullivan, et al.* First, did the disciplinary authority prove that the statement was a false statement of fact or a statement of opinion that necessarily implies an undisclosed false assertion of fact? Second, did the attorney utter the statement with actual malice -- that is, with knowledge that it was false or with reckless disregard as to its truth?

A few examples of what lawyers have said and gotten away with are instructive in how courts have applied the standard. For example, according to San Antonio's 4th Court of Appeals in 1974's *State Bar of Texas v. Semaan*, in a letter to the editor criticizing one of the judges in Bexar County, a lawyer called the judge "a midget among giants" in comparison with three other named criminal court judges. The State Bar reprimanded the attorney, but the trial court set aside that judgment, a decision the court of appeals affirmed, because the attorney did not make a false statement nor did he make the statement with reckless disregard of its truth or falsity.

Similarly, the Colorado Supreme Court has recently waded into the issue of lawyer speech. According to its opinion in *Green*, after the lawyer won a victory on behalf of a client, he requested fees, which the trial judge reduced. The lawyer filed a motion to recuse the judge. An appellate court reversed and remanded the fee order. The lawyer then wrote three letters to the judge and filed a second motion to recuse. One of those letters stated,

State District Court Judge Denise Pratt is under investigation, accused of backdating court records to make it appear that she issued rulings and filed court documents sooner than she actually did, according to county officials.

Allegations against the 311th family court judge, raised by a Houston-area family lawyer in a criminal complaint filed with the Harris County District Attorney's Office and the State Commission on Judicial Conduct, already have led to the resignation of Pratt's court clerk.

Webster-based family lawyer Greg Enos, whose criminal complaint last year against a Galveston County court-at-law judge sparked an investigation by the state attorney general and multiple indictments that led to the judge's suspension and subsequent resignation, said he delivered his complaint against Pratt to First Assistant District Attorney Belinda Hill on Monday. Enos said he believes the office has already launched an investigation.

A spokesman for the district attorney's office said he "can't confirm or deny" whether any investigation is underway, but county and other sources say the office is looking into it and already has contacted attorneys to arrange interviews.

The concerns Enos is raising also have touched off an investigation by the Harris County District Clerk, the official keeper of all court records. District Clerk Chris Daniel said he looked into two of the six cases Enos included in his complaint, which led to the resignation on Monday of Pratt's lead clerk, a well-liked, 25-year employee of the District Clerk's office. Daniel said he found records were postdated or mis-marked in those two cases, and that he is looking into a seventh one that another family lawyer brought to his attention.

....

Enos' previous complaint against Galveston County Court-at-Law Judge Christopher Dupuy was filed with the Galveston County DA's Office, which forwarded it to the state attorney general.

Dupuy was indicted on eight criminal counts charging him with abuse of office in May and, in August, arrested for contempt of court and sentenced to 45 days in jail. Last month, he resigned from the bench and pleaded guilty to two misdemeanors in exchange for two years of probation.

[Pratt's political consultant] Blakemore said Pratt intends to run for a second term and already has begun campaigning. The filing deadline is Dec. 9.

If the allegations hold up, though, the Harris County Republican Party may ask Pratt to step aside, said Chairman Jared Woodfill, who is convening an advisory board to review Enos' complaint. The last time the board convened was in 2006 to review allegations against former Harris County District Attorney Chuck Rosenthal, who eventually decided not to run. "We don't turn a blind eye to these allegations," Woodfill said. "We are going to be looking into them and we will proceed accordingly."

"Those circumstances characterize you [the judge] as a racist and bigot for racially stereotyping me as unable to be an attorney because I was black."

Another said: "I am entitled to and I affirm my right not to have my attorney fees determined by a racist judge. ... Your dilatoriness in recusing yourself is delaying determination of my fee by a replacement judge. I want my fee determined promptly by another judge. I need not remind you of the dilatoriness standard for judges."

The Colorado Supreme Court noted that disciplinary counsel "brought a complaint against the lawyer, charging him with violating" several Colorado rules of professional conduct. A hearing board of the grievance committee concluded, among other things, that his criticism of the trial judge in his letters and motions to recuse violated several rules. But the Colorado Supreme Court held that the First Amendment banned discipline for the speech, which did not make or imply false statements of fact.

In dismissing the "charges" that the lawyer violated Colorado Rule of Professional Conduct 8.4, the court pointed out that "the right of a lawyer as a citizen to publicly criticize adjudicatory officials ... is particularly meaningful where, as in Texas, the adjudicatory officials are selected through the elective system."

Perhaps the most famous case is *Garrison*, which involved a district attorney convicted under Louisiana's criminal defamation statute. According to the opinion, the DA was embroiled in a dispute with the eight judges of a parish's criminal district court. The disagreement involved disbursements from a fines-and-fees fund to defray expenses of the DA's office.

After the judges ruled that they would not approve payments from the fund to pay the DA's undercover agents investigating allegations of commercial vice in New Orleans' Bourbon and Canal Street districts and one judge released a statement criticizing the DA's conduct. The DA held a press conference, at which he said: "The judges have now made it eloquently clear where their sympathies lie in regard to aggressive vice investigations by refusing to authorize use of the DA's funds to pay for the cost of closing down the Canal Street clip joints. ... This raises interesting questions about the racketeer influences on our eight vacation-minded judges."

In *Garrison*, the U.S. Supreme Court



reversed his criminal defamation conviction, because there was no "reckless disregard for the truth."

An Example of Government Overreaching?

I was recently in Charleston, South Carolina with the love of my life, Toni, when we came across this sign in front of a large water fountain in a city park. This strikes me as an example of government not trusting the common sense of its own citizens.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos



WELCOME to the WATERFRONT PARK

PLEASE ENJOY THE FOUNTAIN.

THE FOLLOWING ARE
NOT PERMITTED:

Per S.C. Dept of Health and Environmental Control

- There should be no solo wading.
- No running, boisterous or rough play.
- No person under the influence of alcohol or drugs should use the fountain.
- There should be no spitting or blowing nose in the fountain.
- Persons with diarrheal illness or nausea should not enter the fountain.
- Persons with skin, eye, ear or respiratory infections should not enter the fountain.
- Persons with open lesions or wounds should not enter the fountain.
- No animals or pets allowed in the fountain.
- No glass allowed in the fountain or on the deck.
- No children should be in the fountain without supervision.
- You should take a shower before entering the fountain.
- This fountain is open from 6:00 am to 12:00 am.
- The maximum number of waders allowed in the fountain is 25.

In case of emergency, the Police Dispatch phone is located in the
Park Visitor Center.





*Judges should be hard working, full time public servants who know and follow the law, who are fair and reasonable, who do not play political favorites, who apply common sense in timely rulings, and who always act wisely in the best interests of children. **The families of Harris County deserve and need good judges!***

November 3, 2013

Dear Colleague:

We are asking you to join our effort to get Judge Denise Pratt off the bench for the good of the family bar, the families and children of Harris County and the many excellent family court judges whose re-elections might be endangered with Judge Pratt on the same ballot with them.

We enclose a copy of a recent Houston Chronicle article and the very detailed criminal complaint filed by Greg Enos against Judge Pratt. The District Attorney and District Clerk are investigating the very serious issue of alleged backdating of orders and renditions in Judge Pratt's court. We are all too familiar with the problems caused by Judge Pratt's work ethic, her refusal to accept agreements made by parents regarding their children and her rulings which are so frequently delayed or contrary to the law or facts presented in court.

In the recent Houston Bar Association Judicial Evaluation, Judge Pratt received extremely low evaluations and possibly the lowest ratings ever recorded in that survey. Judge Pratt was ranked "Poor" by 76.4% of attorneys on "Follow the law?" and 77.7% gave an overall evaluation of "Below Average" or "Needs Improvement."

We are "sticking our necks out" to stand up for what is right and asking you to do the same. We are specifically asking you to:

- Sign and return the attached petition calling on Judge Pratt to resign or be removed from office.
- Agree with us to not support Judge Pratt's re-election and refuse to contribute or help her campaign in any way and ask your lawyer friends to do the same.
- Contact the Public Integrity Unit of the Harris County District Attorney's office if you know of any suspected backdated orders or renditions from Judge Pratt's court. You should contact: Terese Buess, Public Integrity Division, 1201 Franklin, Suite 600, Houston, Texas 77002-1923, (713) 755-8330.

For too long, a "Code of Silence" has prevailed in family law that kept attorneys from speaking out about Judges who were really, really bad and not following the law. We each owe it to ourselves, our profession and our clients to speak out against injustice. The more attorneys stick together and stand up against Judge Pratt, the easier it is for all us collectively to take action. We each face the same considerations you do: we have current cases in the 311th and we know future cases will land there; and we have clients to protect and our own businesses to run. However, speaking out about this very serious situation is the right thing to do and will ultimately protect our current and future clients. Lastly, the really good family judges we have need our help because it is not fair for their re-election chances to be hurt just because Judge Pratt is on the ballot with them.

We are truly on the verge of forcing change in this court and we hope you will join us in this effort.

Harry C. Tindall

Warren Cole

Joan F. Jenkins

Ellen A. Yarrell

John Pavlas

Lynn Kamin

Patricia A. Wicoff

Reginald A. Hirsch

(Signatures continued on next page)

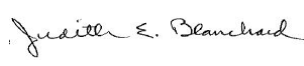
(Signatures Cont'd...)



Craig Haston



Debra S. Herndon



Judith E. Blanchard



Peggy S. Bittick



Robert S. Clark, Sr.



Diane St. Yves



Angela Pence England



Greg A. Hughes



Dawn Renken



Maisie A. Barringer



Marcia Zimmerman



William M. Waldrop



Denise G. Khoury



Christina S. Tillinger



Robert Teir



David J. Salinsky



Lori Elaine Laird



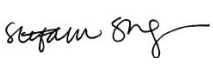
Jacqueline Smith



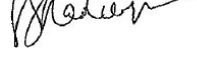
Amy R. Harris



Robert Clements



Stefani Shapiro



Suzanne Radcliffe



Greg B. Enos



Judith Ritts

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

Rule 8.03 Reporting Professional Misconduct

(b) Except as permitted in paragraphs (c) or (d), a lawyer having knowledge that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

Texas Code of Judicial Conduct

Canon 2. Avoiding Impropriety and the Appearance of Impropriety In All of the Judge's Activities

A. A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary

[Click here for the archive](#) of prior Mongoose newsletters.

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

The sad situation involving Judge Pratt drags on. Pratt now has an excellent criminal defense attorney and the DA is not talking about the status of the criminal investigation into backdating of court orders. I truly expect something very dramatic to happen before Thanksgiving regarding my criminal complaint. Pratt continues to get really bad press. [Click here](#) to read a new story in the *Houston Press* about Pratt.

It seems universally agreed that Pratt is finished politically, no matter what happens with the criminal investigation. Republicans are focusing on who might be appointed by the Governor to replace Pratt and which new candidates are going to jump into the race for the 311th. Donna Detamore has just joined Anthony Magdaleno and Phil Placzek in the race for the 311th. One or two other prominent Republican attorneys should announce for the 311th in the next week or so. If Pratt resigns or is removed, Governor Perry would appoint a replacement and I doubt he would wait until the March primary and April runoff.

The Democrats are actually hoping that the Republican District Attorney (who employs the same political consultant as Judge Pratt) does not charge Pratt, because they want very much to be able to talk about Pratt during the general election next Fall. Pratt's fellow Republican judges are very worried about how Pratt's problems will effect them.

In the meantime, Judge Pratt continues her relaxed work hours and she is still deciding cases with little regard for the law, rules of procedure or common sense and she is still appointing her "chosen ones" to be amicus attorneys.

I have received an amazing response from lawyers (and the public) about my

November 12, 2013

In This Edition....

[HBA Judicial Poll Gives Pratt Lowest Ratings in History!](#)

[Pratt and Recusal Procedure](#)

[Snakes in the Courthouse Grass](#)

[The Dangers of Taking on Judges](#)

[Reconsidering the So-Called "Morality" Clause Injunction](#)

[Federal Wage Withholding Order is Now Required](#)

[Upcoming Campaign Events](#)

[Jabba the Hutt Clarifies Who Brought Down Judge Dupuy](#)

criminal complaint and my petition calling for Pratt to be removed from office. [Click here](#) to download the petition you can sign. [Click here](#) to read the letter signed by 36 family attorneys calling on Pratt to resign or be removed. Who ever dreamed they would see prominent family law attorneys like Wendy Burgower, Warren Cole, Lynn Kamin, Reggie Hirsch, Bill De La Garza, Joan Jenkins, Craig Haston, John Pavlas, Ellen Yarrell and others sign a letter publicly calling on a sitting judge to resign or be removed?

Over 830 attorneys opened the link and presumably read my criminal complaint against Judge Pratt and not a single person has contacted me to argue that the documents and facts I presented do not constitute a crime. Pratt's political consultant told the media that I was a "loser" whose feelings were hurt (even though I won all my trials before Judge Pratt) but even Mr. Blakemore did not deny that Pratt had backdated court orders.

A Houston political blogger wrote this last week:

A few days ago, I noted that Denise Pratt, a Family District Court Judge in Harris County, had been accused of corruption. Specifically, the Republican judge has been accused of falsifying important records in order to issue late opinions.

Now, the *Houston Chronicle* reports that, in a recent evaluation of all Houston-area judges by the Houston Bar Association, Judge Pratt received the lowest marks -by far- of any jurist. In fact, her evaluation has more negative that, as one participant noted, anything he could recall in the last 40 years. Judge Pratt received overall disapproval of 79% of applicants, with 76% saying her "following the law" skills were especially poor and 80% saying likewise about issuing timely rulings. The marks were far lower than many other Judges with similar baggage, including Sharon "Killer" Keller of the Court of Criminal Appeals.

The astute will recall from my article last week on the subject the original controversy was launched by Greg Enos, the Galveston-area attorney who brought down Christopher Dupuy. Speaking of Enos, the *Houston Chronicle* recently ran a profile on him. As I have said before, he is a high-profile Democrat who runs the influential Family Law newsletter "The Mongoose."

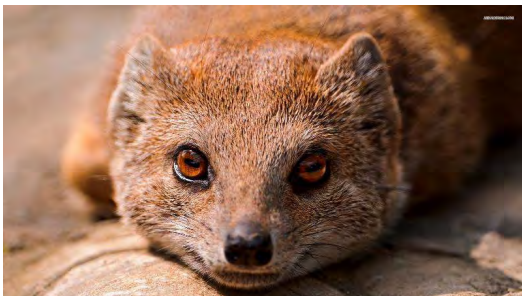
[Click here](#) to read more of this blog, *The Expatriate*. [Click here](#) to read the *Houston Chronicle* story about my efforts to reform the family courts.

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Greg Enos
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[Check our web site and blog!](#)

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The Mongoose is watching!



Paid political advertisement paid for by Greg Enos, 17207 Feather Craft Lane, Webster, Texas, reported as an in-kind donation 50% to Chris Daniel Campaign and 50% to John Kinard Campaign.

Please attend the party this Wednesday, November 13 for the Republican District Clerks of Harris and Galveston Counties at my office in Webster, Texas. [Click here](#) to download the flyer for this fun party honoring Chris Daniel and John Kinard.

Courthouse Snakes in the Grass

The Galveston County Justice Center is again warning visitors to stay on the side walk and out of the grass because several rattlesnakes have been spotted.



The Perils of Publishing *The Mongoose*

Publishing this newsletter and taking on judges who are doing wrong does involve some risks for me. The target judges obviously do not care for my actions and it causes me to inform clients of the problem when their cases land in those courts and it has cost me business. I have made enemies of the attorneys who make money off appointments and rulings from those judges I question. In at least one case, there is some concern about my physical safety. In December 2012, I filed a criminal complaint against Judge

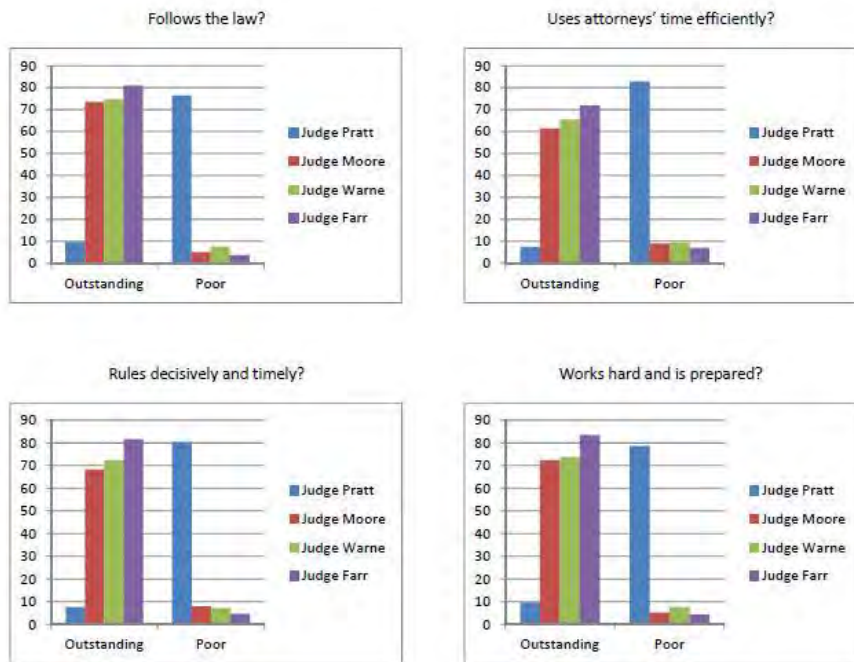
From: Christopher Dupuy <judgedupuy@yahoo.com>
Date: January 30, 2013, 3:03:25 PM CST
To: "linduzai@hotmail.com" <linduzai@hotmail.com>
Subject: Sea snake venom

How much for sea snake venom?
 Shipped to USA.
 Thank you.

Chris Dupuy

HBA Judicial Poll Gives Pratt Lowest Ratings in History!

The 2013 Houston Bar Association Judicial Evaluation Survey resulted in ratings for Judge Denise Pratt that were abysmally low. It is said that Pratt's ratings were the worst any judge has ever received in the history of the survey. Here are charts comparing Pratt to a few of her family court colleagues:



Pratt and Recusal Procedure

On the day the *Houston Chronicle* ran a front page story about my criminal complaint against Judge Pratt, my associate, Christina Tillinger started a trial in front of Judge Pratt. Our client had decided to go forward after full disclosure and after seeing the newspaper article. Judge Pratt would not come into the courtroom that day until the television news cameras left the seventh floor so the trial started late and there was a three hour break for lunch. The trial did not finish that Friday and was set to resume on the following Tuesday. On that next Tuesday, Judge Pratt called the attorneys to the bench and announced she was recusing herself because she had

Christopher Dupuy for using his courtroom equipment to help his girlfriend with her child custody case. He was eventually convicted of that charge and of the charge of perjury for lying about when he knew I had filed this complaint.

On January 13, 2013, my newsletter called on Judge Dupuy to resign or be removed from office. On January 24, I hosted a meeting at a BBQ restaurant of attorneys interested in removing Judge Dupuy. Dupuy had someone at that restaurant taking photographs of those who attended according to sworn testimony from one of his ex-girlfriends. On January 30, 2013, I filed a motion to recuse Judge Dupuy in one of my cases in his court. I filed my motion at 1:57 p.m. At 3:03 pm that same day Judge Dupuy allegedly sent an e-mail (shown to the left) inquiring about the purchase of sea snake venom. The e-mail states:

Subject: Sea snake venom

How much for sea snake venom?
Shipped to USA.
Thank you.
Chris Dupuy

This e-mail was allegedly shared by yet another ex-girlfriend of Judge Dupuy, but not the one who testified that Dupuy had discussed killing his ex-wife and fleeing with his children to New Zealand.

Sea snake venom is very deadly and causes rapid breakdown of skeletal muscle tissue, paralysis, renal failure, and cardiac arrest. The first symptoms that begin within 30 minutes are thirst, sweating, vomiting, generalized aching, stiffness, and tenderness of muscles all over the body. Please alert courtroom staff if you ever see me experiencing these symptoms. I usually have a syringe of anti-venom in a pocket of my bullet-proof vest.



After I filed the motion to recuse Judge Dupuy on January 30, he tried to hold me in contempt of court, but other judges intervened and I managed to escape fines and jail time. Dupuy purchased a gun at roughly the same time that this e-mail was allegedly sent inquiring about the sea snake venom.

confirmed that I had indeed filed a criminal charge against her. So, Pratt took herself off a case in the middle of trial because of my criminal complaint even though I was not the attorney there in court for my firm and even though no motion to recuse had been filed.

Now, Pratt is refusing to recuse herself in other cases involving my firm, even when we have filed motions to recuse. A lot of other attorneys are filing motions to recuse Judge Pratt and she is apparently either not ruling on them or denying them but not referring the motions to Judge Underwood.

Here is a brief primer on the procedure involved in recusing a judge:

If a motion to recuse is filed before evidence has been presented in a trial or hearing, the judge only has two options: recuse herself or refuse to recuse herself. If the challenged judge refuses to recuse herself, then she cannot hear any further matter in the case until an assigned judge hears the motion to recuse. TRCP 18a(f)(1). See e.g. *Jamilah v. Bass*, 862 S.W.2d 201, 203 (Tex. App. - Houston [14th Dist.] 1993)(orig. proc.).

Any order signed by the challenged judge after a motion to recuse is filed is void. *In re Rio Grande Valley Gas Co.*, 987 S.W.2d 167, 169 (Tex. App. - Corpus Christi 1999, orig. proc.).

The only exception to this rule that nothing can be heard until the recusal is decided is if the challenged Judge finds "good cause" and identifies what that good cause is on the record or in her order. TRCP 18(a)(f)(2)(A). There is no case law that explains what "good cause" in this situation would be. *In re Stearman*, 252 S.W.3d 113 (Tex. App. - Waco 2008, orig. proc.). After a lot of searching, the only suggestion I could find is in the transcript of the January 23, 2010 meeting of the Supreme Court Advisory Committee discussing the amendment to Rule 18a that added this "good cause" language. At pages 19884-8, Judge Gray suggested a trial judge challenged by a recusal motion might find good cause to go forward "because we've got the expert from Finland here on something. You know, we're going to go ahead and make the record." In other words, he suggested that "good cause" to proceed with a hearing despite a pending recusal motion would involve circumstances when it would not be possible or practicable to conduct the hearing on a later date after the recusal is determined. In the family law context, one might imagine emergency circumstances where the child is about to be taken out of the country and a delay caused by a recusal motion would in effect prevent any other judge from granting the needed relief. "Good cause" to proceed with a hearing would almost certainly not just be "this case involves a child" unless there is an emergency involving the child that must be addressed before the recusal motion can be decided.

Even if there is an emergency involving a child in Pratt's court, a motion to protect the child can still be heard by another judge in the courthouse even if a motion to recuse Pratt has been filed. Texas Government Code Sec. 79.094 allows another district judge in the same county to hear the case, "...as if the case were pending in the court of the judge who acts in the matter." If Judge Pratt is challenged by a motion to recuse, she should not be able to find "good cause" to proceed unless no other family judge can hear the matter.

A motion to recuse must be filed as soon as practicable after the party learns of the reason for recusal and at least ten days before the hearing or trial. TRCP 18a(b)(1). A motion to recuse can be filed less than ten days before the hearing or trial if the grounds for recusal were not known or if it was not known that particular judge would be presiding. TRCP 18a(b)(1)(B).

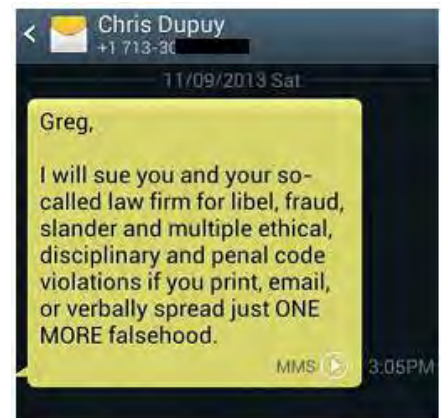
A motion to recuse must be verified. TRCP 18a(a)(1). A motion to recuse should allege a ground for recusal in TRCP 18b. After our experience with recusals of Judge Dupuy in Galveston County, I suggest that motions to recuse be very detailed and include affidavits and exhibits. The regional presiding judge (Judge Underwood) reviews the motion and can deny it on its face if it does not state sufficient grounds.

If the challenged judge refuses to recuse herself, the motion must be referred to the regional presiding judge who assigns a judge to hear the motion. If a family district judge in Harris County fails to rule on a motion to recuse or fails to refer the matter to Judge Underwood, I suggest you contact Judge Farr, our local Administrative Judge for the family courts.

The judge challenged by a motion to recuse must grant or deny the motion to recuse within three business days after the motion is filed. TRCP 18a(f)(1).

I do not know if this e-mail is a fake or if Dupuy really sent it. It would take a very twisted and creative mind to even think of fabricating such an e-mail, however. This e-mail address at least can be found many places on the Internet associated with a Chinese company that sells snake venom (the phone number is 86 23 68648680 and be sure to ask about the *Mongoose* discount on bulk purchases).

I e-mailed Dupuy's attorney in fairness to get his side of the story and she called the ex-girlfriend a drug addict but did not deny that Dupuy authored the e-mail. Dupuy himself then sent me this text message, which also did not deny that he sent the e-mail about sea snake venom.



(Legal Note: When a plaintiff's reputation is so bad that nothing the defendant can say would possibly make it worse, the allegedly defamed plaintiff is "libel-proof").

I have no proof of course that any sea snake venom was actually ordered or received by Dupuy. I do know that the terms of Dupuy's probation do not prohibit him from possessing blow guns, darts or any sort of poison.

A challenged judge cannot overrule or refuse to rule on a motion to recuse which the challenged judge considers to be procedurally defective. *In re Norman*, 191 S.W.3d 858, 861 (Tex. App. - Houston [14th dist.] 2006, orig. proc.).

The *Texas Bench Book* from the Texas Center for the Judiciary gives trial judges this advice on responding to a motion to recuse:

FIRST: Promptly refer the motion to the Administrative Judge. Either agree to the recusal (Form C) or request the Administrative Judge to decide the recusal (Form D). Regardless of the procedural sufficiency of the motion, the challenged judge must either recuse or refer the motion to the presiding judge, *Lambert v. Tschope*, 776 SW2d 651 (Tex. App. - Dallas 1989, denied). Recusal motion must be referred to Administrative Judge, even if motion is defective, to allow another judge to determine any procedural inadequacy, *In Re Norman*, 191 SW3d 858 (Tex. App. - Hou. [14th] 2006).

The above discussion relates to a motion to recuse filed before evidence is presented. A different set of rules apply if a motion to recuse is filed after a hearing or trial starts.



Reconsidering the So-Called "Morality" Clause Injunction

[Click here](#)

to download an article I have written on why family court judges and lawyers need to rethink the so-called "morality" clause, which enjoins a parent or conservator from allowing a boyfriend or girlfriend from spending the night when the parent or conservator has possession of the child.

One of the most important and fulfilling parts of my life is raising three young boys who live with me and their mother (to whom I am not married). I am the only "father" those boys have in their lives and I am fairly confident that they benefit from having me around. The so-called "morality" clause injunction would prevent me from living with these kids and their mother or force us to get married before we decide as a couple to be married.

I am certainly not unique in cohabitating without marriage. As of March 2012, when



Thanks to **Lori Laird** (who should be at least as worried as I am about former Judge Dupuy and her safety) for providing a [link to a video showing a swimming race between a mongoose and a sea snake](#).

New Law Requires Goofy Federal Wage Withholding Order

The awkward federal form for a Wage Withholding Order is now being required in Texas thanks to an amendment to the Family Code and a new requirement by the Federal Office of Child Support Enforcement that all wage withholding orders to employers be the OMB form. National employers and payroll companies are already rejecting the old fashioned wage withholding orders that look like typed court orders.

The Texas Family Code effective September 1, 2013 says:

158.106 (d). The forms prescribed by the Title IV-D agency under this section shall [deleted "may"] be used: (1) for an order or judicial writ of income withholding under this chapter; and (2) to request voluntary withholding under Section 158.001.

Thanks to **Debbie Panzica** for this tip!

Here are a few tips of mine about the federal Wage Withholding Order:

1. The Judge signs on the second page.
2. If there are multiple children and one

United States Census did a supplemental survey on family living arrangements, 15.3 million unmarried heterosexual individuals were in live-in relationships. That is 6.5% of all U.S. adults 18 and over. The Census Bureau reported that 41% of cohabiting couples have children living with them. The majority of Americans under age 30 now report living together before getting married.

The so-called "morality clause" injunction should usually not be ordered because:

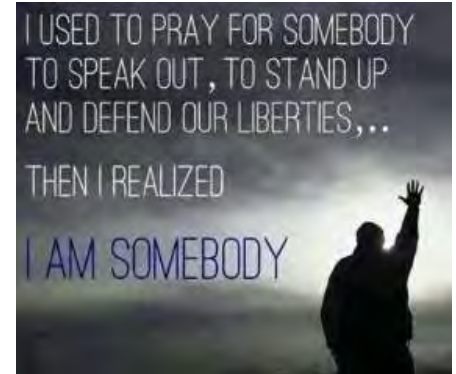
1. The act that is being forbidden is not considered "immoral" by the vast majority of Americans. The "American Values Survey" conducted in 2012 of over 2,000 Americans on behalf of *Atlantic Magazine* and The Aspen Institute found that the great majority (**69%**) of Americans believe that a heterosexual, unmarried couple living together is morally acceptable.
2. There is usually no evidence that allowing a boyfriend or girlfriend to spend the night when the child is present will harm the child.
3. The so-called "morality" clause is fundamentally wrong because it tries in advance to forbid conduct that is not always harmful to children.
4. The real harm that most judges want to prevent with the so-called "morality" clause can easily happen during the day or with a married parent.
5. The injunction is about the only instance when judges forbid legal parental behavior in advance and try to micro-manage what is done around the child. It is based on an assumption that, regarding this one behavior, a loving parent will not use common sense or protect the child.
6. The injunction ignores the perceptions of children and the realities of many single parents' lives.
7. This injunction unconstitutionally invades the parents' rights of privacy and right to make parental decisions without any evidence of harm to the child.
8. It is very difficult to enforce the so-called "morality clause" injunction.

An injunction against allowing a boyfriend or girlfriend to spend the night should usually only be ordered when there is evidence that a parent has allowed a "revolving door" of lovers to enter their child's life or the child has actually been harmfully exposed to adult sexual activity.

[Click here](#) to download this article on the so-called "morality" clause if you are willing to challenge your preconceived notions about what should usually be done in child custody orders.

Jabba the Hutt Clarifies Who Brought Down Judge Dupuy

or more step-downs in child support, then you should use the box for "Additional Information" on the third page and type "See attached provisions regarding reductions in the child support" and then attach an additional typed page with the specifics of the child support step down.



Upcoming Campaign Events

I am going to try to post notices for upcoming campaign functions for all races in Galveston County and family court races in Harris County. Candidates: please send me your notices and I will help get the word out and **please stop holding secret exclusive events for just a few big fat cats that us little people are not invited to!**

Party for District Clerks Chris Daniel and John Kinard

Wednesday, Nov. 13 from 5:00 - 7:00 pm
The Enos Law Firm
17207 Feather Craft Lane
Webster, Texas 77598
[Click here for a invitation and map](#)

Donny Quintanilla Campaign Kick-Off Party

Tuesday, Nov. 19 from 5:30 - 7:30 pm
21 Rudy & Paco's
2012 Post Office, Galveston





Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos



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International Journal on the Reform of Family Courts

The Mongoose



Together, family law attorneys can reform our family courts!
Published by attorney Greg Enos

Issue: No. 31

December 13, 2013

The Enos Law Firm

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

A grand jury is considering what to do with Judge Denise Pratt, whose new definition of a good day is, "I have not been indicted yet." The *Houston Chronicle* continues to pillory Pratt. [Click here](#) to read the most recent front page story about Pratt that brings shame to our entire family court system. The term of this grand jury expires on December 31, so some decision regarding the criminal investigation of Judge Pratt is expected by the time we gather around our unadorned aluminum *Festivus* poles on December 23 and enjoy feats of strength and the airing of grievances with family and loved ones.

The Pratt story continues to get a lot of coverage by local political bloggers. [Click here](#) to read how Pratt's woes were described in the blog "Off the Kuff." [Click here](#) to read the *Houston Chronicle* blog on "Houston Politics" and how Pratt's problems were explained.

Pratt now faces four opponents in the Republican primary, which is absolutely unheard of for an incumbent judge. Alicia Franklin decided to run against Pratt instead of running for the 247th. Franklin, who has already raised more money than any non-incumbent candidate, gathered the needed petition signatures in just a few days. Donna Detamore has also joined this race, which includes Anthony Magdaleno and Phil Placzek.

The incredibly influential Republican "slate" endorsers have abandoned Pratt and it seems extremely unlikely she can win the primary election even if she is not criminally charged. Gary Polland, a former GOP county Chair, is one of the three big endorsers who decide Republican judicial primaries and a lawyer who has earned at least \$79,000 in fees on appointments from Pratt according to the *Houston Chronicle*. Polland has publicly announced he will not support Pratt and that he is endorsing Alicia Franklin.

In This Edition....

[Races for Harris County Family Courts Set](#)

[Galveston County Goes 100% Republican](#)

[Four Family Courts to Move to Civil Courthouse](#)

[Harris County to Get CPS Court](#)

[Who Will Replace Judge Criss?](#)

[Reconsidering the So-Called "Morality" Clause Injunction](#)



Four Family Courts Will Soon Move to the Civil Courthouse

Construction on the 16th Floor of the Civil Courthouse is supposed to end April 22,

The Judicial Conduct Commission will likely immediately suspend Pratt from office if she is indicted, as they did with Judge Dupuy in Galveston.

Judge Pratt has a simple explanation for these allegations against her: it is a liberal, Democratic smear job. Here is what Pratt said in an e-mail send to Republican precinct chairs:

I'm sure you have heard the rumors that are being spread by the Democrats and the liberal media. I wanted to take this time to let you know that the allegations brought against me by the Democratic faction are false. I am a conservative Judge and because of my principles I am being attacked. I have already filed to run for re-election as judge of the 311th Family District Court, and will not let the underhanded political tactics by the Democrats keep me from doing my job.

This newsletter also goes to the Republican precinct chairs and about another 1,000 Republican political activists and I have tried to inform them about how their "conservative" judge does not show up for work, wastes time, fails to follow the law or common sense and fails to make timely rulings.

Assuming the Pratt story goes away next year, I intend to spend a lot of time in 2014 exploring the appointment of amicus attorneys and mediators as political patronage and I will share the results of my investigations into what some politically connected attorneys appointed to CPS cases are billing for.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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Merry Christmas and Happy Holidays!

2014 and the courts of Judges Wame, York, Farr and Dean will move over in late May. The "left behind" will be the most junior family court judges: Judge Lombardino and who ever has replaced Judge Pratt by next Spring. Construction will start in May on the 8th floor of the Civil Courthouse and those two family courts are expected to move over by late 2014. By the time the winners of the 2014 general election are sworn in on January 1, 2015, all of the family courts should be in the civil courthouse.

I propose that Harris County raise a lot of money by raffling off the chance to push the button and implode the old Family Law Center. Think how many people have suffered in that hell hole over the decades and how they would love to be the one to destroy that building!

Harris County to Get a New CPS Court

The Legislature would not convert any of our civil courts into family courts so our lawmakers as a concession funded a CPS Associate Judge and Court Coordinator. Assuming County Commissioners approve a little additional funding for this AJ, the job will be posted this month and early next year, the Family District Judges will sort through the applications and select the top candidates. Regional Administrative Judge Olen Underwood will actually appoint this AJ. This CPS court will operate in Bonnie Hellums' old courtroom on the second floor of the Family Law Center through 2014.

Who Will Be Appointed to Replace Judge Susan Criss?

Galveston County District Judge Susan Criss retired and resigned early after 15 years of service in order to run for the State Legislature. Governor Perry will now appoint a replacement.



Judge Susan Criss is leaving the bench after 15 years of service to Galveston County.

Harris County Family Court Races Set

The three highest rated family court judges in Harris County will return for new four year terms because David Farr, Judy Warne, and Roy Moore do not have opponents. Judge Lisa Millard is also unopposed. **It is an amazing tribute to these hard working, fair judges that no lawyer from either party wanted to challenge them.**

Denise Pratt now has more than just a grand jury to worry about because she faces four Republican opponents in the March primary. Evidence of renewed Democratic confidence in Harris County is found in the fact that there will be three contested Democratic primary races for family court benches. Here are the 2014 primary candidates for the Harris County family courts:

Court	Incumbent	Republican Candidates	Democratic Candidates
245th	Roy Moore	Roy Moore	
246th	Jim York - retiring	Charley Prine Angelina Gooden	Julia Maldonado Sandra Peake
247th	Bonnie Hellums - retiring	M L (Meca) Walker Melanie Flowers John Schmude	Clinton"Chip" Wells
257th	Judy Warne	Judy Warne	
280th	Lynn Bradshaw-Hull	Lynn Bradshaw-Hull	Allecia Pottinger Barbara J. Stalder
308th	James Lombardino	James Lombardino	Jim Evans Bruce Steffler
309th	Sheri Dean	Sheri Dean	Kathy Vossler
310th	Lisa Millard	Lisa Millard	
311th	Denise Pratt	Denise Pratt Alicia Franklin Anthony Magdaleno Phil Placzek Donna Detamore	Sherri Cothrun
312th	David Farr	David Farr	



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.

Galveston County Goes 100% Republican

No Democrat even bothered to file to run for county-wide office in Galveston County, which means every judge in the county will be Republican after the resignation of Judge Susan Criss and the retirement of Judge Janis Yarbrough.

Republican candidates for the 306th Family District Court to replace Judge Yarbrough are Anne Daring, Jennifer Burnett and Wilfried Schmitz.

County Court No. 3 Judge Kerri Foley (appointed to replace the disgraced, indicted, removed and convicted Judge Dupuy) is opposed in the Republican primary by Byron Fulk, Jack Ewing and Donnie Quntanilla.

County Court No. 2 Judge Barbara Roberts (who almost all attorneys agree is doing a really good job) inexplicably drew a Republican opponent, Jonathan Kieschnick.

The race for the 212th District Court to replace retiring Judge Susan Criss has Republicans Patricia Grady, Keith Gross, George Young and Brett Griffin vying for their party's nomination.

District Attorney Jack Roady is opposed by Phillip Morris.



Attorney Greg Enos



District Judge John Ellisor and County Court No. 1 Judge John Grady have no opponents. District Clerk John Kinard, County Clerk Dwight Sullivan and Probate Judge Kim Sullivan are also unopposed.

Reconsidering the So-Called "Morality" Clause Injunction

(I am going to keep running this article until you click on the link and read my full paper on this subject)

[Click here](#) to download an article I have written on why family court judges and lawyers need to rethink the so-called "morality" clause, which enjoins a parent or conservator from allowing a boyfriend or girlfriend from spending the night when the parent or conservator has possession of the child.

As of March 2012, when United States Census did a supplemental survey on family living arrangements, 15.3 million unmarried heterosexual individuals were in live-in relationships. That is 6.5% of all U.S. adults 18 and over. The Census Bureau reported that 41% of cohabiting couples have children living with them. The majority of Americans under age 30 now report living together before getting married.

The so-called "morality clause" injunction should usually not be ordered because:

1. The act that is being forbidden is not considered "immoral" by the vast majority of Americans. The "American Values Survey" conducted in 2012 of over 2,000 Americans on behalf of *Atlantic Magazine* and The Aspen Institute found that the great majority (69%) of Americans believe that a heterosexual, unmarried couple living together is morally acceptable.
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6. The injunction ignores the perceptions of children and the realities of many single parents' lives.
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An injunction against allowing a boyfriend or girlfriend to spend the night should usually only be ordered when there is evidence that a parent has allowed a "revolving door" of lovers to enter their child's life or the child has actually been harmfully exposed to adult sexual activity.

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Published by attorney Greg Enos

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**Please forward this e-mail newsletter
to everyone on your e-mail contact list!**

Greetings!

A grand jury "no billed" Judge Denise Pratt and declined to bring criminal charges against her arising from my complaint about the apparent backdating of court orders. [Click here](#) to read a *Houston Chronicle* story about this turn of events. I am actually happy in a way for Judge Pratt, because I truly do not want to see her in trouble. I just want her off the bench because of the harm she is doing to families and children every day.

Judge Pratt and her criminal defense attorney, Terry Yates, held an press conference on Friday after the grand jury's decision was announced. [Click here](#) for ABC13's footage of their press conference (this is not what was run as part of the 20 second story at 5:00 p.m. on ABC13). See if you think the press conference went so well for Judge Pratt. You will notice that Pratt would not answer the question about her long delays in making rulings and how those delays effect families. Instead her attorney interrupted with an comment about how crowded all of the courts are.

December 23, 2013

In this issue...

Sherlock Holmes and the Case of the Curiously Dated Court Order

(a fictional, but logical, analysis of perhaps why Judge Pratt was not charged criminally)

Speculation on Why Judge Pratt Was Not Indicted

Judge Lisa Millard to Determine if U.S. Constitution Applies in Texas

Galveston Federal Judge Nominated to Fifth Circuit Court of Appeals



What Does Pratt's No Bill Mean To The Family Bar?

My complaint to the District Attorney asking her to investigate Judge Pratt for apparently backdating court orders



(photograph from Houston Chronicle)

Yates and Pratt failed to mention at her press conference what Pratt was in the middle of doing that very day. Pratt on Monday had over 150 cases on her trial docket and she made all those cases that were not resolved on Monday to appear for "trial" on Friday. So, on Friday, attorneys and parties in over 130 cases appeared and Pratt announced she would dismiss all the cases that were not resolved that day. These were cases that were set for trial, not on a dismissal for want of prosecution docket. Sadly, people who had waited for their days in court saw their cases unconstitutionally dismissed on the very day a grand jury concluded Pratt had not committed a crime. To everyone's amusement however, one attorney at Pratt's docket call Friday said that the parties had reached an agreement but Pratt had appointed an amicus attorney. The only problem was that there were no children involved in the case. Even Judge Pratt had a hard time explaining that one.

Judge Pratt was recused on nine cases earlier in the same week she was no billed. [Click here](#) to read the Houston Chronicle stories about the recusal of Pratt in my law firm's case. [Click here](#) to read about the recusal of Pratt in eight other cases. The cases involving Matt Waldrop and David Brown involved a totally new allegation of a backdated court order that has never even been given to the District Attorney.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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Merry Christmas and Happy Holidays!

generated lot of media attention and courthouse gossip, brought out four primary opponents and a Democrat to run against Pratt and got a long term employee of the District Clerk forcibly retired. Other than making sure all future orders are timely date stamped from now on in the 311th and getting up the hopes of a lot of lawyers and family court litigants, I am not sure I accomplished much.

In fact, my criminal complaint may have been counterproductive because it distracted from the real problem with Pratt. The real problem with Judge Pratt is the way she does not follow the law, ignores parents' constitutional Due Process rights and the rules of civil procedure, tries constantly to override the decisions of loving parents who actually know their children and favors political cronies. All of that is a moral crime and a blight on our family justice system, but it is not a violation of the Penal Code.

A judge should not refuse to accept an agreement made by loving parents who know their children except in very unusual circumstances. Pratt does it all the time and appoints her select few cronies as amicus attorneys over and over to further interfere with the parents' decision-making and to greatly increase the legal costs. A judge should not award \$10,000 in amicus fees without a hearing or evidence or agreement and should not sign an order submitted by the amicus that the other attorneys never saw or had a chance to oppose. A judge should not take away a mother's custody in the middle of a temporary orders hearing in a modification suit without even hearing the mother's case.

A judge should not hear attorney's comments at a short bench conference supposedly to discuss when a hearing will be held in a private modification case and then shock everyone by unilaterally ordering that the three children be immediately taken from both parents and placed in foster care without evidence or even hearing from the parents and then a few days later return the children to their mother after interviewing the children in chambers, Judge Pratt in that same case should not issue temporary orders changing the father's visitation without even conducting an evidentiary hearing!

This amazing judicial misbehavior by Judge Pratt happens all the time and it is simply wrong and the family attorneys and the other judges in Harris County know it. **Any truly conservative, religious, hard core Republican would be offended by a judge ignoring the law, the constitution and common sense in the way Pratt does almost every day.**

We were all hoping that Pratt would be quickly removed because of an indictment, but that is apparently not going to happen.



Not all of my press clippings involve judicial reform. I was proud to serve as the Chair of the annual Interfaith Caring Ministries "Festival of Trees" fundraiser this month. My work with ICM as President of the Board and as a volunteer has been one of the most rewarding activities of my life. ICM is the largest charity helping the poor in the Clear Lake area and was founded 28 years ago by local churches. ICM operates a large food pantry and provides financial assistance to families facing eviction or loss of utilities. The annual Christmas Store this month provided brand new toys and Christmas presents to hundreds of families. **I urge everyone to get involved in a charity and make a difference!**

Sherlock Holmes and the Case of the Curiously Dated Order

The cab ride from Heathrow to Marylebone in the heart of London was long but at least warm as I peered out the window at traffic and buildings flashing past on a gray, wet, bitterly cold December afternoon. I had flown to London in Bruce Baughman's private jet (he thought he was helping me permanently move to another country and was thus more than happy to allow me to use his aircraft). The cab drove briefly on Baker Street past the former locations of such well known landmarks as the Marylebone Work House, the Baker Street Bazaar and Madame Tussaud's Exhibition before turning on to small side street, now known as Robert Adam Street. I paid the cabbie and stepped into the frigid early evening and peered up at the address known as 221 Adam Street in the 1880's (I had long known that Dr. Watson had intentionally changed the street name of the most famous address in London to deter unwanted visitors and protect his landlady's sanity).

It is very unlikely that the Texas Judicial Conduct Commission will ever do anything to Pratt, although every attorney should send in a separate complaint describing each misdeed. A few lawyers have had their motions to recuse granted but the law and Judge Olen Underwood's strict interpretation of the recusal statute are going to make it hard for most attorneys to get Pratt removed from their cases.

The political process will take time and even if Pratt is defeated in the GOP primary or in the November 2014 General Election, she will be in office until December 31, 2014.

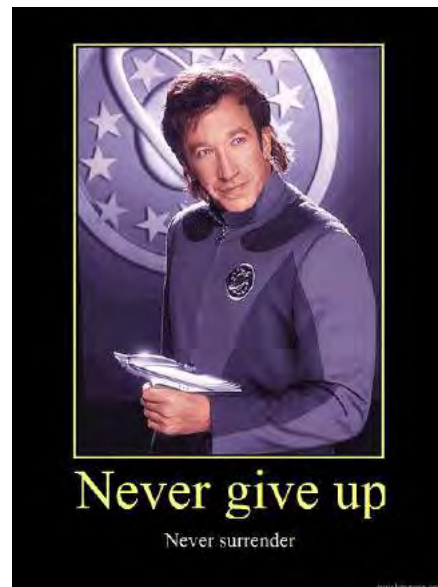
So what does the family bar do now about Pratt?

- We maintain our unity of purpose and our new willingness to stand up for what is right. We cannot lose that spirit that caused so many prominent attorneys to sign the joint letter calling on Pratt to be removed or to resign.
- Every single legal outrage by Judge Pratt needs to be reported publicly and to the Judicial Conduct Commission.
- The District Attorney, when she called me to let me know Pratt had been no billed, said they would look at any new evidence or new cases of potential misconduct. Attorneys with real evidence of potential criminal behavior, including ex parte communications with amicus attorneys, should file criminal complaints or send their information to me and I will do it (if the facts seem to actually support an accusation).
- **We need to call on District Attorney Devon Anderson to seek an independent, special prosecutor to re-examine the evidence I presented and to consider taking those cases to a different grand jury.**
- We all need to work on informing our clients, GOP activists, voters and the media about Pratt's terrible and very unconservative judicial behavior.
- We need to unite behind one of the Republicans running against Pratt to make sure she is defeated in the primary.
- We need to organize respectful and



appropriate demonstrations and acts of civil disobedience to bring attention to what Pratt is doing.

So, we need to stand together and continue to fight for what we all know is right and not let this set back discourage us. There is plenty more we can do. In the end, Harris County families and our family court system will be so much better off because of our efforts. Just remember what we all learned from the classic movie *Galaxy Quest*: **"Never give up. Never surrender!"**



The door was answered by a pleasantly efficient woman who was clearly used to visitors at all times of day and night. I was lead up the famous 17 stairs and shown into the sitting room on the first floor (second floor to us Americans). For a moment, I held my breathe as I took in a familiar scene I had visited so many times in my mind. The curtained bay window, fireplace, bookshelves and chairs appeared just as I had envisioned from my readings. Most breathtaking of all, there, slouched in a red velvet chair with a violin case at his feet, was the man with the one singular mind who could unravel the mystery of Judge Pratt's curiously dated orders -- Mr. Sherlock Holmes. His companion, John Watson, stood with one elbow on the mantle lighting a pipe and observing Holmes and his latest, nervous client, as he had done so many times before.



A long silence ensued during which I felt as if Holmes' piercing eyes were scanning me and deducing my innermost secrets and thoughts. Finally, the doctor interrupted the awkward quiet by asking, "You are attorney Enos from Webster, Texas who sent Holmes the documents on your errant Judge?"

"Yes, yes, none other," Holmes finally spoke as he waved me over to a stuffed chair near the fireplace. "I trust your sick dog is going to survive your absence."

"How could you possibly deduce the man has an ill dog?" stammered Watson.

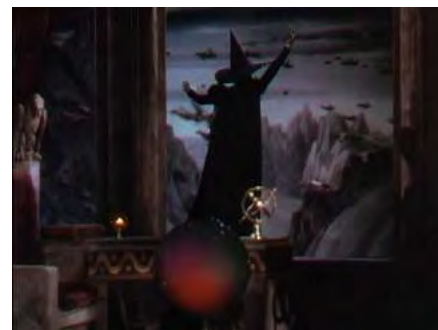
Holmes smiled but did not speak and instead pointed toward a laptop computer on a small side table. My Facebook profile was open on the laptop, as was my recent posting about my sick German Shepard. I chuckled and relaxed immeasurably as I sat on a somewhat lumpy chair just feet from the great detective.

Holmes picked up a stack of documents, which I recognized as the papers I had sent him by Fed Ex as soon as the grand jury's "No Bill" of Judge Pratt was announced. "Why did you send me just documentation of the *Bishop* case when there are many others that caused you to believe this Judge Pratt may have backdated her orders?," Holmes asked.

"I thought the *Bishop* case was sadly illustrative of all of the cases where it appears orders were backdated," I replied.

"This is the case where Judge Pratt switched custody of the children on temporary orders mid-way through the hearing without even hearing the mother's case and the

Pratt is probably going to feel empowered by this "no bill" and I predict things will just get worse in her court. I also predict a backlash against those who have stood up to Pratt. **I know that the flying monkeys are coming for me**, but I always saw that as the inevitable price I would surely pay for sticking my neck out and calling attention to what is not right in the Land of Oz.



"Fly my pretties, fly! Take your army to Webster and bring me that lawyer and his dogs. Do what you want with the others, but I want him alive and unharmed."

one where she awarded the Amicus Attorney \$10,000 in fees without hearing evidence and signed an order for those fees presented by the amicus outside the presence of the other attorneys?" asked Watson. I nodded and he continued. "Surely there is some recourse when a judge so totally ignores proper procedure and due process?"

This time I shook my head. "Sadly, such behavior can only be addressed on an appeal or mandamus action, which most parents in such cases cannot afford. That behavior is not even usually grounds for recusing the judge, as bad as it is," I said.



"Very well," Holmes interrupted. "Let us review the facts." I explained the *Bishop* case (no. 2003-55818) was (and still is) a very contentious child custody modification case in Judge Pratt's court.

Two of the attorneys involved in the *Bishop* case had told me stories of the sort so often told about Judge Pratt. The temporary orders hearing in this case was heard over several days because Judge Pratt would show up late and stop the proceedings early, so the parents and lawyers had to return on later days to resume the hearing. One attorney told me that everyone involved in this case appeared at one of the hearing dates at the time set by Judge Pratt, but waited over two hours for the judge to appear. At one point, the lawyer overheard the clerks saying that the judge was in the back watching tennis on the television.

Pratt heard evidence in the case on January 15, 2013, February 1, 2013, March 1, 2013, April 1, 2013 and April 2, 2013 according to an order signed by Judge Pratt on April 4, 2013. On March 1, Judge Pratt had orally ordered that custody of the children would be switched from the mother to the father and that the mother would only have visitation through the SAFE supervised visitation program. This ruling was made in the middle of the hearing before the mother had presented her case. The mother's attorney told me she checked regularly with the Court Coordinator between April 2 and May 7, calling or going to the court several times a week to see if Judge Pratt had signed an order that said what she had orally ruled on March 1. Each time, the attorney was told that the judge had not yet signed an order.

On May 7, 2013, the Amicus Attorney was sent a signed order entitled "Interim Orders" via fax from Judge Pratt's court dated and signed by Judge Pratt, "April 1, 2013." The first page of that order sent by fax does not have a file stamp on it. The District Clerk's web site displays a version of the same order that is file stamped "April 1, 2013" and is initialed by a deputy clerk. That clerk did not start working in Judge Pratt's court until April 24, 2013.

The parties and attorneys were in front of Judge Pratt on April 1 and apparently April 2, 2013, yet Judge Pratt did not tell them that she had supposedly signed an order on April 1 nor was a copy of that order given to the parties and attorneys on either day. The mother's attorney on April 3 filed a motion to switch the children back to the mother and a motion to prevent the amicus attorney from being present when the judge interviewed the children in chambers. Judge Pratt on April 4 signed the order about the amicus and signed an order partially granting the mother's motion filed April 3 as to counseling and injunctions but not as to switching the children back to the mother (Pratt hand wrote changes on the order the mother's attorney had submitted). Again, Pratt did not inform the attorneys that she had supposedly signed the Interim Orders on April 1.

It should also be noted that on May 31, 2013 (according to the District Clerk's web site), Judge Pratt signed an order awarding the Amicus Attorney another \$10,000.00 in attorney's fees without a hearing or evidence. That order is signed only by the Amicus Attorney "approved as to form only" and there are not even signature blocks for the other attorneys. Oddly, that order is hand dated and signed by Judge Pratt

Speculation on Why Judge Pratt Was Not Indicted

Pratt's no true bill by the grand jury means that the grand jury did not find probable cause for an indictment of a crime, in this case tampering with a government record. Double jeopardy does not attach to a no bill and Pratt could still be charged.

It appears that the District Attorney's Public Integrity Unit talked to a lot of attorneys, but their efforts were cloaked in secrecy and so it is impossible to know what the DA's office did or how hard they really tried. Many attorneys are already buying in to the conspiracy theory that "the fix was in" based on these facts:

- A Republican D.A. was asked to investigate a Republican judge.
- The D.A. and judge share the same political consultant.
- Pratt's former clerk, Marilyn Epps, was not offered an immunity deal in exchange for her testimony.
- Generally, D.A.'s are almost always able to get indictments from grand juries if the D.A. really wants one.
- The D.A. largely controls what evidence the grand jury hears and what the grand jury is told the law is.
- We do not know what was actually presented to the grand jury, but I know I was not called as a witness and I am the person who filed the complaint. I could have explained the chronology of events and talked about why no reasonable attorney would ever believe Pratt actually signed those orders when she claimed to.

It appears that Pratt's defense was predicated on blaming her clerks. Apparently, Pratt claimed she actually signed court orders on time, gave them to her clerks and then the clerks waited months to enter the orders in the system and inform attorneys that orders had been issued. Unless the Grand Jury was explained how paper work is handled in the 311th and shown a detailed chronology of events, the Grand Jury may have decided it was all the clerks' fault or at least that there was not enough evidence that Pratt backdated her orders. My attempt at creative writing in this issue shows how the greatest logician of all time would explain why a grand jury could legitimately find it lacked proof of a crime in this case.

I myself am willing to believe the DA's Public Integrity Unit does have integrity and really did all it could to investigate Pratt. I do not think "the fix was in." However, I do believe that D.A. Anderson should have considered asking for a special prosecutor under the circumstances, for the very reasons that so many now doubt just how

"May 16, 2013" but is file stamped "March 8, 2013" and initialed by the same clerk who did not start work in Pratt's Court until April 24, 2013. No date of hearing is filled in on the order presumably because no hearing was held. It is not clear how Judge Pratt could legally sign this order without notice to the parents, a hearing and evidence. It is also not clear how this order came to be filed and signed only by the Amicus Attorney. It is very unusual that the order was prepared without signature blocks for the attorneys representing the parents. That same Amicus Attorney hosted a fundraiser for Judge Pratt at the Wedge Restaurant in August 2013.

Holmes then inquired about the procedure followed when court orders are signed. I explained that the judge signs the orders at her bench or in her chambers and, at that time, a hand written docket entry was made by the judge (they are now typed into the computer system). The signed order then went to the clerks who: (1) entered information about the order in the computer, and (2) sent the order to be scanned before it is returned to the court's paper file.



Holmes sat in silence for several long moments slowly drawing on the pipe Watson had lit and handed him while I had summarized the case. Holmes' eyes were closed and his forefinger tapped slowly on his forehead. Finally, his eyes flew open and he delivered his logical analysis:

- It is unlikely that Judge Pratt would sign an order on April 1 if the hearing did not finish until April 2, yet two orders signed by Judge Pratt on April 4 say the hearing concluded on April 2. However, perhaps there was a typo and no hearing was held on April 2 or perhaps Pratt signed the order on April 2 and accidentally wrote April 1. When discussing Judge Pratt, it seems a waste of time to discuss what a judge would normally do. The point is what this unusual judge did and when.
- If the parties and attorneys were in front of Judge Pratt on April 1 and April 2, one would have expected the judge to have informed the parties that she was signing an order. Likewise, if Judge Pratt signed two additional orders involving this case on April 4, one would have assumed that would have been opportunity to inform the lawyers that the very important "Interim Orders" had been signed on April 1. However, expecting logical or proper behavior from this judge is apparently a little too much to ask for. While Pratt should have told the attorneys she had signed an order, the fact that Pratt acted oddly and did not tell them does not necessarily prove when she signed the order.
- If Judge Pratt really signed the order on "Interim Orders" on April 1, 2013, why was it not faxed to the Amicus Attorney until May 7, 2013? Presumably, Judge Pratt does not do her own faxing. Perhaps she gave the order to a clerk and the clerk set it aside and did not get to it until five weeks later. While it may be sloppy work, the delay in faxing the order is not itself proof of when the order was signed.
- How could it possibly be that the version of the order on "Interim Orders" faxed to the Amicus Attorney on May 7, 2013 does not have the clerk's file stamp that says "April 1, 2013" and yet the version of this order imaged by the District Clerk clearly has the April 1 file stamp on it? If the order was file stamped on April 1, then it would have had the file stamp on it when it was faxed on May 7. But, perhaps, a copy of the signed order was given to the clerk to fax and the file stamped order was not faxed. If one assumes the clerk rolled back her stamp and did not really stamp "April 1" on the order until after it was faxed on May 7, then the lack of a file stamp on the fax is explained.
- If the deputy clerk who initialed that file stamp on the order on "Interim Orders" did not start working in the 311th until April 24, 2013, how could she have file stamped it on April 1? Presumably, the clerk rolled back her file

seriously the DA was going after Pratt.
The experienced family law attorneys who read my detailed criminal complaint and who know how the court system works, simply cannot believe Pratt was not charged with a crime.

Judge Lisa Millard to Determine If U.S. Constitution Applies in Texas

My colleague Jared Woodfill is both a smart politician and a smart lawyer. Woodfill is the Harris County Republican Party Chair and he faces an opponent in the GOP primary. It thus makes sense for Woodfill to throw his party base some bloody red meat and attack any hint that gay marriage will be tolerated in our Bible thumping, intolerant state which will surely soon make the Duck Dynasty patriarch our official State Philosopher.



Jared Woodfill, Republican visionary defending us all from the gay menace.

Woodfill filed a lawsuit seeking to stop the City of Houston from providing insurance benefits to same sex "spouses" married to city employees in states which recognize gay marriage. Woodfill cited the Texas Family Code Sec. 6.204, the Texas Constitution Art. I, Sec. 32, and the City of Houston Charter. [Click here](#) to see the lawsuit filed by Woodfill. [Click here](#) to read the TRO signed by Judge Lisa Millard.

The case was assigned to a family district court because Woodfill cleverly alleged violation of Family Code Sec. 6.204, which is the Texas Defense of Marriage Act. Woodfill's lawsuit does not explain how the U.S. Supreme Court's decision striking down the federal Defense of Marriage Act would not override state law or the state's constitution, as is usually the case (even in Texas).

Judge Millard is going to have to address whether Woodfill's clients have standing to attack the City of Houston policy. If the plaintiffs have standing, Judge Millard will then have to decide the issue the U.S. Supreme Court did not address when it struck down DOMA and determine if a state's refusal to recognize same sex marriages violates the Equal Protection Clause of the U.S. Constitution. This case is in the good hands of a wise judge who has no opponents and faces no political pressures.

stamp and that is why she was forced to resign. The question is when did the clerk do her stamping and why did she violate clear protocol and roll her stamp back? Did the judge ask her to do so or did the clerk do it on her own thinking her file stamp needed to match the handwritten date the judge had put on the order? If the signed order was found in some neglected stack of documents the clerks had missed or ignored, could that explain why the clerk rolled back the date stamp to "cover up" for a clerk's error?

"But Holmes," cried Watson, "Surely all of this evidence shows that more likely than not that Judge Pratt backdated this order, particularly when one considers all of the other cases with similar circumstances which all seemed to have occurred at roughly the same time! Could these extraordinary series of mistakes and coincidences have happened over and over in the same court?"

Holmes coolly dismissed Watson's emotional outburst with a wave of his hand. "Logically, my dear chap, it could have happened in a way that did not involve backdating. Judge Pratt, signed the order but did not tell anyone (including her own court coordinator) and either kept the signed order or gave it to the clerk and the order did not come to light until 5 weeks later, it was faxed and then file stamped by a clerk who improperly rolled back the file stamp to April 1. Without proof that some other scenario occurred, that sequence of events, however extraordinarily unlikely, is entirely possible and thus there was no proof beyond a reasonable doubt the judge committed the crime of tampering with a government document. The very questionable behavior involving the order for the amicus fees does not itself prove that the judge backdated another order in the same case."

"Surely, it is all proof of improper and unethical and incompetent conduct by the judge," blustered Watson.

"Indeed it is," I sighed in resignation, "But, in Texas it is not a crime for a judge to be lazy, to not follow the law or procedures, to delay rulings, to run a disorganized courtroom or to award large fees to her campaign contributors without hearing evidence."

Holmes was still not finished however. "The key would be the clerks who handled these orders and perhaps what was written on the court's docket sheet. Bring me those clerks and the docket sheet and perhaps I will have a different answer for you."

I shrugged in frustration. "I do not know if any or all of the clerks testified to the grand jury and I assume the clerk who initialed the false file stamp and had to resign asserted her Fifth Amendment rights and did not testify. I understand that no immunity offer was made by the D.A. to that clerk and I am at a loss to understand why. We simply do not know what the clerks know and what, if anything, they told the grand jury."

"So I assumed," muttered Holmes. "Let us ask good Mrs. Watson to bring us some tea and we can discuss why an independent prosecutor was not sought given that the District Attorney is of the same political party as Judge Pratt and utilizes the same political consultant as Pratt in her re-election campaign." And so our discussion on the case of the curiously dated court order left the realm of logic and headed into more philosophic areas of how the world should be, not how it is.

**** THE END ****

Notes:

1. This fictional exercise in logical analysis shows how a grand jury which really was presented all of the available evidence and provided a detailed explanation of how family courts handle orders, could decide that there was not enough proof to justify charging a judge with a crime. I wrote this for the conspiracy theorists who are so sure the D.A. did not really try to get Pratt indicted. The great unknown of course is what exactly was presented to the grand jury, which clerks testified, what were they asked and how was the paper work flow in the 311th explained. Given grand jury secrecy, we will never know the answers to those questions. **I filed my complaint with the District Attorney because the evidence certainly made it appear that Judge Pratt had backdated court orders and I knew the D.A. was far more capable of investigating and getting to the truth than I am.** If Pratt really did not commit a crime, then she deserved to be not billed and not charged.

2. The order in question in the *Bishop* case supposedly signed on April 1, 2013 is now on the District Clerk web site in two forms: the version with the clerk's

Federal Judge Costa Appointed to Fifth Circuit

The relatively new federal judge for Texas' Southern District Court in Galveston, Gregg Costa, has been appointed by President Barack Obama to serve on the 5th Circuit Court of Appeals. The White House announced the nomination late Thursday.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



file stamp that clearly was not stamped on April 1 and a different version without the file stamp and with fax confirmation pages. It is as if after my complaint, that someone found the version of the order without a bogus file stamp and then somehow filed that with the District Clerk. It is not clear to me how the District Clerk would accept for filing a document that is not file stamped and which was added seven months after it was supposedly signed. A curious case just got curiouser!

Attorney Greg Enos





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***"Together, attorneys can
improve our family courts!"***

In this issue...

Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.

[Important New Rules Will Change
How We File and Serve Documents
and Calculate Deadlines](#)

Judge Denise Pratt is using her criminal defense attorney as her spokesman and is lying about how and why she illegally and unconstitutionally dismissed over 600 cases on December 30 simply to make her "statistics look better."

The Houston Press called Pratt's latest move "bat shit crazy." [Click here](#) to read that story. *The Houston Chronicle* ran another front page story in its Sunday edition today about Pratt's "New Year's Eve Massacre." [Click here](#) to read the *Chronicle* story.



Pratt's "New Year's Eve Massacre" Dismisses Hundreds of Cases

Here is one example of what Judge Pratt did to hundreds of cases on December 30. Cause number 2012-06882 is a post-divorce suit to address undivided property pending in the 311th since February 2, 2012. The case has been set for trial seven times and six times it was continued by Judge Pratt. On December 2, 2013, Judge Pratt continued the trial until January 27, 2014 and told the attorneys that the case had to go to trial in January or she would dismiss it. On December 30, 2013, along with hundreds of other cases, this lawsuit was dismissed by Judge Pratt without notice or hearing. The attorneys received notification that the case was dismissed for "want of prosecution." The signed order dismissing the case is not imaged and no one has seen it. Is the order stuck in a backlog in imaging or is it

Pratt, through her criminal defense lawyer, Terry Yates, is again blaming the clerk's office for Pratt's own misdeeds. This time, Pratt claims it was the fault of either the District Clerk's office or the state-wide computer system used for electronic filing that hundreds of attorneys did not receive notices that their cases in the 311th were set to be dismissed on December 30. The problem with that **BIG FAT LIE** is that those Dismissal for Want of Prosecution notices (which must go out before cases are dismissed) are not generated by the e-filing system or by the clerks. The notices are supposed to be created by Pratt's Court Coordinator via input into the local JIMS computer system and then sent out by the Office of Court Administration. Pratt's court and the District Clerk have confirmed that Pratt dismissed hundreds of cases on December 30 and no judge in her right mind would dismiss cases without

making sure that the attorneys had been given notice. It is clear that no one had advance notice and we know Pratt dismissed the cases, so that "mistake" cannot be blamed on clerks or a computer malfunction. It was a judicial malfunction. It is an irresponsible lie to blame anyone but Judge Pratt for this disaster.

If there was some big computer glitch, why would it just happen in Pratt's court? If Pratt spent the entire day signing dismissal orders, how could she not realize that those cases were not set on any sort of dismissal docket and that no notice had been provided the attorneys and parties? Can she really blame her clerks for that?

Pratt dismissed cases that were settled and simply waiting for her to sign the final orders Associate Judge Newey had approved. She dismissed cases set for trial and she even dismissed cases where she had already been recused!

Pratt dismissed many cases that had temporary orders, including some where she had changed custody or restricted a parent's access to a child, presumably because Pratt thought she was protecting the child. How is it possible that Pratt did not realize that by dismissing those cases, she was ending her own temporary orders and returning the child to the parent Pratt thought was so dangerous?

This impossible-to-explain action by Pratt is the "triple whammy of judicial stupidity" because:

1. Pratt ignored the law and Rules of Civil Procedure and violated hundreds of families' constitutional Due Process rights when she dismissed the cases without notice or a hearing. The right to fair notice before a lawsuit is dismissed is such a fundamental and simple legal concept, that it is almost impossible to conceive that Pratt did not understand it.
2. Pratt touts herself as a "protector of children," yet her dismissals actually endanger children because the dismissals end the temporary orders Pratt put in place to protect children in dozens of cases.
3. Pratt has received more bad publicity in the last few months than all other Harris County Judges combined in the last decade. She faces four challengers in the Republican primary in March. What was she possibly thinking when she sat in her office all day on December 30 and signed order after order dismissing these hundreds of cases? Yes, her court is more backlogged than any other district court in Harris County. But, did she really think that "making her statistics look better" by illegally and unconstitutionally and unwisely dismissing hundreds of cases was really going to help her? This amazing event proves just how out of touch with reality Pratt is.

Here is the real mystery I want solved: where are the hundreds of orders Pratt signed on December 30 dismissing these cases?

As of today, they are not imaged and no lawyer has been able to get a copy. Did she actually sign orders? Were they backdated as well? What the hell is going on and when is someone going to step in and protect the families of Harris County from this nut?

If you notice that my tone in this newsletter is not as restrained as usual, there is a reason. I have tried to campaign for reform of our family courts based on facts and fairness and attempted to do so while remaining respectful of our hardworking judges. However, the problem we all have with Judge Pratt has simply gone far way beyond bad policies or unwise decisions. **We are dealing with what I am sad to say appears to be a combination of laziness, mental illness and ignorance of the law cloaked in the awesome power of a family court.** We as the family bar must continue to stand up against her and do what we can to protect the families of Harris County by getting Pratt out of office. Many attorneys have joined me in this effort. One started a Facebook page called "Stop Denise Pratt NOW." [Click here](#) to see that Facebook page (which you need to LIKE).

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look

in a folder under a Whataburger bag on the front seat of Pratt's new car? Does the order even exist? Now, this petitioner must spend hundreds of dollars for her attorney to get the case reinstated back on Pratt's overcrowded docket.

Apparently, Judge Pratt was concerned that her court has more cases pending for more than a year than any other district court, so she decided to make her statistics look better by dismissing 662 cases that were over a year old. All of the dismissals are dated December 30, 2013. December 31 is the date used for courts' statistical reports.

Rule 165a states that the court must send notice of its intent to dismiss and the date and place of the dismissal hearing to the parties or attorneys. The rule describes a dismissal hearing. Pratt followed none of these procedures when she dismissed the hundreds of cases on December 30.

All attorneys have at some time received DWOP (Dismissal for Want of Prosecution) notices during our careers that told us to appear on a specific date and time and explain why our old cases should not be dismissed. We all know to file a motion to retain and appear at the hearing to keep our cases from being dismissed.

Pratt herself has presided over many DWOP dockets as a judge and she attended them when she was a *Greensheet* lawyer, so she should have known exactly how this all works.

On December 30, when Pratt sat alone in her chambers signing hundreds of dismissal orders, surely she wondered why her courtroom was not full of attorneys at a DWOP docket. Or, did she even sign orders? Did Pratt just put check marks on a printout of old cases and tell her coordinator to input in the system that the cases were dismissed and send out dismissal notices? Did Pratt not realize that some of the cases she was dismissing had been settled and the final orders were sitting on her desk waiting for her to simply sign them?

Did Pratt consider what she was doing to the hundreds of families and children effected by these dismissals? Many of these dismissed cases had temporary orders made by Pratt keeping a parent away from a child or limiting visitation or requiring very specific behaviors because Pratt thought it essential to protect the child. Did Pratt not understand that dismissing those cases meant that her temporary orders went away, leaving the children unprotected by court order?

Does Pratt care or understand what financial and emotional toll her dismissals would impose on hundreds of parents? Why should hundreds of litigants have to be charged by their lawyers to draft and file

after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm

New Rules Will Change How We File and Serve Documents and Calculate Deadlines

The Texas Supreme Court enacted amendments to the Texas Rules of Civil Procedure effective January 1 that will have a big impact on family law attorneys. We all will need to calendar deadlines differently and our pleadings and orders are going to look different. Service by e-mail is now allowed and service by delivery services is now recognized. [Click here](#) to read these new rules.

These big changes in rules include:

1. Mandatory Electronic Filing. New Rule 21(f) requires attorneys in civil cases to electronically file court documents "in courts where electronic filing has been mandated." [Click here](#) for a list of counties which currently require electronic filing. E-filing is mandatory in Harris and Fort Bend Counties and permissive in Galveston, Brazoria, Montgomery and Chambers Counties. Electronic filing will be mandatory in all Texas counties by 2016. [Click here](#) for a chart that compares the prices and services of the various e-filing service providers.

2. E-filed documents must be in searchable PDF format. Electronically filed documents are required to be in text-searchable PDF format (most documents scanned at the copier are not in this format) per Rule 21(f)(8)(A). Electronic documents "must" be directly converted to PDF rather than scanned, if possible. Rule 21(f)(8)(B). Recent versions of Word and Word Perfect allow you to convert a document to searchable PDF from within the word processor. Some e-filing service providers, such as ProDoc, can convert scanned PDF documents to searchable PDF as can the full version of Adobe Acrobat.

3. Electronic Signatures. Rule 21(f)(7) states that electronic signatures can either be an electronic image of the signature or a "/s/" followed by the typed name on the same line. Example: /s/ Greg B. Enos.

4. Service By E-mail. Rule 21a(a) requires that documents filed electronically with the court must be served electronically through the electronic filing manager if the attorney or party has an e-mail address on file with the electronic file manager. If the opposing attorney does not have an email address on file with the electronic file manager, documents filed electronically with the court can be served using any other approved method. Documents that are not filed with the court (such as discovery) can now be served via e-mail, commercial delivery service, in person, by mail or fax or by "such other manner as the court in its discretion may direct."

5. Signature blocks on pleadings must include the email address of attorneys or pro se litigants. Rule 57.

6. Service by Delivery Service. Rule 21a(a)(2) now recognizes service by "commercial delivery service" as an acceptable form of service. This would include FedEx but probably also your local courier service which is "commercial" if they charge you.

7. Service by Fax No Longer Extends Deadlines by 3 days. The Texas Supreme Court revised Rules 4 and 21a to remove the provision that added three days to any deadline when service of the document was made by fax. When receiving service via fax, the applicable response deadline is simply what the Rules prescribe without any three-day addition. The three-day extension of a deadline authorized in Rule 21a(c) now only applies when service is accomplished by old fashioned snail mail.

8. When is service complete? Rule 21a(b) says that service by mail is effective upon deposit of the postpaid, properly addressed document in the mail. This

motions to reinstate and attend hearings to get their cases back on the docket? The worry and frustration and bewilderment Pratt has caused for so many Harris County citizens is staggering.

Even the attorneys who make a living off unnecessary amicus appointments and the high dollar big shots who are awarded such big fees by Pratt now wonder what the hell she was doing on December 30, because their cases got tossed as well.

Pratt's fellow Republican judges who face opponents in November cannot believe she would deliver the Democrats yet another excuse to trash all Republican judges and accuse them all of being as ignorant and uncaring as Pratt.

Here is what is being done in response to this latest Pratt disaster:

1. Vote in the HBA Judicial Preference Poll that is going on right now.
2. Attorneys are filing individual complaints with the Commission on Judicial Conduct for each case dismissed on December 30. Let's see if they can ignore a few hundred complaints! [Click here](#) to download a complaint form.
3. A public demonstration is being planned for Pratt's court to demand a truthful explanation for her New Year's Eve Massacre and to request that all of the cases be reinstated without any motions from the innocent parties she tossed out of court. We will also demand to see copies of the orders Pratt supposedly signed on December 30 dismissing the cases.
4. Attorneys are getting the word out to Republican activists and voters about this disgraceful judicial behavior.
5. Family law attorneys need to get behind one of the Republican candidates so that Pratt loses in the March 2014 GOP primary. Even if you hope that Democrat Sherri Cothrun eventually wins in November, we need to actually donate money to Ms. Franklin, or Mr. Magdaleno or Ms. Detamore (Phil Placzek is not actively campaigning for the 311th, even though his name remains on the ballot),

"mailbox" rules has now been extended to the newly allowed service by commercial delivery services. Service by fax is complete upon receipt. As before, a fax received after 5:00 p.m. local time of the recipient is deemed served the next day.

Electronic service is complete upon transmission to the serving party's electronic service provider. Rule 21(f)(5) says that a document filed with the court electronically is timely filed if it is electronically filed at any time before midnight (in the court's time zone) on the filing deadline. If a document is filed electronically on a Saturday, Sunday or legal holiday, it is deemed filed on the next day that is not a weekend or holiday.

9. Sensitive Data Must Redacted from Court Filings. A new Rule 21c defines "sensitive data" and prohibits its inclusion in any document filed with the court unless specifically required by statute, court rule, or administrative regulation. Sensitive data includes driver's license numbers, passport numbers, social security numbers, tax identification numbers, bank account numbers, credit card numbers, or a minor's name, address or birth date. Sensitive data must be redacted prior to filing, but the filing party must retain a copy of the unredacted version. If a document containing sensitive data is improperly filed, Rule 21c does not permit a clerk to refuse to file the document. But, the rule does allow a clerk to give the filing party a deadline to resubmit a redacted, substitute document. The prohibition of sensitive data in Court filings does not apply to wills and documents filed under seal. This new rule will require family lawyers to stop using the names of minors in case captions and in pleadings. Presumably, we should always be using a child's initials. However, Texas Family Code Sec. 102.008(b) specifically states that a petition in a suit affecting the parent child relationship "must include: ...(2) the name and date of birth of the child..." New Rule 21c(d) requires notice to the clerk if a document must be filed that contains sensitive data. Family Code Sec. 102.008(a) says that SAPCR pleadings shall be entitled "In the interest of ___, a child." That section does not say the child's full name must be used so presumably the child's initials can always be used in the caption. Rule 21c would apply to affidavits we often file along with pleadings as well as exhibits to pleadings. Business records filed with affidavits with the clerk under Evidence Rule 803(6) or 902(10), such as school, medical or financial records would be filled with information that must be redacted.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos





*The International Journal on the
Reform of Family Courts*

The Mongoose

Published by Greg Enos

Issue: No. 34

January 22, 2014

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***"Together, attorneys can
improve our family courts!"***

In this issue...

Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.

[A District Clerk Problem Even Worse
Than Judge Pratt?](#)

[Upcoming Campaign Events](#)

[The Pratt List of Shame: Attorneys Who
Donated to the Worst Judge in Harris
County History](#)

[Counting Forward Instead of Backwards
to Calculate Pre-Trial Deadlines That Fall
on a Weekend or Holiday](#)

[Basics of Presenting Evidence 101](#)

Congratulations to Newly Board Certified Family Law Attorneys

These Houston attorneys just became Board Certified in Family Law by the Texas Board of Legal Specialization:

Ms. Sara Elizabeth Bloome
Ms. Katie Ann Custer
Mr. John Sanford Powell, III (*Pearland*)
Ms. Lorie Marie Robinson
Ms. Diane Marie St. Yves
Ms. Barbara Jean Rice Stalder

Each attorney can now charge more per hour and expect to be asked to contribute more to political campaigns!

I have filed another criminal complaint against Judge Denise Pratt. This time I allege that she committed the crime of tampering with a government record hundreds of times when she made false entries in government records (which is defined to include a court order), as part of her "New Year's Eve Massacre," when she dismissed hundreds of cases without notice or hearing.

[Click here](#) to read my criminal complaint.

[Click here](#) to see the Penal Code Statute it appears Judge Pratt violated.

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Study the Dismissal Order below in cause no. 2012-06882 and count how many false statements you can find. This case had been reset for trial six times by Pratt and in December she set the case for trial in late January and told the attorneys the case would be dismissed if it did not go to trial on January 27. Then, as part of her "New Year's Eve Massacre," Pratt dismissed this case and hundreds of other cases using identical orders simply to make her court's statistics look better. No notice of a dismissal docket was sent to the attorneys. There was no dismissal docket even held.

FILED
Chris Daniel
District Clerk
DEC 31 2013
Time: 9:56
By: KR
Harris County, Texas
Deputy

NO. 2012-06882

P-1
EPO
3

VS. Shear
Shear

§ IN THE DISTRICT COURT
§
§ 311TH JUDICIAL DISTRICT
§
§ HARRIS COUNTY, TEXAS
§

DISMISSAL ORDER

BE IT REMEMBERED that on the ____ day of _____ this matter came on to be heard, the above numbered and styled cause, where all parties were given notice of the setting date and that failure to appear would be grounds for dismissal, and there being no announcement at the call of the docket, or for some other reason, the Court finds that this cause should be dismissed for want of prosecution.

It is therefore ORDERED that the above numbered and styled cause be and is hereby DISMISSED FOR WANT OF PROSECUTION.

All costs of court are taxed against the party incurring the same.

Signed: DEC 30 2013

D. V. Pratt
Judge Presiding
Denise V. Pratt

Pratt clearly made a false entry in this court order when she said notice had been sent and there was no announcement at the call of docket when there was not a docket call. Texas Penal Code Sec. 37.10(a) says a person commits the crime of Tampering with Governmental Record if he: "(1) knowingly makes a false entry in... a governmental record..." Sec. 37.01(2)(A) defines a "Governmental record" to mean, "anything belonging to, received by, or kept by government for information, including a court record." A "court record" is defined in Sec. 37.01(1) as a, "decree, judgment, order, subpoena, warrant, minutes, or other document issued by a court of...(A) this state..."

This crazy situation is like a pastor at a mega-church sitting in his office and claiming he just conducted marriages of 631 couples and filling out 631 marriage licenses when in fact the church was empty and no marriages took place. That insane pastor would be guilty of tampering with a government record because he knowingly made false entries in a government document. That is what Pratt did, except she endangered hundreds of children who were protected by temporary orders in those cases she dismissed.

We have all been to dismissal dockets and Pratt has even conducted them. The courtroom is full of dozens of attorneys who must wait hours often for their turn to say why their cases should not be dismissed. There is no way Pratt did not know that a dismissal docket had not been held. The dockets for her court for December 30 and 31 clearly did not include a dismissal docket.

Pratt cannot rely on Harris County Local Rule 3.6 for the Civil District Courts (as she did at a recent Republican luncheon) because, even if that rule applies to a family court, the rule merely says cases are "eligible for dismissal for want of prosecution" if the case has, "been on file for more than eighteen months and [is] not set for trial." Pratt still had to follow the procedures required by the Rules of Civil Procedure and Due Process before she could dismiss cases and she dismissed hundreds of cases that she herself had already set for trial.

Thanks to this judicial insanity, more and more Republicans are calling on Judge Pratt to resign and also spreading the word that she should be defeated in the March primary. [Click here](#) to read the influential Big Jolly Blog that really says why conservative Republicans should be so embarrassed by Pratt.



Upcoming Campaign Events

I am going to try to post notices for upcoming campaign functions for all races in Galveston County and family court races in Harris County. Candidates: please send me your notices and I will help get the word out and **please stop holding secret exclusive events for just a few big fat cats that us little people are not invited to!**

Party to Re-Elect Kim Sullivan
Galveston County Probate Judge
January 23, 5:30 pm - 8:30 pm
Palisade Palms
801 East Beach Drive, Galveston

The Pratt List of Shame: Attorneys Who Donated to the Worst Judge in Harris County History

Candidates have filed their reports of political contributions for the period July - December 2013 and we now know who contributed to Judge Pratt's campaign. The real questions is, "Why would anyone who cares about justice or fairness or families or children contribute to Pratt?" We all know the answer unfortunately in our current electoral system. Attorneys contributed to Pratt not because she is a good (or even mediocre) judge. Most attorneys (and some forensic CPA's) gave Pratt money so they could have influence or at least hopefully work on an even playing field.

I am guessing that most of these contributions were made before I filed my first criminal complaint against Pratt and suddenly most folks realized she was in big electoral trouble. However, at a seminar

[Click here](#) to read the full article entitled "Judge Denise Pratt and political payoffs" by Republican David Jennings that begins:

Judge Denise Pratt is incompetent and should resign or be removed from office. And since it is too late for her to remove her name from the Harris County Republican Party Primary ballot, voters should reject her and put her out to pasture.

[Click here](#) to read the latest front page Houston Chronicle story about Pratt's New Year's Eve Massacre. [Click here](#) to read the Houston Chronicle political blog about my call for an independent prosecutor instead of her fellow Republican Devon Anderson.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm

A District Clerk Problem Even Worse Than Judge Pratt?

I am a big fan of District Clerk Chris Daniels and I hate it when Judge Pratt and her criminal defense attorney try to distract reporters and voters by trying to blame Pratt's horrible decisions on her clerks. However, I have uncovered a Pratt-related problem with the District Clerk's office that may be even scarier than what is happening in the 311th. I brought this issue to Chris Daniel's attention and as usual he got all over the problem and within a few hours had an answer as to why it happened and explained how it was being fixed. He reports it is an isolated problem that just happens to involve dozens of the dismissal orders Pratt signed at the end of December.

Here is what I discovered that was so scary: Dismissal orders were imaged and connected to the wrong cases. This meant that if you went to Cause no. 2007-70921 in the District Clerk's web site and clicked on the 12/31/2013 Dismissal Order you called up an order from a completely different case. It was a dismissal order from No. 2008-25788. If you went to that case on the web site you saw entries for two different "Motions for Post Judgment DWOP" (improperly named). When you clicked on those two images in 2008-25788 you called up dismissal orders from 2004-41079 and 2012-23612A. When you went to 2004-41079 there was no entry at all about a dismissal, so the attorneys in that case would not know their case had been dismissed. No. 2012-23612A had an image of a dismissal order from a completely different case, 2007-22424A. And so it went... dozens of cases with the wrong orders imaged in the wrong cases.

Mr. Daniels says the errors arose from the processing of two batches of orders that all came from the 311th. It appears that the problem is now fixed. However, my question is how did this happen and why did it take me to discover the issue and bring it to the District Clerk's attention? We are now totally dependent on the District Clerk's web site to see the court's file because there is no paper file any more. How do we know that other orders have not been mis-connected to the wrong cases or not imaged at all? The coding and imaging of motions we are all forced to file via e-filing is done by our staffs in our offices and presumably a clerk checks what we enter before it goes onto the District Clerk's website. However, the coding and imaging of orders and renditions done by clerks at the courthouse must be

last weekend, Pratt's minions were still trying to solicit contributions for her floundering campaign.

It appears that some of Pratt's total contributions exceeded the amount allowed by law. The Texas Ethics Commission website says, "A judicial candidate may not accept political contributions from a person that exceed certain limits in connection with an election. The contribution limits are: ...\$5,000 for candidates for courts of appeals, district courts, statutory county courts, or statutory probate courts if the population of the judicial district is more than one million..."

Here is the **LIST OF SHAME** of those who contributed to Judge Pratt in amounts over \$1,000:

Bruce Baughman \$3,000
Shannon Boudreaux \$5,581 *
Claudia Canales \$1,000
Rose Cardenas \$2,000
Cervantes & Cervantes, PC \$2,000
Christine Jonte \$1,000
George Clevenger \$4,134.22
Farias Law Firm \$1,000
Ronnie Harrison \$3,000
Harrison Law Office, PC \$5,500 *
Law Office of Robert Hoffman \$1,250
Ronald Hunter \$1,500
Joe Indelicato \$2,000
Jacob, Fritsch and Ramos PC \$5,000
Ricardo Ramos \$3,200
John Grubb \$2,000
Anne Kennedy \$1,350
Harold Levine (Felderman Law Firm) \$5,000
V.G. Levine (Housewife) \$5,000
Earle Lilly \$1,250
Ronald Lind \$2,000
Gregory Lindley \$1,000
Mark Lipkin \$1,750
Lohmann Enterprises & Investments \$1,000
John Maisel \$1,000
Law Offices of Frank Mann PC \$1,500
Jeannie McClure \$2,000
Eric Mcferren \$1,000
Robert Reid McInvale \$1,000
Karen McKay \$2,000
McLean & Company, PC \$1,000
Jedediah Moffett \$1,000
Bobby Newman \$4,800
Leta Parks \$1,000
Denise Pratt \$1,000
Verna Pratt \$5,000
Marsha Reed \$1,000
Janice Rich \$1,000
Romero Law Firm \$1,000
Meghann Smith \$1,000
Itze Soliz \$1,500
William Stewart \$1,000
Celso Suarez \$4,250
Theodore Trigg \$2,000
Uzick & Oncken PC \$1,000
John Van Ness \$2,000
Mary Van Orman \$1,500
Lacey West \$1,000

accurate or we are all in big trouble. If the temporary orders signed by the judge in my case cannot be found because they were mislabeled and are imaged as part of another case that none of us even knows about, it is going to create some big problems at my enforcement hearing if the judge cannot even see the she signed.

If attorneys and judges cannot count on the accuracy of our new electronic court records system, the integrity of our entire system is in jeopardy. There must be a better, more reliable safeguard than Greg Enos (or his faithful sources who tipped me off to this issue) to make sure the system is working properly.

This snafu in the District Clerk's office does not provide Pratt an excuse for what she has done. She alone decided to dismiss hundreds of cases and lie by stating notices were sent and a docket called when that had not really happened. I do not want to hear her disingenuous defense lawyer cite this problem when the clerks in imaging did not cause Pratt to commit her "New Year's Eve Massacre." If anything, this bad imaging in the clerk's office temporarily helped Pratt because it hid the proof of her wrongdoing.

Basics of Presenting Evidence 101

I recently won a four day jury trial for my client, a divorcing father, who was seeking primary custody of his six year old son. I had 43 exhibits, some of which were voluminous medical records. My exhibits before trial had been marked, copied and, in the case of the large exhibits, page numbered. My opponent did not have many of her exhibits pre-marked or copied. Her bundles of photographs were not individually numbered. I think the facts won the day for my client, but my staff's preparation of the exhibits certainly made the trial far easier for me and showed both judge and jury I was prepared and had some idea of what I was doing.

Judge Roy Moore in Harris County has specific requirements for exhibits that should be included in the local rules for all courts. Every attorney should follow "Roy's Rules" in trials and hearings:

PROCEDURES REGARDING EXHIBITS FOR ALL TRIALS AND HEARINGS

1. All exhibits **MUST** be marked appropriately: P-1, P-2 or R-1, R-2, etc.
2. Each party **MUST** provide the Court and Court Reporter with an Exhibit List prior to hearing or trial commencing.
3. **DO NOT USE** letters as Exhibit designations: A, B, etc.
4. Before any hearing or trial, you **MUST** have copies of each Exhibit you intend to offer.
5. The original exhibits upon being admitted will be provided to the Court Reporter and will **NOT** leave her possession and control once admitted.
6. You **MUST** have a copy of the Exhibit for the Judge, each opposing counsel, Amicus or Ad Litem Attorney and Pro Se party.
7. Attorneys are solely responsible to ensure and keep track of which Exhibits have been offered **AND** admitted.
8. At the conclusion of any hearing or trial, all attorneys and Pro Se Litigants shall be required to sign a declaration as provided by the Official Court Reporter that all offered and admitted Exhibits are in her possession.

Thank you for your cooperation.

Roy L. Moore

Judge, 245th District Court

I would add to Judge Moore's procedures:

- Number the pages of exhibits so that during trial you can refer to "Petitioner's Exhibit 16, page 84."
- Always prepare an exhibit list and provide the judge, court reporter and opposing counsel a copy.
- Prepare a notebook of exhibits for the judge, especially in cases where exhibits have been pre-admitted or you know opposing counsel is going to agree to the admission of most exhibits from the start of trial.
- I always try to have an extra copy of these exhibits for the judge: request for relief and proposed property division marked "Judge's working copy" so that the judge can write on that copy during testimony.

David Wukoson \$5,000

Bobbie Young \$1,000

Congratulations to each of these attorneys for courageously participating in a system that has moved from "pay to play" to just "pray something wacko doesn't happen to my client in this court." Each of these attorneys should write Judge Pratt and demand a full refund of their contributions!



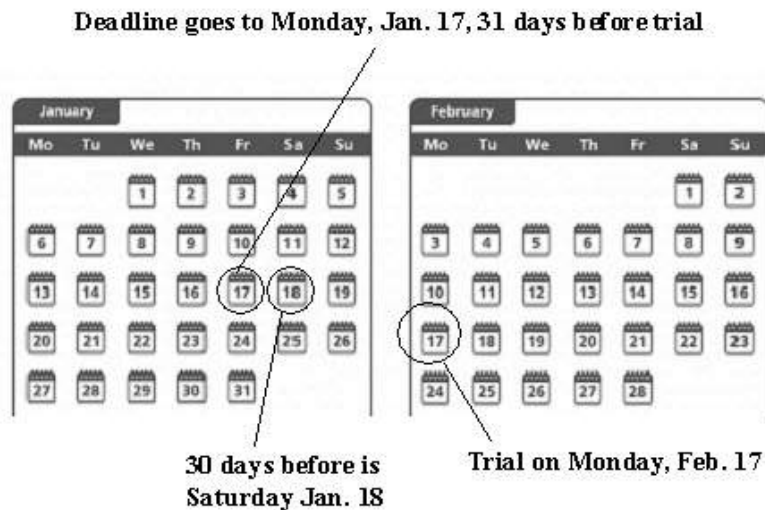
Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Counting Forward Instead of Backwards to Calculate Pre-Trial Deadlines That Fall on a Weekend or Holiday

Many Texas attorneys have been using the wrong method to calculate pretrial deadlines if the deadline (e.g. - the 30th day before trial) ends and/or falls on a weekend or holiday.

Consider this example: Trial is set for Monday, February 17, 2014. Thirty days before February 17 is January 18, which is a Saturday.



Does the careful attorney calendar the next Monday, January 20, as the deadline to supplement based on Rule 4, which seems to say that a deadline rolls over to the next day that is not a weekend or holiday? Or, should the prudent lawyer calendar the prior Friday, January 17, because he or she is counting backwards; and, since the 30th day before trial falls on a Saturday, you keep going backwards on the calendar to the first day that is not a weekend or holiday per Rule 4?

It turns out that Friday, January 18 is the correct answer but only because appellate courts want us to calculate backward deadlines by counting forward.



Texas Rule of Civil Procedure 4 states in pertinent part:

In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

In *Lewis v. Blake*, 876 S.W.2d 314 (Tex. 1994), the Texas Supreme Court tried to determine if timely 21-day notice under Rule 166a of a summary judgment hearing had been given. Since the notice had been mailed, Rule 21a added three days to the deadline. The court looked to Rule 4 on how to count the 24-day time period and stated that, "Rule 4 could not be plainer: it applies to any period of time prescribed by the rules of procedure, and Rule 166a is one of those rules." This case dealt with a deadline that runs backward from an event. Rule 166a says that the motion for summary judgment, "... shall be filed and served at least twenty-one days before the time specified for hearing." There, notice was mailed on June 21 for a hearing set for July 15. The Supreme Court applied Rule 4 and held, "[t]he hearing on defendants' summary judgment motion in this case was held on the 24th day after it was served, as permitted by the rules, and the court of appeals erred in reaching the contrary conclusion." Note that the court could not say, "the notice was served

24-days before the hearing as permitted by the rules..." In other words, instead of starting with the day of the hearing and counting backwards 24 days, the Supreme Court started with the date the motion was served, counted 24 days forward and determined that 24 days fell on the date of the hearing and, thus, notice was timely.

The Texas Supreme Court in *Sosa v. Central Light & Power*, 909 S.W.2d 893 (Tex. 1995), applied Rule 63 relating to the deadline to file amended pleadings without leave of court at least seven days before trial. The Supreme Court again ended up counting forward just as in *Lewis v. Blake*. The court in *Sosa* faced the question of whether an amended pleading filed on November 10 had been timely filed seven days before the November 17 summary judgment hearing. The Supreme Court applied Rule 4 to count forward from November 10 and did not count that day but started on November 11 as day 1, etc., and determined that November 17 was seven days after November 10. The court did not start with the date of the hearing and count backwards seven days to confirm that the pleading was timely filed.

The Houston 14th Court of Appeals in *Melendez v. Exxon Corp.*, 998 S.W.2d 266 (Tex. App. - Houston [14th Dist.] 1999, no pet.) dealt with the deadline to supplement discovery at least 30 days before trial as required by Rule 166b(6) and also the trial court's scheduling order. Mr. Melendez argued that the 30th day before the July 8th trial date fell on Saturday, June 8, 1996, and therefore, Rule 4 allowed the filing of the supplemental discovery response on the following Monday, June 10, the 28th day before trial.

The 14th Court of Appeals noted that some courts had held that Rule 4 does not apply to deadlines counted backwards but looked to *Sosa* and noted that the Supreme Court had made it very clear that Rule 4 applies to all deadlines. The Melendez court then said:

"... In Sosa, the Supreme Court applied Rule 4 to the time period in Rule 63, which precludes the filing of pleadings within seven days of the date of trial unless leave of court is obtained. Id. (citing Tex. R. Civ. P. 63). In applying Rule 4, the court counted from the day on which the Sosas filed their amended petition, and held that this day was not counted, but that the seventh day after it was filed was counted. Id. Thus, the court determined that the Sosa's petition was timely filed even though the seventh day was the day of the hearing. Id.

*Because the supreme court held that Rule 4 applies to any time period prescribed in the Rules of Civil Procedure, we apply it here and count forward, as the Supreme Court did in Sosa. Rule 166b(6) requires supplementation of a discovery response "not less than thirty days prior to the beginning of trial unless the court finds that good cause exists for permitting or requiring later supplementation." Tex. R. Civ. P. 166b(6). Thus, a discovery response is timely under this rule if it is filed 30 days or more before the date set for trial. Melendez did not supplement his discovery response to list Lundgren as a potential witness until June 10, 1996. Applying the procedure from Sosa, the day on which Melendez filed his response is not counted but the thirtieth day after it was filed is counted. See *Sosa*, 909 S.W.2d at 895. The thirtieth day would have been July 10, 1996, two days after trial began. Therefore, Melendez's supplemental response was not filed within the period prescribed by Rule 166b(6).*

The *Melendez* and *Sosa* courts did not calculate a pre-trial deadline that goes backwards from trial the same way a lawyer or legal assistant would. Instead, those courts answered the legal question of whether a specific action was timely by looking at the date the action was taken and then counting forward to see if the pertinent deadline had been met.

In the real world, before trial, and long before any appellate justices start counting dates, a lawyer or legal assistant can comply with these rulings by counting backwards from the trial date, and, if the deadline falls on a weekend or holiday, continue going backwards to the prior weekday that is not a weekend or holiday, which will usually be a Friday. This will always result in a calendared deadline which, if someone checks such deadlines by using the *Sosa* method of counting forward from that day, will comply with the relevant rules of civil procedure.

Be this guy





The International Journal on the
Reform of Family Courts

The Mongoose

Published by Greg Enos

Issue: No. 34½

January 24, 2014

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Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.

Let's try this again. I hurried and published a *Mongoose* without letting the amazing woman who corrects all aspects of my life edit my writing. My amazing Toni pointed out several errors, as did a few of my readers. This issue corrects those mistakes and adds links to the latest news stories about Judge Denise Pratt (there are more every day!).

Please note, if you use Google Mail (Gmail), some of the following links really do download a PDF document, but, it does not automatically appear on your screen. Click the download icon on your browser to see the document.

[Click here](#) to read an article about Pratt in the *A.B.A. Journal*. We all should be so proud that our home town judge is now known nationally!

[Click here](#) to read a lengthy story describing how bad Judge Pratt is in the *Texas Observer* entitled, "What Does Houston Judge Pratt Have to Do To Lose Her Job?" Now, newspapers around Texas are writing about Pratt.

[Click here](#) to read what Republican leader Ed Hubbard wrote in *The Big Jolly Politics Blog* about Pratt. Hubbard said in part, "Denise Pratt, Presiding Judge of the 311th District Court of Harris County, which only hears family-law disputes, should resign immediately and withdraw from the race for re-election, for the good of the families and children whose futures are placed in her trust, and for the good of our Republican ticket in the fall election."

[Click here](#) to read the blog of Katy Republican George Scott, who is busy spreading the word about Judge Pratt.

If you want to see a Republican Precinct Chair's assault on me and my campaign against Judge Pratt, [click here](#). The problems with this guy's lame letter include: (1) his facts are all wrong about what Pratt does as a judge, and (2) many Republicans are lambasting Pratt, not just liberal old me. This newsletter goes to about 1,200 GOP activists, including all of the precinct chairs. Dozens of those Republicans have contacted me to say they totally support what I am doing to bring attention to problems with our family courts. The notion that a judge should follow the law, work hard and be fair is one every conservative agrees with. No Republican wants to see their entire judicial ticket lose in November because of the scandals surrounding Judge Pratt. Ironically, I am the one fighting for values that I truly believe almost every Republican in Harris County shares.

***"Together, attorneys can
improve our family courts!"***

REPUBLICANS are going to be handing out this flyer at all future political events where Judge Pratt is speaking.



In this issue...

[A District Clerk Problem We Hopefully
Will Not See Again!](#)

[The Pratt List of Shame: Attorneys Who
Donated to the Worst Judge in Harris
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[Counting Forward Instead of Backwards
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This revised issue of *The Mongoose* also:

- Fixes a problem that my arch nemesis in Baytown pointed out when he called me from the smaller of his ski chalets in the French Alps to question both my grammar and my manhood: my roster of Judge Pratt political contributors should have listed her donors in order of the aggregate amount each person has donated.
- Corrects the link to my new criminal complaint against Judge Pratt so that you can actually read what I have suggested constitutes a violation of the Penal Code. Seriously, [click here](#) if you want to read my latest criminal complaint against Judge Pratt.
- Tones down my story about errors in documents on the District Clerk's web site. Chris Daniel [not "Daniels"] took immediate action after I pointed out the problem and everything seems to be fixed now.
- Corrects a typo in my important article on how to count deadlines.

I have filed another criminal complaint against Judge Denise Pratt. This time I allege that she committed the crime of tampering with a government record hundreds of times when she made false entries in government records (which is defined to include a court order), as part of her "New Year's Eve Massacre," when she dismissed hundreds of cases without notice or hearing.

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[on a Weekend or Holiday](#)

[Basics of Presenting Evidence 101](#)

SHARE YOUR E-FILING HORROR STORIES!

The next issue of my newsletter is going to focus on the hassles of e-filing and my constitutional argument that the e-filing fees are really a tax on access to the courts. The very serious problem of trying to file a rush, emergency motion, when e-filing can take many hours, will also be addressed. Please e-mail me at greg.enos@gmail.com with your experiences and thoughts on this grim new reality in our legal lives.

No More Signing Pleadings With a Pen!

One big change attorneys and our assistants have to get used to is the change in signature blocks on pleadings filed with the court. The new rules say that documents which are e-filed need to be in text searchable PDF format. The easiest way to create such a document is to convert your pleading to PDF directly within Word or WordPerfect and not to print the document and then run it through a scanner. Direct conversion from within the word processor means the attorney cannot sign the document with a pen. Here is what a pleading signature block should look like from now on:

The Enos Law Firm, P.C.
17207 Feather Craft Lane
Webster, Texas 77598
Tel: (281) 333-3030
Fax: (281) 488-7775

/s/ Greg B. Enos
Greg B. Enos
SBOT No.: 06630450
E-mail: greg@enoslaw.com
Attorney for Petitioner

Discovery requests and responses sent directly to opposing counsel are not e-filed with the court and should be printed and signed the old fashioned way.

The tricky issue involves court orders and Rule 11 agreements that the attorneys and often the parties sign. Most judges want to see that people actually signed Rule 11 agreements or "agreed" court orders or that both attorneys actually "agreed as to form." I suggest that the e-filed order or agreement have digital signatures and that you attach as an exhibit the signature pages with actual signatures from the parties and/or attorneys.

FILED
Chris Daniel
District Clerk
DEC 31 2013
Time: 9:56
By: KR
Harris County, Texas
Deputy

NO. 2012-06882

P-1
EPO
3

VS. Shear
Shear

§ IN THE DISTRICT COURT
§
§ 311TH JUDICIAL DISTRICT
§
§ HARRIS COUNTY, TEXAS

DISMISSAL ORDER

BE IT REMEMBERED that on the ____ day of _____ this matter came on to be heard, the above numbered and styled cause, where all parties were given notice of the setting date and that failure to appear would be grounds for dismissal, and there being no announcement at the call of the docket, or for some other reason, the Court finds that this cause should be dismissed for want of prosecution.

It is therefore ORDERED that the above numbered and styled cause be and is hereby DISMISSED FOR WANT OF PROSECUTION.

All costs of court are taxed against the party incurring the same.

Signed: DEC 30 2013

D. V. Pratt
Judge Presiding
Denise V. Pratt

Congratulations to Newly Board Certified Family Law Attorneys

These Houston attorneys just became Board Certified in Family Law by the Texas Board of Legal Specialization:

Ms. Sara Elizabeth Bloome
Ms. Katie Ann Custer
Mr. John Sanford Powell, III (*Pearland*)
Ms. Lorie Marie Robinson
Ms. Diane Marie St. Yves
Ms. Barbara Jean Rice Stalder

Each attorney can now charge more per hour and expect to be asked to contribute more to political campaigns!



The Pratt List of Shame: Attorneys Who Donated to the Worst Judge in Harris County History

Candidates have filed their reports of political contributions for the period July - December 2013 and we now know who contributed to Judge Pratt's campaign. The real questions is, "Why would anyone who cares about justice or fairness or families or children contribute to Pratt?" We all know the answer unfortunately in our current electoral system. Attorneys did not contribute to Pratt because she is a good (or even mediocre) judge. Most attorneys (and some forensic CPA's) gave Pratt money so they could have influence or at least hopefully work on an even playing field.

I am guessing that most of these contributions were made before I filed my first criminal complaint against Pratt and suddenly most folks realized she was in big electoral trouble. However, at a seminar last weekend, Pratt's minions were still trying to solicit contributions for her floundering campaign.

It appears that some of Pratt's total contributions exceeded the amount allowed

Pratt clearly made a false entry in this court order when she said notice had been sent and there was no announcement at the call of docket when there was not a docket call. Texas Penal Code Sec. 37.10(a) says a person commits the crime of Tampering with Governmental Record if he: "(1) knowingly makes a false entry in... a governmental record..." Sec. 37.01(2)(A) defines a "Governmental record" to mean, "anything belonging to, received by, or kept by government for information, including a court record." A "court record" is defined in Sec. 37.01(1) as a, "decree, judgment, order, subpoena, warrant, minutes, or other document issued by a court of...(A) this state..."

This crazy situation is like a pastor at a mega-church sitting in his office and claiming he just conducted marriages of 631 couples and filling out 631 marriage licenses when in fact the church was empty and no marriages took place. That insane pastor would be guilty of tampering with a government record because he knowingly made false entries in a government document. That is what Pratt did, except she endangered hundreds of children who were protected by temporary orders in those cases she dismissed.

We have all been to dismissal dockets and Pratt has even conducted them. The courtroom is full of dozens of attorneys who must wait hours often for their turn to say why their cases should not be dismissed. There is no way Pratt did not know that a dismissal docket had not been held. The dockets for her court for December 30 and 31 clearly did not include a dismissal docket.

Pratt cannot rely on Harris County Local Rule 3.6 for the Civil District Courts (as she did at a recent Republican luncheon) because, even if that rule applies to a family court, the rule merely says cases are "eligible for dismissal for want of prosecution" if the case has, "been on file for more than eighteen months and [is] not set for trial." Pratt still had to follow the procedures required by the Rules of Civil Procedure and Due Process before she could dismiss cases and she dismissed hundreds of cases that she herself had already set for trial.

Thanks to this judicial insanity, more and more Republicans are calling on Judge Pratt to resign and also spreading the word that she should be defeated in the March primary. [Click here](#) to read the influential Big Jolly Blog that

really says why conservative Republicans should be so embarrassed by Pratt.

[Click here](#) to read the full article entitled "Judge Denise Pratt and political payoffs" by Republican David Jennings that begins:

Judge Denise Pratt is incompetent and should resign or be removed from office. And since it is too late for her to remove her name from the Harris County Republican Party Primary ballot, voters should reject her and put her out to pasture.

[Click here](#) to read the latest front page Houston Chronicle story about Pratt's New Year's Eve Massacre. [Click here](#) to read the Houston Chronicle political blog about my call for an independent prosecutor instead of her fellow Republican Devon Anderson.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm

A District Clerk Problem We Hopefully Will Not See Again!

I am a big fan of District Clerk Chris Daniel and I hate it when Judge Pratt and her criminal defense attorney try to distract reporters and voters by trying to blame Pratt's horrible decisions on her clerks. However, I uncovered a Pratt-related problem with the District Clerk's office that at first seemed even scarier than what is happening in the 311th. I brought this issue to Chris Daniel's attention and, as usual, he got all over the problem. Within a few hours, Mr. Daniel had an answer as to why it happened and explained how it was being fixed. He reports it is an isolated problem that just happens to involve dozens of the dismissal orders Pratt signed at the end of December.

Here is what I discovered that was so scary: Dismissal orders were imaged and connected to the wrong cases. This meant that if you went to Cause no. 2007-70921 in the District Clerk's web site and clicked on the 12/31/2013 Dismissal Order you called up an order from a completely different case. It was a dismissal order from No. 2008-25788. If you went to that case on the web site you saw entries for two different "Motions for Post Judgment DWOP" (improperly named). When you clicked on those two images in 2008-25788 you called up dismissal orders from 2004-41079 and 2012-23612A. When you went to 2004-41079 there was no entry at all about a dismissal, so the attorneys in that case would not know their case had been dismissed. No. 2012-23612A had an image of a dismissal order from a completely different case, 2007-22424A. And so it went... dozens of cases with the wrong orders imaged in the wrong cases.

Mr. Daniel says the errors arose from the processing of two batches of orders that mostly came from the 311th, but also from a few other courts. I have checked and the problem is now fixed. However, my questions are: how did this happen and why did it take me to discover the issue and bring it to the District Clerk's attention? We are now totally dependent on the District Clerk's web site to see the court's file because there is no paper file any more. How do we know that other orders have not been mis-connected to the wrong cases or not imaged at all? The coding and imaging of motions we are all forced to file via e-filing is done by our staffs in our offices and presumably a clerk checks what we enter before it goes onto the District Clerk's website. However, the coding and imaging of orders and renditions done by clerks at the courthouse must be accurate or we are all in big trouble. If the

by law. The Texas Ethics Commission website says, "A judicial candidate may not accept political contributions from a person that exceed certain limits in connection with an election. The contribution limits are: ...\$5,000 for candidates for courts of appeals, district courts, statutory county courts, or statutory probate courts if the population of the judicial district is more than one million..."

Here is the **LIST OF SHAME** of those who contributed to Judge Pratt in total amounts of \$1,000 or more. **It is also a handy list of the attorneys who are usually appointed as mediators or amicus attorneys in the 311th.**

This list shows the total amount of contributions from the person during the reporting period.

Shannon Boudreaux \$5,581
Harrison Law Office, PC \$5,500 *
Jacob, Fritsch and Ramos PC \$5,000
David Wukoson \$5,000
Harold Levine (Felderman Law Firm) \$5,000
V.G. Levine (Housewife) \$5,000
Verna Pratt \$5,000
Bobby Newman \$4,800
George Clevenger \$4,134.22
Celso Suarez \$4,250
Ricardo Ramos \$3,200
Ronnie Harrison \$3,000 *
Bruce Baughman \$3,000
Ronald Lind \$2,000
Joe Indelicato \$2,000
Rose Cardenas \$2,000
Cervantes & Cervantes, PC \$2,000
Jeannie McClure \$2,000
John Grubb \$2,000
Theodore Trigg \$2,000
John Van Ness \$2,000
Karen McKay \$2,000
Mark Lipkin \$1,750
Ronald Hunter \$1,500
Law Offices of Frank Mann PC \$1,500
Itze Soliz \$1,500
Mary Van Orman \$1,500
Anne Kennedy \$1,350
Law Office of Robert Hoffman \$1,250
Earle Lilly \$1,250
Christine Jonte \$1,000
Claudia Canales \$1,000
Farias Law Firm \$1,000
Gregory Lindley \$1,000
Lohmann Enterprises & Investments \$1,000
John Maisel \$1,000
Eric Mcferren \$1,000
Robert Reid McInvale \$1,000
McLean & Company, PC \$1,000
Jedediah Moffett \$1,000
Leta Parks \$1,000
Denise Pratt \$1,000
Marsha Reed \$1,000
Janice Rich \$1,000

temporary orders signed by the judge in my case cannot be found because they were mislabeled and are imaged as part of another case that none of us even knows about, it is going to create some big problems at my enforcement hearing if the judge cannot even see the order she signed.

If attorneys and judges cannot count on the accuracy of our new electronic court records system, the integrity of our entire system is in jeopardy. There must be a better, more reliable safeguard than Greg Enos (or, in this case, my faithful sources who tipped me off to this issue) to make sure the system is working properly.

This snafu in the District Clerk's office does not provide Pratt an excuse for what she has done. She alone decided to dismiss hundreds of cases and lie by stating notices were sent and a docket called when that had not really happened. I do not want to hear her disingenuous defense lawyer cite this problem when the clerks in imaging did not cause Pratt to commit her "New Year's Eve Massacre." If anything, this bad imaging in the clerk's office temporarily helped Pratt because it hid the proof of her wrongdoing.

Basics of Presenting Evidence 101

I recently won a four day jury trial for my client, a divorcing father, who was seeking primary custody of his six year old son. I had 43 exhibits, some of which were voluminous medical records. My exhibits before trial had been marked, copied and, in the case of the large exhibits, page numbered. My opponent did not have many of her exhibits pre-marked or copied. Her bundles of photographs were not individually numbered. I think the facts won the day for my client, but my staff's preparation of the exhibits certainly made the trial far easier for me and showed both judge and jury I was prepared and had some idea of what I was doing.

Judge Roy Moore in Harris County has specific requirements for exhibits that should be included in the local rules for all courts. Every attorney should follow "Roy's Rules" in trials and hearings:

PROCEDURES REGARDING EXHIBITS FOR ALL TRIALS AND HEARINGS

1. All exhibits **MUST** be marked appropriately: P-1, P-2 or R-1, R-2, etc.
2. Each party **MUST** provide the Court and Court Reporter with an Exhibit List prior to hearing or trial commencing.
3. **DO NOT USE** letters as Exhibit designations: A, B, etc.
4. Before any hearing or trial, you **MUST** have copies of each Exhibit you intend to offer.
5. The original exhibits upon being admitted will be provided to the Court Reporter and will **NOT** leave her possession and control once admitted.
6. You **MUST** have a copy of the Exhibit for the Judge, each opposing counsel, Amicus or Ad Litem Attorney and Pro Se party.
7. Attorneys are solely responsible to ensure and keep track of which Exhibits have been offered **AND** admitted.
8. At the conclusion of any hearing or trial, all attorneys and Pro Se Litigants shall be required to sign a declaration as provided by the Official Court Reporter that all offered and admitted Exhibits are in her possession.

Thank you for your cooperation.
Roy L. Moore
Judge, 245th District Court

I would add to Judge Moore's procedures:

- Number the pages of exhibits so that during trial you can refer to "Petitioner's Exhibit 16, page 84."
- Always prepare an exhibit list and provide the judge, court reporter and opposing counsel a copy.
- Prepare a notebook of exhibits for the judge, especially in cases where exhibits have been pre-admitted or you know opposing counsel is going to agree to the admission of most exhibits from the start of trial.
- I always try to have an extra copy of these exhibits for the judge: request for relief and proposed property division marked "Judge's working copy" so that the judge can write on that copy during testimony.

Romero Law Firm \$1,000
Meghann Smith \$1,000
William Stewart \$1,000
Uzick & Oncken PC \$1,000
Lacey West \$1,000
Bobbie Young \$1,000

Congratulations to each of these attorneys for courageously participating in a system that has moved from "pay to play" to just "pray something wacko doesn't happen to my client in this court." Each of these attorneys should write Judge Pratt and demand a full refund of their contributions!



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.

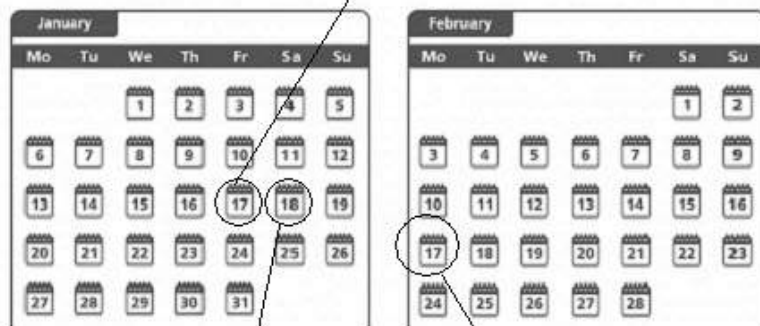
[Click here](#) to download Judge Moore's suggested exhibit list.

Counting Forward Instead of Backwards to Calculate Pre-Trial Deadlines That Fall on a Weekend or Holiday

Many Texas attorneys have been using the wrong method to calculate pretrial deadlines if the deadline (e.g. - the 30th day before trial) ends and/or falls on a weekend or holiday.

Consider this example: Trial is set for Monday, February 17, 2014. Thirty days before February 17 is January 18, which is a Saturday.

Deadline goes to Monday, Jan. 17, 31 days before trial



**30 days before is
Saturday Jan. 18**

Trial on Monday, Feb. 17

Does the careful attorney calendar the next Monday, January 20, as the deadline to supplement based on Rule 4, which seems to say that a deadline rolls over to the next day that is not a weekend or holiday? Or, should the prudent lawyer calendar the prior Friday, January 17, because he or she is counting backwards; and, since the 30th day before trial falls on a Saturday, you keep going backwards on the calendar to the first day that is not a weekend or holiday per Rule 4?

It turns out that Friday, January 17 is the correct answer but only because appellate courts want us to calculate backward deadlines by counting forward.

Texas Rule of Civil Procedure 4 states in pertinent part:

In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

In *Lewis v. Blake*, 876 S.W.2d 314 (Tex. 1994), the Texas Supreme Court tried to determine if timely 21-day notice under Rule 166a of a summary judgment hearing had been given. Since the notice had been mailed, Rule 21a added three days to the deadline. The court looked to Rule 4 on how to count the 24-day time period and stated that, "Rule 4 could not be plainer: it applies to any period of time prescribed by the rules of procedure, and Rule 166a is one of those rules." This case dealt with a deadline that runs backward from an event. Rule 166a says that the motion for summary judgment, "... shall be filed and served at least twenty-one days before the time specified for hearing." There, notice was mailed on June 21 for a hearing set for July 15. The Supreme Court applied Rule 4 and held, "[t]he hearing on defendants' summary judgment motion in this case was held on the 24th day after it was served, as permitted by the rules, and the court of appeals erred in reaching the contrary conclusion." Note that the court could not say, "the notice was served



Attorney Greg Enos



24-days before the hearing as permitted by the rules..." In other words, instead of starting with the day of the hearing and counting backwards 24 days, the Supreme Court started with the date the motion was served, counted 24 days forward and determined that 24 days fell on the date of the hearing and, thus, notice was timely.

The Texas Supreme Court in *Sosa v. Central Light & Power*, 909 S.W.2d 893 (Tex. 1995), applied Rule 63 relating to the deadline to file amended pleadings without leave of court at least seven days before trial. The Supreme Court again ended up counting forward just as in *Lewis v. Blake*. The court in *Sosa* faced the question of whether an amended pleading filed on November 10 had been timely filed seven days before the November 17 summary judgment hearing. The Supreme Court applied Rule 4 to count forward from November 10 and did not count that day but started on November 11 as day 1, etc., and determined that November 17 was seven days after November 10. The court did not start with the date of the hearing and count backwards seven days to confirm that the pleading was timely filed.

The Houston 14th Court of Appeals in *Melendez v. Exxon Corp.*, 998 S.W.2d 266 (Tex. App. - Houston [14th Dist.] 1999, no pet.) dealt with the deadline to supplement discovery at least 30 days before trial as required by Rule 166b(6) and also the trial court's scheduling order. Mr. Melendez argued that the 30th day before the July 8th trial date fell on Saturday, June 8, 1996, and therefore, Rule 4 allowed the filing of the supplemental discovery response on the following Monday, June 10, the 28th day before trial.

The 14th Court of Appeals noted that some courts had held that Rule 4 does not apply to deadlines counted backwards but looked to *Sosa* and noted that the Supreme Court had made it very clear that Rule 4 applies to all deadlines. The Melendez court then said:

"... In Sosa, the Supreme Court applied Rule 4 to the time period in Rule 63, which precludes the filing of pleadings within seven days of the date of trial unless leave of court is obtained. Id. (citing Tex. R. Civ. P. 63). In applying Rule 4, the court counted from the day on which the Sosas filed their amended petition, and held that this day was not counted, but that the seventh day after it was filed was counted. Id. Thus, the court determined that the Sosa's petition was timely filed even though the seventh day was the day of the hearing. Id.

*Because the supreme court held that Rule 4 applies to any time period prescribed in the Rules of Civil Procedure, we apply it here and count forward, as the Supreme Court did in Sosa. Rule 166b(6) requires supplementation of a discovery response "not less than thirty days prior to the beginning of trial unless the court finds that good cause exists for permitting or requiring later supplementation." Tex. R. Civ. P. 166b(6). Thus, a discovery response is timely under this rule if it is filed 30 days or more before the date set for trial. Melendez did not supplement his discovery response to list Lundgren as a potential witness until June 10, 1996. Applying the procedure from Sosa, the day on which Melendez filed his response is not counted but the thirtieth day after it was filed is counted. See *Sosa*, 909 S.W.2d at 895. The thirtieth day would have been July 10, 1996, two days after trial began. Therefore, Melendez's supplemental response was not filed within the period prescribed by Rule 166b(6).*

The *Melendez* and *Sosa* courts did not calculate a pre-trial deadline that goes backwards from trial the same way a lawyer or legal assistant would. Instead, those courts answered the legal question of whether a specific action was timely by looking at the date the action was taken and then counting forward to see if the pertinent deadline had been met.

In the real world, before trial, and long before any appellate justices start counting dates, a lawyer or legal assistant can comply with these rulings by counting backwards from the trial date, and, if the deadline falls on a weekend or holiday, continue going backwards to the prior weekday that is not a weekend or holiday, which will usually be a Friday. This will always result in a calendared deadline which, if someone checks such deadlines by using the *Sosa* method of counting forward from that day, will comply with the relevant rules of civil procedure.

Be this guy





The International Journal on the
Reform of Family Courts

The Mongoose

Published by Greg Enos

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February 17, 2014

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Web site: www.divorcereality.com

***"Together, attorneys can
improve our family courts!"***

In this issue...

Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.

[The GOP Slate Endorsers Have Spoken](#)

[E-Filing Tips from the Judges](#)

["Home Away From Home" - The New Harris County Law Library](#)

[I Am Not A Nazi Lover or Jew Hater](#)

[Meca Walker: \(1\) To Thine Own Self Be True and \(2\) Return the Illegal Contributions You Should Never Have Accepted](#)

[Katrina Griffith is the New CPS Associate Judge](#)

[Jim Cooper is the New A.J. for Judge Roy Moore](#)

[Bret Griffin Appointed Judge of 212th District Court](#)

My next issue will look at the race for the 306th Family District Court in Galveston County and I will try to determine which candidate is qualified and which is lying to voters.

In this issue, I write about many topics other than Judge Pratt. I am extremely disappointed by an excellent judge, Meca Walker, who has accepted illegal campaign contributions under very shady circumstances. I also write about three new judges, the Harris County Law Library, E-filing and even a little history.

It is hard to imagine the horrifying, criminal, and incompetent reign of Judge Denise Pratt getting worse, but each week it does. Here are the latest developments:

- A staggering 85% of attorneys rated Pratt "Not Qualified" in the Houston Bar Association 2014 Judicial Candidate Qualification Poll. This is the worst rating of an incumbent judge in the history of the survey. Pratt cannot blame that result on liberal Democrats since Republican Charley Prine in the same survey was rated "Not Qualified" by only 15% of the lawyers. [Click here](#) to see the complete results.
- Pratt's source of political funds has dried up thanks to my "List of Shame." Her only contribution for the January 15 reporting period was a single \$400 contribution and that came from District Clerk Chris Daniel of all people. Daniel, Pratt and District Attorney Devon Anderson all share the same political consultant, Alan Blakemore.
- I have filed a new, third criminal complaint against Denise Pratt and this is surely the one to get her indicted. This time there are two eye witnesses to Pratt backdating a court order and the District Clerk's records back up their stories. I have two sworn affidavits from the eye witnesses. On April 25, 2013, a pro se mother appeared before Pratt about an enforcement action she had filed and Pratt said she would back date the capias order to March 5 and she did. Pratt cannot blame her clerks for this backdated capias order that resulted in the wrongful arrest of a father. [Click here](#) to read about the truly terrible injustice in the *Osborn - Hyde* case. It is truly mind boggling how badly both parents in this particular case have been treated by Pratt.
- The District Attorney's Public Integrity Unit is investigating another instance of Pratt tampering with a government record. In this case, the D.A. reached out and called the lawyers in to discuss the case without me even being involved. **Pratt's behavior in this case will seem bad to the general public but to family law attorneys, what Pratt did in this case is proof she is crazy and you will hardly be able to believe it.** The

parents and attorneys in this child custody modification case (No. 2007-28477) agreed to temporary orders which Pratt approved on a handwritten order on August 29, 2013. The typed temporary orders were submitted in September 2013 and months went by without Pratt signing them. Last month, after reading about Pratt's "New Year's Eve Massacre," one attorney checked and to her horror discovered that Pratt had taken the temporary orders and scratched out "temporary" and handwritten "final" and initialed her change. Pratt also scratched out or removed all of the mother's periods of possession except for "as agreed." Insanely, Pratt also appointed an amicus attorney in this "final order." Pratt made all of the changes to an agreed order that had been signed by the parties. Pratt made these changes and never notified the parties or attorneys. Pratt signed this "final" order on December 30, 2013, a day we all know she was very busy dismissing hundreds of cases. Perhaps this was another way for her to make her court statistics and case count look good. This situation is being investigated presumably as another instance of tampering with a government record. [Click here](#) to see this stunningly amazing act of madness yourself.

- Judge Pratt called into the Matt Patrick radio show on 740AM (apparently from her chambers at the courthouse) and flat out lied about her dismissal of hundreds of cases at the very end of December 2013. [Click here](#) if you want to hear Pratt's interview. One of the many lies she told is that she gave proper notice of her dismissals and she followed Harris County local rules. The Harris County Local Rules for Civil District Courts state, "3.6 Dismissal Dockets. The following cases are eligible for dismissal for want of prosecution pursuant to T.R.C.P. 165a: (a) Cases on file for more than 120 days in which no answer has been filed or is required by law; (b) Cases which have been on file for more than eighteen months and are not set for trial; (c) Cases in which a party or his attorney has failed to take any action specified by the court. TRCP 165a(1) says in part, "Notice of the court's intention to dismiss and the date and place of the dismissal hearing shall be sent by the clerk to each attorney of record, and to each party not represented by an attorney and whose address is shown on the docket or in the papers on file, by posting same in the United States Postal Service." TRCP 165a(2) says, "Any case not disposed of within time standards promulgated by the Supreme Court under its Administrative Rules may be placed on a dismissal docket." Each of the hundreds of dismissal orders Pratt signed was a lie because she never gave notice and she never conducted a dismissal docket. **Judge Pratt lied to Matt Patrick and his listeners because the rules (and common sense) require notice to the parties before a case can be dismissed and Pratt never gave notice to the hundreds of families whose cases she dismissed without warning.**
- Pratt got caught running around a political event picking up flyers that lawyers and her fellow Republicans had placed out on tables. [Click here](#) to read a Republican blog article entitled, "The Juvenile Antics of Judge Denise Pratt." The blog post says, "Judge Denise Pratt is incompetent and should resign or be removed from office. And since it is too late for her to remove her name from the Harris County Republican Party Primary ballot, voters should reject her and put her out to pasture." The blog even included a photograph of the manic Pratt picking up the flyers that accurately stated what a terrible judge she is.



Meca Walker: (1) To Thine Own Self Be True, and (2) Return the Illegal Contributions You Should Have Never Accepted

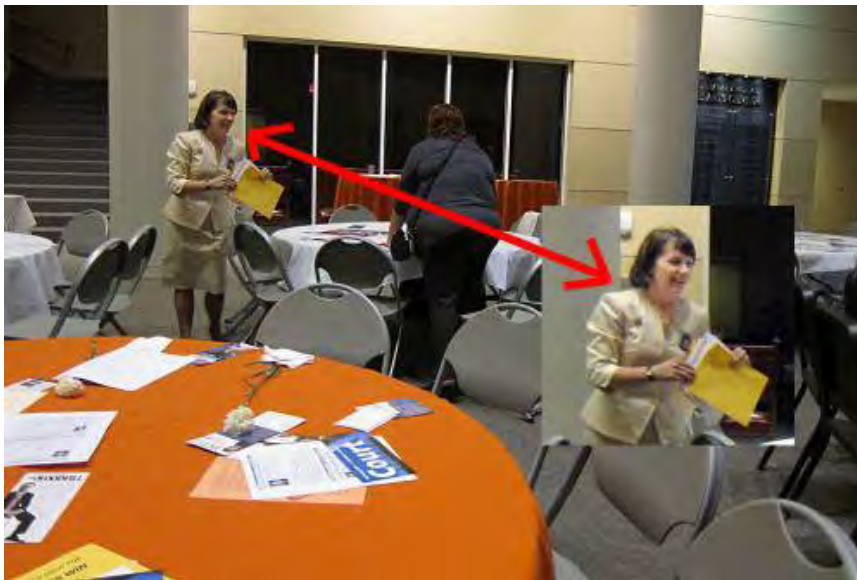
Meca Walker is an experienced, good judge. Walker had the character to stand up for her opponent, John Schmude, when he was smeared by an anonymous and hateful e-mail. Apparently those qualities are not that important in a Republican primary, so Judge Walker has succumbed to advice to not be herself.

Walker has accepted illegal campaign contributions under very questionable circumstances. Walker realized last night after communicating with me that probably \$20,000 of contributions she accepted in late December violate the Judicial Campaign Fairness Act. Walker was not going to return contributions when it just looked like something unethical had happened, but now, she says she will return contributions if I am right and the law has been violated.

I may be expecting too much, but I want judges to know the law, follow the law, act ethically and avoid even the appearance of impropriety."

I have given Judge Walker the chance to provide her own statement in response to this story. [Click here](#) to read Walker's rebuttal.

Walker is not using her first name "Meca" on the ballot and is instead going by "M.L. Walker." Judge Walker is licensed as "Meca Latreice Walker" and that is the name on her driver's license, diplomas, judicial web site and even her campaign finance reports. No one can recall her ever going by "M.L." I can only assume Meca is worried that the God-fearing Christians who make up such a large portion of the Republican electorate might mistake her for a Muslim or a foreigner or even (gasp!) an African-American. The Texas Election Code Sec. 52.031 does allow candidates to be listed on the ballot using initials for their given names, so what Judge Walker is doing is certainly legal. However, what Walker is doing with her name is like legendary Texan Ima Hogg running for



I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

**Greg Enos
The Enos Law Firm**

The Harris County Slate Endorsers Have Spoken, Now Will the GOP Sheep Obey?

Harris County Republican down-ballot judicial primaries are largely decided by the endorsements mailed to loyal GOP voters by a handful of slate endorsers. In recent elections, it is impossible to win a GOP judicial primary without the support of at least two of the three big endorsers. The big news is that Judge Denise Pratt only got one of those endorsements. Four years ago, they all endorsed Pratt.

I speak daily to a lot of Republican elected officials, candidates and political operatives (yes - it is a slimy job but someone has to do it). Based on these endorsements, the consensus seems to be that Charley Prine and John Schmude will win without a runoff. I personally think "M.L." Walker might squeak into a runoff with Schmude. Alicia Franklin is expected to either win outright or lead Denise Pratt going into a runoff. There is a slight chance that Anthony Magdaleno could edge out Pratt and come in second place for the 311th. Here is a chart of the slate endorsers who are sending out large mailers to primary voters. Historically, the "Big Three" of Hotze, Pollard and Lowry have been by far the most influential. Other groups and individual precinct chairs endorse candidates and Anthony Magdaleno and Melanie Flowers have gotten their fair share of those endorsements but they do not send out 100,000+ mailers like the following five groups:

	Pollard	Lowry	Hotze	Police Inc.	Harris County GOP PAC
311th					
Franklin	X	X		X	X
Pratt			X		
Detamore					
Magdaleno					
Placzek					

county commissioner as "I. Hogg."



Even more disappointing is Walker's decision to accept and then keep \$45,000 in contributions in one day from nine people closely associated with a rich car dealer who had a pending case at the time in Walker's court. **It appears that \$20,000 of those contributions violate the contribution limits of the Judicial Campaign Fairness Act.**

The divorce case between car dealer Don McGill and his wife has been boiling along in the 247th District Court since December 3, 2012 in Case No. 2012-71279. The following donations were accepted by Walker, the Associate Judge of the 247th, on December 27, 2013:

- \$5,000 from John McGill and \$5,000 from his wife Jelena McGill
- \$5,000 from Lilian Borjas, the Comptroller at Don McGill Toyota
- \$5,000 each from Michael Hartman, the General Manager at Don McGill Toyota, and his wife.
- \$5,000 each from Michael Mynatt, another manager at Don McGill, and his wife.
- \$5,000 each from Ricky Simmer, Fixed Operations Manager at Don McGill, and his wife.

The Judicial Campaign Fairness Act, which Walker has agreed to comply with, limits contributions to \$5,000 per person, which includes a spouse and unmarried minor child. Election Code Sec. 253.155(b). The four \$10,000 contributions from the married couples clearly violate the law. Judge Walker says she did not realize this problem until I e-mailed her campaign manager last night. As shown below, these donations were made and accepted under very sleazy circumstances and Walker had no plans to return the money until she realized the law was broken. I have a huge problem with that.

A far right Republican blogger, Bob Price, posted a story about these contributions

247th					
Schmude		X	X		
Walker	X			X	X
Flowers					
246th					
Prine	X	X	X	X	X
Gooden					

I am not endorsing anyone running in the Harris County GOP primaries (in part because my endorsement would probably be used against them). However, if you have not met **John Schmude**, the leading candidate (along with M.L. Walker) for the 247th Family District Court, you should. I invited Schmude to come to Clear Lake and meet with about a dozen attorneys. There were no contributions or promises made. I asked Schmude to come introduce himself and explain why we should not be worried about him being a right wing religious nut or about his lack of legal experience. Schmude accepted my offer, walked into the "Lion's Den" and ended up impressing us all. He is clearly intelligent, sensitive to the issues attorneys face and extremely likeable. He has years of business experience before going to law school and he volunteered and lived in probably the poorest place in the United States as a young man. Schmude is worth getting to know because he could well be Bonnie Hellum's replacement. [Click here](#) to see his campaign web site.

Anthony Magdaleno is a sad example of what is wrong with the current GOP primary system. Anthony is a fine, ethical lawyer and I am sure he would be a really good judge. Anthony is being endorsed by a lot of bloggers, Republican precinct chairs and smaller Republican groups. However, Anthony lacks the connections and is too much of an outsider to get endorsed by Pollard, Lowry or Hotze. Franklin has a connection to Police Inc. and the newly rejuvenated (but flush with cash) Harris County GOP PAC that Magdaleno could never compete with. Those folks endorsing Magdaleno lack the ability to pool hundreds of thousands of dollars for mailings to regular Republican voters. No judicial candidate alone can raise enough money to reach as many voters as Dr. Hotze can. A lot of Republican activists call for the end of the "slate" system but there is no real alternative. I am a lawyer and I do not know who the good or bad probate or criminal judicial candidates are, so how could a plumber or teacher or housewife know who to vote for? Folks who interview judicial candidates and make fair, reasoned recommendations can provide a very good service to voters. They just should not make a ton of money doing it or be influenced by who pays them the \$10 - \$15,000 for "advertisements" in their mailers.

E-Filing Tips from the Judges

We are all getting used to e-filing and most of us have questions that we wish someone could answer. I posed six questions to some of our Harris County judges and Judges Farr, Warne, Moore and Dean were good enough to respond. I provide below the detailed answers from Judges David Farr and Judy Warne. Judges Moore and Dean pretty well agree with their answers.

1. If it takes 2 - 3 days for an e-filed document's image to appear on-line, how and when should attorneys contact the court about hearing requests and TRO? Are the courts notified by the clerk that a TRO has been e-filed or is that the attorney's responsibility?

Judge Farr: The filings, once imaged, all land in an electronic in-box on my clerk's computer systems and then my clerks go through that inbox daily and sort through the filings to determine which items need to be brought to my attention immediately or simply need to be set for hearing. In my court, the clerks have a list of filings that they are to print off and bring to me that day (i.e., writs of habeas corpus/attachment; de novo appeals of my AJ; TRO's - emergency or otherwise; motions to recuse; findings of fact requests, etc.). Now that may seem unwieldy (and it is) but it really is simply the electronic age version of a stack of paper filings which the clerks would have had to sort through anyway. Additionally, the Family Intake office of the District Clerk also emails the clerks when they have a rush such as a TRO or Habeas filing but that doesn't necessarily mean that there are never filings that are missed so it is imperative that the attorneys take ownership of their filings and contact the court directly if something appears to have gone awry. So, if something slips through the clerk's daily inspection, I would consider it the attorney's responsibility to make the court aware of the filing which leads to my response below

(which he did not know were illegal) on February 7. [Click here](#) to read the blog post, which has since been taken down (the super conservative author of this post also attacked Judge Walker for following the law and allowing gay people to adopt children, which is something to give Walker credit for in my book). Three days later, Judge "M.L." Walker replied in a statement:

Judge Walker does not know the litigant, she has never met the litigant, and she has never presided over any hearing involving the litigant. Judge Walker was made aware on February 6, 2014, that the nine donors were connected to a litigant involved in one of the two thousand plus cases pending in the 247th District Court. A supporter of Judge Walker collected nine checks from nine donors. Judge Walker accepted the donations from the supporter not knowing that the nine donors were affiliated with a litigant with a case in the 247th District Court. Judge Walker has never heard any matters involving this litigant nor will she ever hear any matters involving the litigant.

Walker must have forgotten that on December 9, 2012, she signed a Temporary Restraining Order for Mrs. McGill in this case and she has been present several times in court when the case was on the docket (Walker is usually in the courtroom when Hellums calls her docket). Any rich litigant in the 247th this past year would have known Walker was running to replace Hellums. It has been my experience that Associate Judges are usually aware of big, complex cases in their courts that involve hundreds of millions of dollars, big shot attorneys and many settings on unusual motions. It is an insult to Walker's intelligence to suggest that she did not immediately know who these nine donors were associated with or that she did not at least ask who these nine non-lawyers were who had given her the largest donations of her campaign.

On her January 15 campaign finance report, Walker reported \$100,007.96 in contributions and these nine donations were 45% of that total. I have worked on many judicial campaigns and candidates are excited to get even \$500 (much less \$5,000) from a non-lawyer they do not know and the first question was always, "Who is this?" Is Walker saying she got \$45,000 in one day from nine non-lawyers and she did not ask who it was from?

Walker only received ten donations of the maximum \$5,000 per person during the period covered by her last report and nine came in on the same day and several of those donors had the last name "McGill" and most listed as their employer "Don McGill Toyota." Who in Houston would not

regarding "walk throughs".

Judge Warne: I echo Judge Farr's comments about the process and I feel the same way. It is not offensive to me or the clerks for an attorney to call my clerks to check on the status of something that you believe should have made it to my desk. The clerks confirm that this is their preferred way to handle it, although they both ask that before you call, confirm that any applicable fees are paid, and wait a little while before you call. The only problem they are reporting is that attorney's office calls within 5 or 10 minutes of pushing the filing button and are frustrated that we don't have it yet. I would just urge what Judge Farr said-an efiled document DOES NOT COME straight to the court-it has to go through intake. Judge Patterson and I check our "box" [where the clerks put the orders for us to review] off and on all day long so once it gets to our clerk's attention, you should not wait long to get it signed. There is a very serious problem with files that are confidential that I hope to address with Chris Daniel at our upcoming meeting-that is-certain "confidential" files are accessible only to Kristel or a judge. Melissa cannot access them nor can our assistant clerk. This means that if Kristel is not here, we have a problem. We're hoping to address that soon.

2. Should attorneys bring extra paper copies of pleadings to hearings for the judge?

Judge Farr: DEEDS has been known to go up and down a bit so there is always the chance that I will not have access to the documents. I would recommend that the attorney verify that the documents (pleadings, motions, etc.) are in DEEDS by logging on at their office and verifying that the necessary documents are shown in the system. With that being said, I would bring paper copies of any pleadings or motions or answers that you absolutely will need the court to review as part of the hearing or trial.

Judge Warne:ABSOLUTELY feel free to bring paper copies!!

3. How will walk throughs of TRO's that seek extraordinary relief be handled if the pleading is e-filed?

Judge Farr: I would refer you back to the verification procedure above in #2 and then just "walk it" like normal with a paper copy just in case. More than likely what will happen is that you will come in to my clerk and tell her that you have a "walk through" and she will simply pull it up on her computer and then put it in front of me for signature. Until we have digital signature ability for the judges then the clerk will have to print it off her system anyway and hand it to me for signature but it is a developing system. So, in effect, the attorney is simply ensuring that the court is aware of the e-filed TRO instead of the old way of coming in and handing them the TRO in paper form.

Judge Warne: Again, my clerks prefer that you call the clerk and tell them it's coming or walk through an extra copy per Judge Farr's suggestions. Since the clerks CANNOT TAKE PAPER in the courtroom, if it is so urgent that it can't wait, bring it down and the clerk will find one of us to review and deal with it. I will comment that we see frequent requests for "extraordinary" relief that really aren't, and since this is a big exception to the rule, I would caution attorneys to not cry wolf and try to make it a habit of bringing down a paper copy of every TRO they file. Because of the Supreme Court mandate and the total inability of our clerk to process paper in the courtroom, these should really be urgent and extraordinary. Also, even if we sign an order, if the case has not been "filed" the clerks can't process it, so the attorneys should be absolutely certain that their staff or filing person actually pushed the "send" button so that a case number, etc. is assigned which will allow the clerk to then process anything we sign.

4. Most importantly, what can be done about emergency situations that cannot wait 2 -3 days for the imaged document to appear? If the other parent is about to leave the country with the child or was arrested Monday for cocaine possession and is to pick up the child tomorrow on Thursday, how can lawyers present their requests for emergency relief fast enough to protect the child?

Judge Farr: In the 312th, just bring it in on paper. The clerks are under instructions from the clerk's office NOT to take paper but the judge has the ability to trump that and require the clerk to take a paper filing. It is still a hybrid system for those purposes and I am not going to turn away a potential problem involving a child's best

recognize the name "Don McGill?" Who was the Walker "supporter" who bundled these nine donations and slipped them to the judge without an explanation? Did Walker not call these donors and thank them for their amazing generosity?

Is M.L.'s judgment so bad that she thought it was appropriate to accept those donations under these circumstances or is it any better if she didn't figure it out or didn't want to figure out why those donations were made? The entire situation stinks and of course Walker has not returned the donations (she has presumably spent them). Walker's campaign says she did not realize for five weeks who the donations came from and by February, when she realized it was from folks connected to Mr. McGill, she thought it would look bad if she returned the donations. So, she thought it looked better to keep the money?

Walker is simply too smart and savvy to possibly play dumb in this situation.

Like a true politician, Walker blames one of her opponents for spreading the word about these contributions, as if Walker taking the money, either knowingly or without asking any questions, is not the real problem.

Apparently Judge Bonnie Hellums was able to see there was a problem (maybe because her husband, Mr. Stith, is Walker's campaign treasurer). On February 7, 2014 (the same day Mr. Price's blog post first appeared), Judge Hellums *sua sponte* recused herself from the McGill divorce case.

The Republican District Attorney should investigate these donations because: (1) they illegal exceed the maximum campaign contribution limits, and (2) it would be a crime for someone to give money to his or her family or employees and have them donate to candidates in order to exceed the \$5,000 per person limit and improperly influence a judge. **Libel Alert: I of course do not know that any such thing happened and I am not accusing anyone of a crime since maybe these nine folks spontaneously decided to give \$5,000 of their own money to a judge they did not know, who coincidentally was working in and running for the court where Big Daddy McGill's divorce was pending.** Someone in authority needs to ask these donors why they suddenly decided to give the maximum to Judge Walker, where the money came from and who asked them to do it -- and who the hell collected the checks and delivered them to Walker?

In conclusion -- shame on this otherwise excellent judge for being willing to compromise her integrity to win, including pretending her name is not Meca, for accepting illegal contributions, keeping these McGill donations under the very suspicious circumstances, and

interest because of a clerk issue.

Judge Warne: Ditto Judge Farr's response.

5. When do judges want to see scans of actual signatures as opposed to /s/ Greg Enos typed on a document?

Judge Farr: I don't care.

Judge Warne: While I have a lack of comfort with the /s/, I'm learning to adapt. If it's something the attorney is verifying [yes believe it or not someone has filed a "verified" pleading where the notary appears to have notarized the /s/], I think the signature should appear.

6. At entry, how should attorneys handle the hand written changes that are made to orders at the last minute based on agreement or the court's ruling? Do we have to go back to the office to scan and e-file again? Can the judge take the order and give it to the clerk?

Judge Farr: Same answer as to #4. Make the annotations on the paper order at the entry hearing and hand it to my clerk for signature. Again, for now, I have to sign a paper copy ANYWAY and then that has to be scanned after I sign it so I'm not going to get mired in that process now and make the Bar's job more difficult. When the electronic signature capability is up then we will have to adjust from there but it is an evolving procedure.

Judge Warne: Bring a paper copy to the entry hearing, make the changes, we'll re-image the revised version after I have signed.

"Home Away From Home" - The New Harris County Law Library Can E-File for Attorneys, Enlarge Exhibits, Make Copies and Print E-mails

The Harris County Law Library on the ground floor of the Congress Plaza Building next to the Family Law Center provides many useful services to attorneys, including scanning documents and e-filing, printing, access to e-mails, copying and even enlarging exhibits. Attorneys are charged \$7.50 for the first document that is e-filed and \$3.00 for each additional document. There is an extra \$5 fee if you pay by check or credit card. The law library offers Skype conferencing, faxing, color copying and can bind documents. If you have not visited the new library, you check it out.



then not being completely forthcoming about those donations. I am writing this as a concerned attorney who cares about the integrity of our family courts AND as a disappointed fan of Judge Walker. I want this story to serve as a warning to judges and judicial candidates in the future not to let this crap happen again.

Let me say again, M. L. Walker is a damn good judge. She should have just run as a Democrat in a primary where voting for Obama, treating gay people fairly and being named "Meca Latreice" would be correctly viewed as good things. However, a judge who breaks the law should not succeed in either party. Walker will now have to be judged by Republican primary voters who need to know that this judge has accepted illegal campaign contributions made under almost certainly unethical circumstances.

Katrina Griffith is the New CPS Associate Judge

Regional Administrative Judge Olen Underwood, after receiving input from the Harris County Family and Juvenile judges, has hired Katrina Griffith to be an Associate Judge for CPS cases. Judge Griffith will preside over specific CPS cases as referred from all of the family and juvenile court judges beginning in several weeks. [Click here](#) to read a Houston Chronicle story about this new court and the funding battle behind it.

Jim Cooper is the New A.J. for Judge Roy Moore

Diane Guariglia is returning to private practice and 245th District Judge Roy Moore has selected James "Jim" Cooper to be his new Associate judge starting March 3.



I Am Not A Nazi Lover or Jew Hater But I Really Do Love History and What We Can Learn From the Past

Few Republicans really are prejudiced morons. However, several GOP stalwarts who are defending Judge Denise Pratt by calling me antisemitic and a "Nazi lover" are too stupid to be believed. At recent political events, Pratt's supporters are telling those who turn out to oppose Pratt that they should not be attacking Pratt because Greg Enos, the leader of this "unfair smear" campaign against Pratt, is a "Nazi loving Jew hater." One attorney, who makes thousands of dollars on appointments from Judge Pratt, told Phil Placzek that he should be ashamed as the child of a Holocaust survivor to be associating with someone like me. A GOP precinct chair from Katy is also saying similar things about me. The evidence of my disturbing prejudice according to these idiots is the following photograph that I put at the bottom of most of my newsletters:



I showed this photograph to a fifth grader and asked her what it meant to her and she said, "It means that just because everyone else is doing something bad, you don't have to; it is okay not to do what everyone else does if it is not right." That little girl is clearly far smarter than Pratt's Republican political operatives.



I will let you decide if I am glorifying Nazi's or being antisemitic by suggesting that we should all be like the man shown in this photograph. This photograph, in which a man identified as August Landmesser refuses to give the Nazi salute, was taken on June 13, 1936 at a shipyard as a new German Navy ship was being launched. According to a book his daughter wrote, Landmesser joined the Nazi Party in 1931 to boost his chances at employment. In 1935, he became engaged to Irma Eckler (a Jewish woman) and was expelled from the party. They registered to be married in Hamburg, but the Nuremberg Laws enacted a month later prevented it. Landmesser and Eckler's first daughter Ingrid was born in October 1935. In 1937, Landmesser and Eckler tried to flee to Denmark but were apprehended. She was again pregnant,

Bret Griffin Appointed Judge of 212th District Court

The future President of Texas A&M University (yes, you heard that from me first, but count on it) Governor Rick Perry appointed Bret Griffin to replace Susan Criss as Judge of the 212th District Court in Galveston. Griffin will hold this appointed post until the votes are canvassed after the November General Election. If Griffin wins the GOP primary, he will win in November and be judge for four more years since no Democrat is running for the 212th. Griffin, a former felony prosecutor then criminal defense attorney and, recently, a civil litigator as well, has wisely kept Judge Criss' entire staff.



Perry chose Griffin over Patricia Grady, the other leading candidate for the GOP nomination for this position. Grady, the wife of County Court No. 1 Judge John Grady, had the support of her former boss, County Judge Mark Henry, the GOP County Chair and, most notably, our State Senator, Larry Taylor. Senator Taylor is extremely unhappy that the century old tradition known as "Senatorial Courtesy" was not honored by the Governor as usual. Traditionally, the Governor, even in interim appointments, does not appoint someone who is opposed by his or her State Senator of the Governor's political party. Taylor, an insurance agent, made no secret that he opposed Brett Griffin, who he views as a personal injury attorney and protege of mega-P.I. lawyer Tony Buzbee.

Republican Taylor even attacked Governor Perry in a harshly worded statement, which said in part:

It is an unprecedented action for a Governor to overrule the objection of the hometown Senator whose district includes the appointee. This appointment is being made at the behest of Gov Perry's new friend, Tony Buzbee, a personal injury trial lawyer who has certainly benefitted from and has even bragged about, his success in friendly legal venues. Brett Griffin is too close to Mr. Buzbee. He has worked for Buzbee, his wife works for Buzbee, they are partners in a business venture and Buzbee almost fully funded Mr. Griffin's last campaign for judge. Now, more than

and he was charged and found guilty in July 1937 of "dishonoring the race" under Nazi racial laws. Landmesser appealed and argued that neither he nor Eckler knew that she was fully Jewish, and he was acquitted in May 1938 for lack of evidence, with the warning that a repeat offense would result in a multi-year prison sentence. The couple publicly continued their relationship, and on in July 1938, he was arrested again and sentenced to two and a half years in the concentration camp Borgemoor.

Eckler was detained by the Gestapo and held at the prison Fuhlsbüttel, where she gave birth to a second daughter, Irene. From there, she was sent to the Oranienburg concentration camp, then to the Lichtenburg concentration camp for women, and then the women's concentration camp at Ravensbrück. Their children were initially taken to the city orphanage. Ingrid was later allowed to live with her maternal grandmother; Irene went to the home of foster parents in 1941. After her grandmother's death in 1953, Ingrid was also placed with foster parents. A few letters came from Irma Eckler until January 1942. It is believed that she was taken to the so-called Bernburg Euthanasia Center in February 1942, where she was among the 14,000 killed.

Meanwhile, Landmesser was discharged from prison in January 1941. In February 1944, he was drafted into a penal battalion. He was declared missing in action and presumed killed during fighting in Croatia in October 1944. [Most of the above story is from Wikipedia].

No one can envy Herr Landmesser for the tragic life he lead all because he stood up for what was right and bravely loved a woman the law said he could not be with. However, I think even Republicans and Democats should all admire him for refusing to join everyone else in the crowd in making the Nazi salute on that sunny June day in 1936.



ever, the people of Galveston County deserve an impartial judge who will run a fair court. This appointee does not meet that test and that's why I am supporting Patricia Grady. She is the most qualified in this race and she will not be beholden to anyone.

Bret Griffin is totally qualified to serve as the 212th District Judge hearing felony criminal and civil lawsuits. I say this in Griffin's defense even though I am a friend and supporter of Ms. Grady (I have a Pat Grady sign in front of my office). The fact that Griffin has represented plaintiffs in civil suits is a **qualification**, not a disqualification, for this office. Griffin has worked with Buzbee and clearly Buzbee, the former chair of the Galveston County Democratic Party, has a lot of money and pull with Governor Perry. Buzbee helped coach Perry for the debates during Perry's embarrassing presidential run and Perry recently appointed Buzbee to be an A&M regent (that is one sure vote for President Perry).

County GOP Barbara Meeks has joined the debate by posting a message on Facebook saying how disappointed she was in Governor Perry for appointing Griffin. Meeks said:

Now we see that LIES are being circulated about a capable, hard working candidate, Patricia Grady. She is the hardest working candidate since Michelle Slaughter and has much more courtroom experience. We recognize the signature of this nasty type of negative campaigning and sadly I predict it will not end. Let me assure you, strong Republican Patricia Grady, Candidate for the 212th District Court, has not accepted ANY money from Steve Mosytn. Tony Buzbee is about as Republican as Lloyd Criss, the current chairman of the Galveston County Democratic Party, a position Buzbee once held. If I had to make an educated guess, I would say that Buzbee is pushing for a presidential appointment from long-shot Perry.

My friend Senator Taylor is helping Grady beat Griffin in the primary and is attacking Griffin because of his legal experience and his ties to Buzbee. I still strongly support Pat Grady (for all that is worth in a GOP primary). However, it seems to be a pretty sad comment on the misinformed state of the Republican electorate that our new judge selected by the Republican Governor can possibly be criticized because he does have experience in civil litigation, even if some of those cases involved suing corporations, including insurance companies. How can representing consumers and injury victims against insurance companies and polluters be considered morally wrong or a reason not to be elected judge?

It may be that Perry's surprise appointment

of Griffin was the best thing to ever happen to Grady's campaign, but I hope she will not join those who are attacking Griffin because he has represented plaintiffs in lawsuits.

[Click here](#) to read the *Galveston Daily News* article about just how irate Senator Taylor was about this judicial appointment.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos





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Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.

In this issue, I provide more tips for e-filing and a very detailed article on how personal injury settlements are treated in divorces (they are almost always community property). I write about interesting developments in a Democratic primary for a family court. I also try to clean up some of the mess created by the last issue of the *Mongoose*, which irritated more than my usual allotment. The *Houston Chronicle* is struggling to keep up with the *Mongoose*, since my last edition on Monday was followed by two big stories in the *Chronicle* on the following Tuesday (about M.L. Walker) and on the next Friday (a front page story about Denise Pratt) based on news first reported in this newsletter.

Meanwhile, there is still plenty to say about Judge Pratt, including these development as of Sunday: (1) The Harris County GOP Judicial Screening Committee evaluated the candidates for the 311th and not a single member of the committee rated Judge Pratt positively (half were Neutral and half were Negative). In contrast, 100% of the committee gave Donna Detamore a "Positive" rating. (2) 72% of Republican precinct chairs did not support Pratt in a just-completed "straw vote." Donna Detamore came in first with 42% and Anthony Magdaleno received 36%. Pratt was the choice of 28% and Alicia Franklin got 5%. Perhaps I have been too hasty in counting Donna Detamore out of this race!

- A conservative Republican appellate attorney, Leif Olson, has written a lengthy and absolutely devastating article explaining why Denise Pratt is a disaster as a judge. Pratt cannot blame this blog on liberal Democrats or even disgruntled family law attorneys, since Mr. Olson does not practice in our field. [Click here](#) to read the most complete encyclopedia of what is wrong with Denise Pratt ever written.
- The *Houston Chronicle* ran a front page story Friday on Judge Pratt and more details on the two new District Attorney investigations into the loco judge I described in last week's *Mongoose*. [Click here](#) to read the Chronicle story.
- Republican bloggers jumped all over the newest Pratt developments. [Click here](#) to read one post entitled "Enos v. Pratt, Part III." I like the part that says, "prominent Galveston county attorney Greg Enos..." The "Big Jolly" blog had fun reporting on the nauseating video advertisement for Judge Pratt featuring none other than Ronnie Harrison, who has made a lot of money off unnecessary amicus appointments from Pratt. [Click here](#) to read the blog post, which has a link to Pratt's disgustingly false advertisement.
- The "Anyone But Pratt" campaign seems to be in full gear as these signs have started appearing all over town.

"Together, attorneys can improve our family courts!"

News Flash: Katrina Griffith will be sworn in as the CPS associate judge of the Child Protective Services Impact Court at 2:00 p.m. on February 28, 2014 in the main courtroom of the 312th Judicial District Court. Everyone is invited!

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**M.L. Walker Returns
Illegal Contributions But**

Keeps The Shady Cash

M.L. (AKA "Meca") Walker's campaign says it has returned \$20,000 in illegal campaign contributions but has kept \$25,000 given under very suspicious circumstances. [Click here](#) to read last week's story about how Walker accepted \$45,000 in contributions on one day from nine people associated with a rich car dealer with a divorce in Walker's court. Once I pointed out to Walker that some of those contributions exceeded the \$5,000 per person (or married couple) contribution limit, Walker checked with the Texas Ethics Commission. Once the Commission confirmed that the law actually says what it says, Walker claims she returned \$20,000 of the contributions.

[Click here](#) to read the *Houston Chronicle* story that went way too easy on Walker, who should have never accepted any of those contributions in the first place.

If my teenager comes home from school with an expensive gold Rolex watch, I am going to ask where he got it from. If the kid tells me some dude he doesn't know sold it to him for \$10 and no questions were asked, I am going to sit the boy down and have a talk about ethics and making moral decisions. I would probably tell the boy something like this:

You are smart enough to know when something just does not seem right and you can't escape doing the right thing by not asking questions. In fact, I really do not believe you did not ask where the watch came from or why it was for sale for just \$10. A stolen watch is still stolen even if you pretend you were not suspicious and did not ask the right questions. If something does not seem right, I expect you to walk away and make the moral choice and not play dumb.

Anthony Magdaleno is Happy (Not Sad) and Coming On Strong!

Anthony Magdaleno, a candidate for the 311th District Court against Denise Pratt, took exception to the last issue of the *Mongoose*, which said:

Anthony Magdaleno is a sad example of what is wrong with the current GOP primary system. Anthony is a fine, ethical lawyer and I am sure he would be a really good judge. Anthony is being endorsed by a lot of bloggers, Republican precinct chairs and smaller Republican groups. However, Anthony lacks the connections and is too much of an outsider to get endorsed by Pollard, Lowry or Hotze.

Anthony took this to say he is a sad person, so perhaps I should have written, "The way the campaign of Anthony Magdaleno is being received by the "big shots" in the Republican "pay to play" primary is a sad example of what is wrong with the current GOP primary system."



- Rob Clark and I appeared on the *Matt Patrick Radio Show* on 750AM last week to rebut some of the blatant falsehoods Pratt said on the show the week before. [Click here](#) to hear this new "Dynamic Duo" of Houston radio explain why Pratt is such a disaster from the points of view of a liberal Democrat (me) and a life long ardent Republican (Clark). The discussion about Pratt starts at about the 11:00 minute mark. Yes, I did call an incumbent judge a "liar" on the radio. Toward the end, you will hear me praise some of the great Republican family judges we are so lucky to have, such as Judges Farr, Moore and Dean (I must occasionally kiss a little arse in hopes I can practice in at least a few courts).
- To my great amusement, a Republican political activist discovered that the Online Slang Dictionary has a definition for "Pratt" which I swear I did not contribute to or write. The definition entry really reads: "Pratt - idiot, un-cool, not liked. 'That person is such a pratt.' A person that chatters or utters childishly or foolishly. British slang, derived from the word prattle. 'Don't be such a pratt.' The slang dictionary does not yet contain an entry for "To Be Mongooseed."



- Criminal defense attorney Terry Yates took time from defending alleged murderers, rapists and child abusers to defend his most heinous client, Denise Pratt in an exclusive interview with the editorial board of the *Mongoose*. Yates defended Judge Pratt from a front page *Houston Chronicle* story Friday by explaining that changes the judge made to typed, agreed temporary order that two parents and their attorneys had signed and submitted was a "simple mistake."

NO. 2007-28477

IN THE MATTER OF
THE MARRIAGE OF

HUMBERTO RODRIGUEZ
AND
LOAN VU

AND IN THE INTEREST OF
LINH RODRIGUEZ AND IVAN
RODRIGUEZ, CHILDREN

IN THE DISTRICT COURT
311 JUDICIAL DISTRICT
HARRIS COUNTY, TEXAS

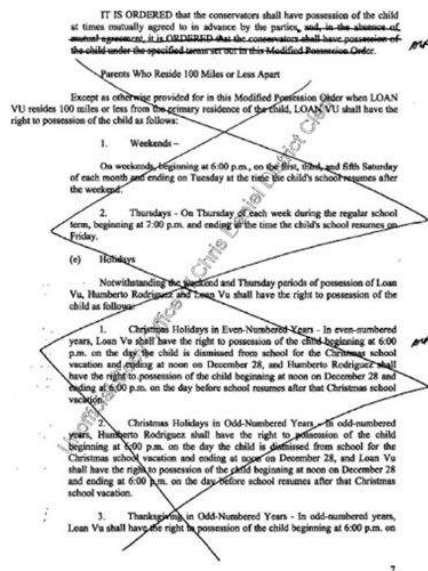
FILED
SEP 13 2013
09-13-2013
Harris County, Texas
Clerk

FINAL
TEMPORARY ORDERS

On September 13, 2012 the Court heard Petitioner's motion for temporary orders.

Handwritten notes: P-19, EPO, (01), KNE, CCURX

"The judge had started work on paperwork in her in-box labeled **"Orders Waiting For Judge's Signature for Over 3 Months - May Need Backdating"** when she suddenly and unexpectedly had a sneezing fit caused by a severe allergic condition," Yates explained. Yates stated, "It seems that a new clerk had accidentally placed a law book too close to the judge's desk and Pratt is severely allergic to anything that contains laws or rules she is expected to know and follow, so, as she sneezed uncontrollably, she mistakenly scratched out the word **"temporary"** and wrote **"final."**"



When asked why Judge Pratt would then scratch out all of the mother's agreed periods of visitation in that order on two different pages of the order, Yates had an easy answer. "George Clevenger and Ronnie Harrison were in the judge's chambers as they often are," said Yates. "Those hard working, dedicated attorneys were counting and rubber banding stacks of cash and got a little silly and started singing the 'Oompa Loompa' song from *Charlie and the Chocolate Factory* and that distracted the judge, who then accidentally scratched out several pages of visitation rights for this mother. Judge Pratt went ahead and initialed those accidental changes because she assumed the mother probably did not deserve to see her child any way - she is an unmarried woman working outside the home after all." Yates explained that the wording of the body of the order, which took away the mother's visitation without hearing or evidence or even a request from the father, would control over the inadvertent change of **"temporary"** to **"final"** in the title of the order.



Yates even was able to blame Pratt's clerks for this snafu: "We do not know why 25 clerks have come and gone through the 311th in just three years - it certainly has nothing to do with the way this good, hard working Christian conservative treats people - but this clearly was a clerk's error for not realizing that when the judge hand wrote **"final"** she really meant **"temporary."**"

As to whether a judge changing an agreed order signed by the parties and filed with the clerk could constitute the crime of tampering with a government record, Yates realized he had to run to court to represent an (alleged) bigamous child molester (who was not a judge) and was unable to complete the interview.

Note for the Dim Witted: Just in case any reader is stupid enough not to know, the above tale is a fictional parody intended to make a point with humor. In a case involving a parody of pastor Jerry Falwell, *Hustler Magazine, Inc. v. Falwell*, 475 U.S. 767 (1986), the U.S. Supreme Court extended First Amendment protection to speech that "could not reasonably have been interpreted as stating actual facts about the public figure involved," even if that speech were "patently offensive and . . . intended to inflict emotional injury." The Texas Supreme Court in another case involving parody, *New Times, Inc. v. Isaacks*, 146 S.W.3d 144, 156-7 (Tex. 2004), held that, "the test is not whether the story is or is not characterized as "fiction," "humor," or anything else in the publication, but whether the charged portions in context could be reasonably understood [by a



Magdaleno is by nature a happy guy. He is really happy these days because he has been endorsed by, among others:

- The *Houston Chronicle*
- Several Republican precinct chairs
- Houston Republican Liberty Caucus
- The Kingwood Tea Party
- Spring Branch Republicans
- Republican Women's Texas
- Conservative View PAC
- Conservative blogger David Jennings of *Big Jolly Politics*
- Republican blogger Ed Hubbard
- Gwen Emmett (Judge Ed's wife)
- The C Club of Houston
- United Republicans of Harris County
- Katy Christian Magazines

Magdaleno was not endorsed by any of the big, high dollar slate endorsers who usually determine down ballot judicial races in Harris County. It will be interesting to see if all of the negative publicity about Judge Pratt is enough to make GOP voters actually think about the race for the 311th. If one assumes that informed, thinking voters can play a role in a local Republican primary, Anthony might just buck the system and end up in the run off with Alicia Franklin.

The Other Side of the Story

Last week's *Mongoose* told the story of Karen Hyde who got such a raw deal in Judge Pratt's court. The story also explained how Ms. Hyde and her husband were eye witnesses to Pratt backdating a capias order, which resulted in the arrest of Ms. Hyde's ex-husband. The ex-husband's attorney, Ruby Bolton, was very upset with me for repeating Ms. Hyde's assertion that Ms. Bolton's office on December 18 mailed notice of a trial set for December 16 and did not send notice of a new trial date in February. **Just to be very clear, Ms. Bolton strongly asserts that she did send notice of the February trial to Ms. Hyde in December.**

The case was dismissed by Pratt at the end of December as part of her insane and illegal attempt to make her dismal court statistics look a little better. Ms. Bolton does concede that she filed a motion to reinstate the custody case in January but

reasonable reader] as describing actual facts about the plaintiff or actual events in which she participated. If it could not be so understood, the charged portions could not be taken literally [and the author cannot be sued for defamation]."



[Click here](#) to view this nauseating false video praising Judge Pratt. I promise a parody video is in the works.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm

E-Filing Tips - Part 2

E-filing continues to aggravate and confuse attorneys and legal assistants. Here is an important tip I am getting from the clerks in all surrounding counties (they just will not say it on the record): **DO NOT USE PRO DOC AS YOUR E-FILE SERVICE PROVIDER.** The clerks confirm that the majority of their e-filing problems involve ProDoc. My office has switched to [efile.txcourts.gov](#), which is free and seems to create far fewer errors. [Click here](#) for the comparison chart of e-filing service providers.

I arranged a meeting for legal assistants from several different law firms to meet with Galveston County District Clerk John Kinard and his staff to discuss e-filing. I give Kinard and his people credit - they are trying everything they can to make this transition to e-filing work. Communication is a big issue and is being worked on. For example, Galveston County a few weeks ago stopped accepting American Express to pay e-filing fees but did not tell anyone. My office went crazy for a few days trying to figure out why our e-filings were being rejected before technical support for our e-filing service provider figured it out. Thanks to my complaints, Galveston County now again accepts American Express.

In Galveston County, returns of service can be e-filed. The District Clerk prefers that exhibits be filed with motions as one document. If the motion and exhibits exceeds the size limit, the exhibits should be filed as a separate document and clearly titled, "Exhibits to Petitioner's Motion to...." The District Clerk is charging 25 cents per page for service copies.

[Click here](#) to see tips from the Galveston County District Clerk's office on e-filing, some of which was news to me. [Click here](#) for a PDF of the same information sheet, which most attorneys I checked with did not even know existed.

Here are some e-filing requirements I did not know about for Galveston County that go beyond what the Supreme Court rules require. These are requirements are not in our local rules yet and it is a mystery why these guidelines have not been shared with attorneys.

did not send Ms. Hyde a copy of the motion as required by the Rules of Civil Procedure and as she represented to the court she had done in her certificate of service. **Ms. Bolton very firmly feels that I was wrong to call her motion to reinstate a "secret motion."**

Bolton says that Pratt's coordinator told Bolton's legal assistant to just file the motion to reinstate and it would not be necessary to give the other side notice.

The clerks in Pratt's court did not image the motion to reinstate that Bolton filed until weeks later and did change the system to say that the case was again active until after the trial. Ms. Hyde called the 311th several times and was told her case was still dismissed. I even checked on the day after her trial and the District Clerk web site still said the case was dismissed. Small wonder this poor woman did not show up for a trial that resulted in a default against her.

Ms. Bolton does agree with me that Judge Pratt should not have issued a capias order against her client on April 25, 2013 because there was no proof of service in the file. This is the order that Pratt backdated to March 5, 2013 and is the subject of a new District Attorney investigation.

Bolton spent hours on the day her client was arrested getting Pratt (without motion or hearing or notice to the pro se mother) to sign an order withdrawing the capias. Bolton then was at the Montgomery County jail until 2:00 a.m. getting her client released. That is the kind of dedication all clients deserve from their attorneys!

I do my best to report accurately and I always feel bad when my stories upset people, especially good attorneys like Ms. Bolton, who are just trying to represent their clients, make a living and stay out of controversy. However, this fine attorney is part of the tragic and scary story involving Judge Pratt and what Pratt is doing to families every day in her court. Bolton is just one of many witnesses to the train wreck that is the 311th. She certainly does deserve to be treated fairly and accurately by pseudo-journalists like me and I apologize if my earlier story was incomplete and did not provide her side of the story.

306th Family District Court Race Gets Nasty

The race to pick a Republican to replace the excellent Judge Jan Yarbrough in the 306th Family District Court in Galveston County has taken a nasty and scary turn. It is now a nasty race because the two leading candidates are busy calling each other "liars" (only one is correct). The race is scary because most attorneys cannot imagine how it would be if one of those candidates were to get elected.

Anne Darring, Wilfried Schmitz and Jennifer Burnett are seeking the Republican nomination and there is no Democrat even running. Darring has the support of virtually all of the attorneys who have taken a public position in the race (over 70) and Schmitz

1. Paper must be white with a page size of 8.5 x 11; font must be black with a size no smaller than **14 point**.
2. Documents must be in a text-searchable PDF format using 300 DPI resolution and fonts specified in the Adobe PDF reference version 1.5 and should be generated directly from the originating software using a PDF distiller whenever possible.
3. Documents must not be locked (i.e. password protected)
4. Documents must be in black and white; color or grayscale images will be rejected
5. Documents must not contain any malware or viruses. The electronic filing of a document constitutes certification by the filer that the document has been checked and is clear of any malware or viruses
6. Documents must contain filer's complete contact information in the signature block including name, address, phone number and e-mail address.
7. PDF portfolios will not be accepted. Multiple documents which pertain to a single filing must be combined into a PDF. For example, Exhibits to pleadings are to be included in a single PDF or can be filed separately as a new filing using the Exhibit filing code;
8. Documents that can be filed in a traditional manner with the County and District Clerk may be electronically filed with the exception of the following documents:
 - A. Bonds;
 - B. Will and Codicils thereto;
 - C. Documents to be presented to a court in camera, solely for the purpose of obtaining a ruling on the discoverability of such documents;
 - D. Documents on cases sealed pursuant to Tex. R. CV. P. 76a; and
 - E. Documents to which access is otherwise restricted by law or court order, including a document filed in a proceeding under Chapter 33, Family Code.

Dirty Business In a Democratic Judicial Primary

Sandra Peake and Julia Maldonado are running against each other for the Democratic nomination for the 246th District Court. Judge Jim York is retiring and Charley Prine and Angelina Gooden are competing for the Republican nomination. Maldonado filed a lawsuit to have Peake removed from the ballot. In cause no. 2014-02303, Maldonado alleges that Peake did not properly collect the number of signatures needed on her petition to get on the ballot. A visiting judge has conducted one hearing and Maldonado is asking for an injunction to prevent the Democratic Party from canvassing or counting any votes for Peake.

At the February 3, 2014 hearing, the notary who notarized the petition signatures for Peake, testified that she did not actually witness most of the signatures of the petition circulators she notarized. That testimony could in theory invalidate the petitions and could get the notary in trouble. The notary testified as follows:

Q. Did someone hand you the petitions and ask you to notarize them without the person being the circulator actually appearing before you?

A. No. I mean, I notarized them, yes.

Q. Well, did someone ask you to do that?

A. Yes.

Q. Who? Who asked you to do that?

A. I notarized them for Ms. Peake.

Q. Ms. Peake asked you to do that?

A. Yes.

THE COURT: Who was it? I'm sorry. I couldn't hear.

MR. WILKINS: Ms. Peake.

Q. (By Mr. Wilkins) Sandra Peake asked you to do that?

A. Yes.

Q. Did you realize at the time that you were signing as the notary, notarizing the signatures for people who were not before you, that those documents would be submitted to government authorities?

A. Yes.

Sandra Peake says that this election should be decided by the voters and not in a courtroom. The Democratic Party examined Peake's petitions and determined they were sufficient. Peake says there

has not surprisingly become the darling of the Tea Party extremists. Ms. Burnett is a nice young attorney working in the District Attorney's office with no real experience handling divorces or custody cases in the private world and she lacks the resources to compete with Schmitz and Darring. Darring has been involved in Republican activities but clearly was once a Democrat (like Ronald Reagan and Rick Perry once were) and has a big base of volunteers and supporters. Schmitz has apparently never voted in a primary before but has contributed to a lot of Democrats (oh, the horror!). This race is likely to be headed toward a runoff and that should be great fun to watch.



Anne Darring says her opponent's pants are on fire (and she has the proof).

Schmitz brags that he is the only attorney in the race who is board certified in Family Law, but he does not mention how many times he failed the board certification test before finally passing it. He also does not acknowledge why almost no family law attorneys in the local area are supporting him (answer: we know him). Schmitz in many ways is very smart and for all I know, he might turn out to be a good judge, like those attorneys who are total pains in the ass to litigate against but surprisingly are really good mediators.



Wilfried Schmitz says he should be judge because his opponent long ago posted one comment saying we should consider an alternative to "Obamacare."

Attorneys know Anne Darring has the broad experience and even temperament (and lack of oversize ego) to be a good judge. Darring is also a parent who has actually raised children, which is perhaps a good quality to have in a family court judge.

Schmitz has recently accused Darring of supporting Obamacare and lying about it (which is the equivalent of calling your

was no evil intent with the notarization of her petitions by a woman who works for Peake's husband. Peake says the case is over because the judge denied Maldonado's request for injunctive relief. Maldonado seems to think she can still keep Peake from being the Democratic nominee even if Peake wins the most primary votes. We shall see how this plays out.

Injury Settlements Are Usually Community Property in Texas Divorces

[Click here](#) to read a very detailed article on how personal injury settlements and recoveries are treated in divorce. I have presented this article before but I have expanded and updated the paper, which can be summarized as follows:

A spouse's recovery for an injury claim is usually community property because most settlements mix all of the damage elements together in a single payment. Recoveries in injury claims are treated like other property in a divorce and the usual presumptions and burdens of proof apply. When a spouse receives a settlement from a lawsuit during the marriage, some of which could be separate property and some of which could be community property the burden of proof is on the spouse claiming the funds as separate property. *Kyles v. Kyles*, 832 S.W.2d 194,198 (Tex. App. - Beaumont 1992, no pet). All property is presumed to be community property and "clear and convincing evidence" must be presented to establish that property is separate property. Tex Fam. Code §3.003.

The basic rule in Texas is that a lump sum injury recovery is all community property if a party cannot prove what part of the lump sum settlement is separate property. See, e.g. *Kyles v. Kyles*, 832 S.W.2d 194 (Tex. App. - Beaumont 1992, no pet).

As one court has said, "Without clear and convincing evidence showing the recovery is solely for the personal injury of a particular spouse, the spouse does not overcome the presumption that all recovery received during marriage is community property." *Licata v. Licata*, 11 S.W.3d 269, 273 (Tex. App. - Houston [14th Dist.] 1999, no pet).

In the typical situation, when a plaintiff settles his or her case for a lump sum and the release says it is for any and all damages the plaintiff suffered, the total recovery will be almost always have to be considered community property. Here are the only situations where I can imagine that a spouse in a divorce would be able to prove with clear and convincing evidence how much precisely from the lump sum settlement was his or her separate property:

1. There is a stipulation as to how much was paid for each element of damages, either in the divorce case or as part of the injury settlement. see e.g. *Slaton v. Slaton*, 987 S.W.2d 180 (Tex. App. - Houston [14th Dist.] 1999, no pet.).
2. The spouse proves that there were no damages suffered that would be community damages. For example, the spouse who sues for intentional infliction of mental distress could show that he did not seek nor did he suffer any damages for lost wages or medical expenses.
3. Recovery is made after a jury trial if the defendant pays what the jury awarded. If a case went to trial and a jury awarded specific amounts for each element of damages and if the defendant does not appeal (or loses on appeal) and pays according to the jury verdict, there would be specific proof of each element of damages. Presumably, the pre-judgment interest and post-judgment interest would be calculated on each element of damages and so apportioned between the spouses. **However, if there is a jury verdict and then the parties settle for an amount less than what the jury awarded, the parties are back in the situation described above, where it is a lump sum settlement and no specific amounts are assigned to each element of damage and it would be considered all community property.**

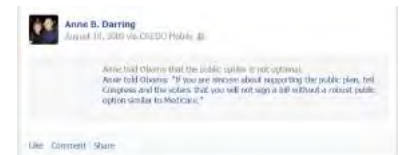
Senator Ted Cruz Agrees With Me!

To my surprise, I actually have something in common with Senator Ted Cruz, the Republican Huey Long of our generation whom I predict will lose in an electoral college landslide to Hillary Clinton in 2016. Senator Cruz and I both really like the 2006 British movie *Amazing Grace* and admire a 19th Century British Parliamentarian, William Wilberforce.

opponent a child molester in a Democratic primary race). Schmitz claims he called Daring about this dastardly dirt from her past and Daring immediately deleted an old Facebook post that said she supported what thinking people call "The Affordable Care Act." The problem is that Schmitz has simply got it all factually wrong. Schmitz called Daring to get a mutual promise that they would "keep the campaign clean" and "not get dirty." Daring never deleted the Facebook post in question and it did not say she supported Obamacare.

1. Two weeks ago, I personally called Ms. Daring and asked her specifically about her support of Obamacare. She denied it.
2. I pointed out to Ms. Daring her posting on Facebook of her support of Obamacare.
3. Ms. Daring subsequently removed the posting from her Facebook profile.
4. Ms. Daring, upon removing the post, accused me publicly of lying about her support of Obamacare.
5. Fortunately, I had saved a screenshot of her posting.

This is the Facebook post from 2009 by Ms. Daring that is still easy to find on her Facebook timeline:



Way back in 2009, Daring had apparently simply reposted an on-line petition, which called on President Obama to include an expansion of Medicare or Medicaid as one of the insurance options if he was going to push through his health care reforms. At the time, the organization circulating the petition was critical of the direction Obama's health care reform was taking and it is absolutely not accurate to say that anyone reposting this on-line petition was saying they supported what is now called, "Obamacare."

So, Mr. Schmitz:

1. Was not truthful about Daring trying to hide her "support of Obamacare" by deleting her Facebook post because she did not delete it. Daring's 2009 post is still there! Ironically, Schmitz has now deleted his own Facebook post falsely accusing Daring of lying.
2. Was at best extremely misleading when he twisted this 2009 post to mean Daring supported the dreaded Obamacare. Literally, she was urging the President to consider expanding Medicare as an alternative to a system run by insurance companies with penalties for not buying insurance.

This kind of desperate, last-minute attack on Daring is exactly what the lawyers who have practiced against Schmitz would have expected, even after he called his opponent and promised "not to fight dirty."

I am starting to miss Judge Yarbrough already.



A story on [Politico.com](#) last week said the following ([click here](#) to read the entire story):

During one of our conversations last year, I asked Cruz about his favorite movies, and in addition to a couple of classics - The Godfather, The Princess Bride - he mentioned Amazing Grace, a 2010 [actually 2006] drama about the effort to end the British slave trade that's become popular in Tea Party circles. "The abolition movie?" I asked.

"Yes, about William Wilberforce," Cruz said. "It's an incredible story about a member of Parliament who fought for his principles, and when he began, he was almost entirely alone. And conventional wisdom in the British Parliament was there was no way to stop the British slave trade. And Wilberforce endured enormous criticism and animosity and yet, over the decades, stood resolutely for principle and transformed not only Britain but the world, by succeeding at long last in abolishing the unspeakable evil that was the British slave trade."

[Click here](#) if you are interested and want to learn a little more about this stubborn reformer who worked tirelessly for 26 years to get Parliament to abolish slavery in the British Empire. **Wilberforce stood up for what was right when no one else would. He fought for reform when no one thought for a second he could possibly succeed in changing a bad system everyone just took for granted as being "the way it was."**



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos





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[Click here](#) for an archive of past issues of *The Mongoose*.

Harris County Primary Results

70% of Republicans Smartly Refuse to Vote for Pratt in 311th GOP Race

Pratt	33,483	29.81%
Franklin	26,012	23.16%
Magdaleno	24,107	21.47%
Detamore	19,773	17.61%
Placzek	8,933	7.95%

On the Sunday before the primary, the *Houston Chronicle* ran an editorial entitled, "Beware of Slate Cards," which stated in part:

As an example of how skewed they are, consider that several of the better-known slates endorse [Denise Pratt](#), the incumbent judge for the 311th District Court who's been mired in scandal for months. Never mind that she's been reprimanded for "unreasonable" delays, that she's been accused of backdating court documents and that's she's been rated "not qualified" by the [Houston Bar Association](#). Never mind all that: She paid; she plays.

No More Amicus Appointments for Woodfill?

Jared Woodfill may not be so popular on the 7th floor as he lost his race to be reelected Chair of the Harris County Republican Party in a lop-sided loss to Paul Simpson 53% to 37%. Despite our big differences in politics and attitudes toward the proper role of amicus attorneys, I have come to like Jared and I am sorry personally for the dude losing.

District Clerk Daniel Lets Loose a Beat Down

Chris Daniel won his primary race for District Clerk big time 69% to 31% over Court Koenig.

Runoff Between Schmude and M.L. Walker



Galveston County Primary Results

The Republican party rules Galveston County now and here are the results of the contested judicial primaries there:

306th Family District Court

Darring	5,422	33.80 %
Schmitz	6,341	39.53%
Burnett	4,278	26.67 %

212th District Court

Grady	6,803	41.63%
Griffin	5,748	35.17%
Young	2,661	16.28%
Gross	1,130	6.91

Court No. 3

Quintanilla	5,155	31.6%
Ewing	4,477	27.4%
Foley	3,557	21.8%

Results in the Republican primary for the 247th Family District Court to replace Bonnie Hellums were:

Schmude	40,393	36.45%
Walker	37,378	33.73%
Flowers	33,045	29.82%

I have given M.L. Walker a hard time lately but let me say two things about this race: (1) Walker is a dam good Associate Judge and we all know that, and (2) John Schmude needs to do more to renounce Dr. Hotze for the racist and ugly e-mail Hotze sent out about Walker and Melanie flowers. [Click here](#) to read a blog by a Republican who was disgusted by the e-mail. Hotze needs to stop worrying so much about sodomites and reconsider what it means to be live a life that is truly Christ-like.

Charley Prine Coasts to Victory

Charley Prine beat Angelina Gooden 78% to 22% in the race for the GOP nomination to replace Judge Jim York in the 246th District Court.



Peake Defeats Maldonado in Democratic Primary

In the Democratic race to see who gets to take on Judge Prine, Sandra Peake defeated Julia Maldonado 51.07% to 48.93%.

Jim Evans Beats Bruce Steffler for Chance to Take on Judge Lombardino

Democrats chose Jim Evans 67% to 33% over Bruce Steffler. Evans will now square off against Judge James Lombardino in November.

Stalder Defeats Pottinger in Democratic 280th Race

Barbara Stalder beat Allecia Pottinger 61% to 39% in the Democratic primary to run for the 280th District Court (the "Protective Order Factory").

Unopposed Judges Win!

Judges Farr, Moore, Millard, and Warne won their primaries without opposition and we already know they will win in November because no Democrats filed against them. Judge Dean and Lombardino were not opposed in the GOP primary but face Democrats in November. These folks won the Democratic nominations for family district courts without opposition: Kathy Vossler for 309th, Sherri Cothrun for 311th, and Chip Wells for the 247th.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus

Fulk 3,128 19.2%

I feel really bad for Judge Foley who has done a great job since she was appointed to replace *He Who Shall Not Be Named*. We all owe Foley a "thanks" for taking on this assignment.

Judge Barbara Roberts defeated her challenger, Jonathan Kieschnick, 57% to 43%, in the most polite, civil race I have ever seen.

District Attorney Jack Roady cruised to an easy victory 62% to 38% over Phillip Morris.

County Judge Mark Henry barely held off his challenger. Henry got 8,881 votes to Michelle Hatmaker's 8,313 votes.

In Justice of the Peace races, Jim Schweitzer won his Republican primary and Mike Nelson won his Democratic primary. Penny Pope defeated Darrell Apffel. Toni Randall and Alison Cox are headed to a runoff.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.

attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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The Enos Law Firm

The Basics of Runoff Elections

Here is what you need to know about runoff elections:

- If no candidate gets over 50% of the votes in the primary, then the two candidates with the most votes compete in a run off election to be their party's nominee.
- Political scientists will tell you that very often the candidate who came in second in the first round of voting wins the runoff election. This is particularly true when the two top vote getters are close to each other and the other losing candidates support the second place finisher (i.e. - the race for the 311th!).
- The runoff election will be held on Tuesday, May 27. Early voting will be from May 19 through May 23.
- Anyone can vote in the runoff election, even those who did not vote in the first primary. However, if you voted in the Democratic primary, you cannot vote in the Republican runoff and vice versa.
- Even fewer people vote in runoff elections - usually a third to a half of the number who voted in the primary.
- Municipal elections will be held on May 10.
- This year, Republicans will have state-wide runoff elections for Lieutenant Governor, Attorney General, Agriculture Commissioner and Railroad Commission. There will also be runoff elections in the Houston area in some State Senator and State Representative races.



Attorney Greg Enos





The International Journal on the
Reform of Family Courts

The Mongoose

Published by Greg Enos

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March 24, 2014

The Enos Law Firm

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Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.



Harris County Republican Convention Delegates Greeted By Anti-Pratt Protest (and "Honest Abe")

Delegates to the Harris County Republican Senatorial Conventions arrived at Grace Community Church on the Gulf Freeway Saturday morning only after driving past dozens of bright signs I planted. Delegates also drove past a protest I organized involving about 25 attorneys and families hurt by Judge Pratt. Passing drivers in Mercedes, Cadillacs and Lexus GOP-mobiles mostly honked in support and waved. A few waved fingers (at least one was the middle finger), but none could ignore the lanky former Republican President, Abraham Lincoln, who rolled over and returned from the grave to let the world know, "Pratt Must Go!"

Inside the convention, Judge Pratt's court staff and a few of her amicus-toadies were passing out baggies of goodies and trying to explain why 85% of Houston attorneys rated Pratt as "Not Qualified."

Alicia Franklin's had volunteers working for her inside the convention and Franklin spoke to the delegates about her plans to reform the 311th.

More Recusals Granted Against Judge Pratt

gun
***"Together, attorneys can
improve our family courts!"***

Someone had to do it!



The love of my life, Toni, puts up with a lot with me and is always supportive of my screwball endeavors.

Schmude Plans "No Strings Attached, No \$ Donation" Meet The Candidate Luncheon

John Schmude has been a licensed lawyer for fewer years than most of my marriages lasted, yet Schmude is starting to convince the skeptical family bar he might not be so bad after all. Schmude certainly has definite plans to make the 247th District Court more lawyer friendly and he says he will stop illegally taking children from parents just because they did not attend a

A Visiting Judge from Beaumont granted a motion to recuse Judge Pratt in the notorious *Messier* case and Regional Presiding Judge Olen Underwood reversed himself and granted a recusal in one of my firm's cases without even assigning a visiting judge to hear the motion.



Amazingly, Gloria Steinem turns 80 this Tuesday. What would she say about the Republican candidate for Governor, Greg Abbott, whose office has been paying its female assistant attorneys general less, on average, than men in the same position?

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm

April 29: The Ultimate Property Division Seminar

Please mark your calendar for the afternoon of Tuesday, April 29, for an affordable, practical and fun seminar on dividing property in a divorce. Attendance will be limited to 120 attorneys. Judicial candidates will be invited to speak at the buffet lunch at Irma's Southwest Grill just two blocks from the courthouse and then the afternoon will be spent on a unique seminar featuring some of the top divorce lawyers in Houston. More details will be sent to you directly in a separate flyer. E-mail Christina Tillinger with questions or to RSVP at christinia@enoslaw.com.

Alicia Franklin Fundraiser Thursday!

parenting class.

Schmude is inviting lawyers to a "no strings attached, no contribution requested, no support implied, buy your own lunch, meet the candidate" luncheon set for Monday, March 31 at 11:30 am at Treebeards located at 315 Travis St, Houston, TX 77002.

I asked Schmude to come meet about a dozen Clear Lake area family attorneys last Fall and he actually made a good impression on all of us. He seems very genuine in wanting a court that applies common sense in a way that is user friendly to families and attorneys.

It is actually refreshing for a judicial candidate to invite attorneys to come ask him questions and give him ideas instead of hitting us up for political donations. It sounds like quite a few attorneys plan to go meet Schmude, in part because it seems like he has such a darn good chance of getting elected, despite the fact that most attorneys consider Meca Walker to be a really good judge.

Schmude is endorsed by Dr. Hotze and Terry Lowry, two of the "Big 3 Slate Endorsers" who are so influential in Republican primaries. Schmude's former opponent, Melanie Flowers, is also enthusiastically supporting him and even appearing with him at political functions.

More information is at Schmude's web site: www.johnschmude4judge.com



John Schmude, on left, with Attorney General Abbott.

Meca Walker Gives Peek At Policy Changes for 247th Court

Meca "M.L." Walker is still a really good judge, no matter what I write about her. Walker is clearly aware of the promises John Schmude is making to change the draconian policies of Bonnie Hellums. Family attorneys may know and really like Walker, but they are also liking the changes Schmude says he will make to the court and they are aware Schmude came in

If you really want to see Judge Pratt off the bench, then you should attend Alicia Franklin's fundraiser this Thursday at the Cadillac Bar and you must make the largest political donation of your life. Franklin is winning endorsements from more Republican Precinct Chairs each day, which is a strong indication of how her support is growing. We all should also send an e-mail blast to all of our clients and our entire contact list explaining to them how important it is to vote for Alicia Franklin, who drew the first position on the runoff ballot. Remember, anyone can vote in the Republican runoff as long as they get registered before the end of April and did not vote in the Democratic primary.



2014 Galveston County Legal Directory Is Here!

Since 1996, one of my many hobbies has included publishing an annual legal directory for Galveston County and the Clear Lake area. This year's book has listings for over 600 attorneys as well as area courts, and other resources lawyers use. A copy of this book sits on the desk of every court coordinator in Galveston County. Attorneys can order a directory via mail by sending a check for \$25 to 17207 Feather Craft, Webster, Texas 77598.

first in the primary.

Walker is still working on a definite date for her runoff fundraiser, but she did sent me this message to share with attorneys:

Regarding [court] policies, I will offer a "sneak peek" into 3 changes I would make:

1. Terminating the Parenting Class Requirement.
2. First request on Agreed Continuance will be granted.
3. Entry Date - If you fail to enter your Temporary Order on your entry date, your case will not be dismissed.

I will continue to follow the law & treat people with dignity and respect. If elected, I look forward to hearing suggestions on what we can do to make the 247th an even friendlier and more efficient court.

I've had the pleasure of working with Judge Rynd, Judge Dean and Judge Hellums - I've learned something from all of them and I am eager to combine all that I've learned to make the 247th one of the best courts in our family division.

Political donations to Judge Walker can be mailed to:

P.O. Box 434
Houston, Texas 77001

Donations can also be made directly on Ms. Walker's campaign web site at www.walker247.com.



Judge Walker has the best campaign photo I have ever seen. How can you not smile looking at this happy lady?

Galveston County, Clear Lake, Seabrook & Alvin

Enos Legal Directory

What Would Sergei Do?

My campaign to improve and reform the family courts and my newsletter, *The Mongoose*, started with a child custody case tainted by politics on the 7th Floor of the Harris County Family Law Center. About the same time that I became involved (and so very disgusted) with that case in early 2012, I read about a brave Russian attorney, Sergei Magnitsky, who died in a Moscow prison cell in November 2009. I decided that the least I could do was speak out about problems in our family courts here in Houston and Galveston and thus, my newsletter was started.

(See the inside of this cover for more information about this brave attorney who should inspire us all.)

Published by Greg B. Enos
This directory belongs to:



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos

2014 2014 2014 2014 2014 2014 2014 2014 2014 2014 2014 2014 2014 2014 2014



Be this guy





Issue: No. 39

March 31, 2014

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"Together, attorneys can improve our family courts!"



The worst Harris County family court judge in living memory, Denise Pratt, is gone. Pratt resigned Friday and suspended her reelection campaign (see story below). Pratt even called Alicia Franklin to inform her and wish her good luck in November. This is NOT an April Fools' Day joke!

In this issue...

[Judge Pratt Resigns](#)

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[Good Bye Iris Robinson](#)

[Schmude Lunch Today](#)

[Proper Courtroom Behavior](#)

[New Appellate Case on Admitting Text Messages](#)

**"I want to be remembered as one who tried."
How about you?**

I want to be remembered as someone who used herself and anything she could touch to work for justice and freedom.... I want to be remembered as one who tried.

— Dorothy Height

Image: Getty Images / Hulton Archive
WomensHistory.About.com



Dorothy Irene Height (March 24, 1912 - April 20,

HOUSTON CHRONICLE

HoustonChronicle.com and chron.com | Saturday, March 29, 2014 | Vol. 113, No. 47 | WEEKLY | 40¢

Spec's breach affects thousands

By David Kaplan

More than half a million customers at its figure stores owned by Spec's may have had critical financial information stolen in a sophisticated computer scam that persisted for a year and a half, the company announced Friday.

The Houston-based chain, a statewide presence with 125 stores, just a growing list of high-profile retailers, from Target to Neiman Marcus, that have reported major breaches this year. Those security breaches affected more customers, but the Spec's hacking appears to have lasted much longer before being made public.

The company issued a statement saying the breach is believed to have started Oct. 31, 2013, and continued as late as last week. A representative said since the computer system had been compromised began to surface early last year but that until this week federal investigators had asked Spec's not to divulge details.

"This was a very sophisticated attack by a hacker or hackers who went to great lengths to cover their tracks," spokeswoman Jennifer Barone said. "It took professional forensic investigation considerable time to find and understand the problem, then initiate recommendations."

Spec's continues on A2

Embattled judge quits under cloud

Facing inquiry, Pratt decides to end her bid for re-election

By Kirk Culler

Under investigation by Harris County prosecutors for dismissing hundreds of cases without notice, embattled family court judge Denise Pratt resigned Friday, abruptly ending her re-election bid. The freshman Republican just campaigned as a conservative advocate for children and families, touting her unique policy of keeping boyfriends, girlfriends and lovers of recently divorced litigants away from children. While a bevy of Houston-area lawyers and families who have rallied against Pratt challenged that claim, the Baytown native defended her record Friday in a statement that said her departure from the fourth state District Court was due to the damage that



Judge Denise Pratt blames attacks by political opponents "were having on the court, the local Republican Party and her family." "I cannot, in good conscience, allow it to continue," she wrote on her campaign website. "My goal has always been to serve the children and families of Harris County, but I won't sacrifice my family's well-being any longer to continue to serve as judge. ... I don't want to see my party, which I have worked to build, dragged down by the media circus." A Harris County grand jury continues on A2



This newsletter has now played a role in the conviction of one judge and the removal or resignation of two elected judges, an associate judge and a district clerk. My goal is not to get people in trouble, but rather to improve our family court system so that it is fair and efficient.

If I have achieved anything in the last two years in publishing this newsletter, it has been to change the legal culture in Houston's family law bar. For the first

time, lawyers came out publicly and stood up to a really bad judge who was hurting families and children. A large number of goodhearted, brave attorneys worked together to get Pratt out of office. There should be no joy at Pratt's downfall, but instead justified relief for the families who will not be judged by her and pride in what we have accomplished together.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm

Judge Pratt Resigns!

Judge Denise Pratt resigned Friday and suspended her reelection campaign. [Click here](#) to read the *Houston Chronicle* story, which includes Pratt's statement. Here is what we know or can assume about what happens next:

- It is too late for Judge Pratt's name to be removed from the May Primary Runoff election ballot. **Alicia Franklin still needs to win her primary election.** If Pratt were to somehow win the primary runoff even after her resignation, she could file a written withdrawal of her candidacy and the Harris County Republican Executive Committee would appoint a candidate to run as the GOP nominee.
- Associate Judge Newey serves at the pleasure of the Judge of the 311th and will be re-sworn in today by Judge Farr, the Presiding Family District Judge.
- Retired Judge Doug Warne will reportedly fill in as a visiting judge in the 311th until a new judge is appointed by the Governor.
- Governor Perry will appoint a judge for the 311th, who will serve until the ballots are canvassed following the November 2014 General Election. Alicia Franklin is the obvious choice for that appointment and various GOP power players are working on that now. It could take a few weeks before a new judge is appointed.
- Based on calls made by the District Attorney's office to witnesses on the day Pratt resigned, many assume that the D.A. gave Pratt a choice: resign or get indicted. I cannot verify or refute this rumor and Pratt of course maintains her

2010) was an American educator and a civil rights and women's rights activist. She was the president of the National Council of Negro Women for forty years and was awarded the Presidential Medal of Freedom in 1994 and the Congressional Gold Medal in 2004.

April 29 Candidate Forum, Straw Poll and Property Division Seminar

Please plan to attend an event for a new general purpose Political Action Committee, **Republican Moms for Good Judges.** Maisie Barringer, Marcia Zimmerman, Shari Goldsberry, Christina Tillinger and Catherine Healy have formed this PAC to promote the election of high quality judicial candidates.

Please mark your calendar for this event: Tuesday, April 29 at Irma's Southwest Grill:

Lunch: Candidate Forum and Straw Poll featuring the Republican runoff candidates for the 247th in Harris County and the 306th Family District Court in Galveston County. Attorneys who pay to attend the seminar will be able to vote in a "straw poll" that rates the candidates and selects the most qualified in each race.

Seminar: **"The Ultimate, Practical Property Division Seminar"** will be presented for 2.5 hours of CLE credit, featuring some of the best lawyers in the Houston area. The seminar costs \$100 per person and I personally guarantee you will consider it one of the most useful seminars you have ever attended. I will refund half of the cost of the seminar to you if you write me later and say it was not one of the most useful seminars you have been to.

The seminar and lunch program cost \$100, which will be a donation to Republican Moms for Good Judges.

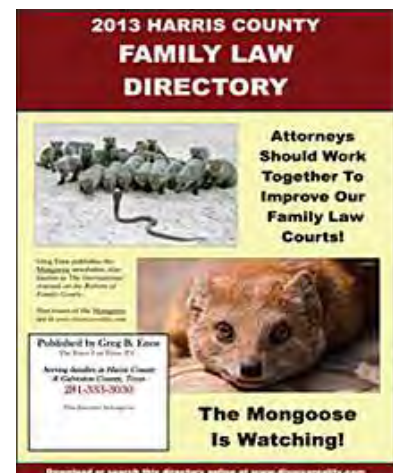
E-mail Catherine Healy at my office for registration forms at:
catherine@enoslaw.com

Attendance will be limited to 120 attorneys, so register early!

2014

- [illegible]

My new, 2014 Galveston County/Clear Lake Legal Directory and my 2013 Harris County Family Law Directory are free online. [Click here](#) to go to my directory page where you can search attorneys in my database, send me corrections and even download a free, black and white PDF of my legal directory.



1. Stand when the judge (or jury) enters or leaves the courtroom.
2. Stand when speaking to the judge. Do not remain seated at counsel table when addressing the judge.
3. Do not walk across the "well" of the courtroom when someone else's hearing is in progress. The "well" is the area between the counsel tables and the bench. If lawyers are before the judge on a matter, walk around behind the counsel tables.

[Click here](#) to read an article "Female Lawyers Who Dress Too Sexy Are Apparently a Huge Problem In the Courtroom." For every "too sexy" attorney I notice, I see 20 women lawyers who are dressed far too casually in clothes that are clearly not the equivalent of the suit and tie I am expected to wear.

4. In a hearing or trial, ask to approach the witness each time or ask the judge if you have permission to do so as needed so you do not have to ask over and over.
5. When the judge is on the bench and your case is not before the judge, speak in a whisper or go out in the hall to talk.
6. Do not interrupt the judge.
7. Do not interrupt other counsel, or get angry or emotional with opposing counsel. Stay calm and professional.
8. No matter how well you know the judge outside of the courtroom, in court be formal and respectful and not overly familiar with the judge.
9. Dress like a lawyer. Men: wear ties. Women: dress for court, not a night club or pajama party.
10. Accept an adverse ruling like a professional, no matter how much you disagree with it. Do not cry or throw a temper tantrum when your client loses.
11. It makes everyone's life easier if you follow the local rules and let a court know that you are going to be late and where you are. If you know you are going to be late ahead of time, let the other side know ahead of time so clients and lawyers can plan accordingly.
12. Treat court staff and personnel with respect and dignity. They, almost universally, want to make your life easier if you will just let them help. Do not yell or curse at the court staff.
13. Enos: Do not roll your eyes when the judge disagrees with your understanding of the rules or law.

Judge Jan Yarbrough in Galveston also wanted to remind lawyers to "school" their clients on what to expect in court. Please tell your clients how to behave and dress in court: no shorts, no gum and no cell phones on in court.



GOP political consultant Alan Blakemore held a hastily convened press conference in the basement auditorium of Bruce Baughman's house to explain why his client, Denise Pratt, resigned and why his other client, District Attorney, Devon Anderson, never got around to indicting Judge Pratt.

John Schmude Lunch Today!

John Schmude is hosting a lunch today at Treebeard's so that attorneys can meet him and ask questions. Schmude is competing with Meca Walker in the GOP primary runoff election for the 247th Family District Court to succeed Bonnie Hellums, who is retiring.

Schmude is not asking for contributions or support, but rather open minds and a willingness to get to know him, no matter how much you may respect Judge Walker. Schmude sent out a letter that said:

I am writing you to invite you to a "no strings attached, no contribution requested, no support implied, buy your own lunch, meet the candidate" luncheon set for Monday, March 31 at 11:30 am at Treebeards located at 315 Travis St, Houston, TX 77002.

Good Bye Iris

Houston family attorneys mourn the loss of one of the legends of our profession, Iris Robinson. [Click here](#) to read her obituary. We each would do well to leave behind us as much love and respect as this good lady did.



New Case on Authenticating Text Messages

A new criminal case from the Corpus Christi Court of Appeals provides guidance on how to admit text messages into evidence, a big issue for family law attorneys. [Click here](#) for a PDF of the entire decision. In this case, *Butler v. State*, No. 13-12-00608-CR (Tex. App. - Corpus Christi 3/27/14), a conviction for aggravated kidnapping was reversed because the trial court erred by admitting text messages supposedly from the defendant to his victim (and girlfriend).

The court relied on *Tienda v. State*, 358 S.W.3d 633 (Tex. Crim. App. 2012), which said that authenticating electronic evidence



(proving it is what the proponent says it is) will depend on the type of electronic communication and the circumstances.

This is a quote from this new case about authenticating text messages:

The court of criminal appeals recognized that printouts of electronic evidence, like text messages, have been admitted into evidence "when found to be sufficiently linked to the purported author so as to justify submission to the jury for its ultimate determination of authenticity."

Such a prima facie showing of authenticity has been established when: (1) the sender admits authorship or was seen composing it; (2) business records of a cellular phone company have shown that the message originated with the purported sender's cell phone under circumstances in which it is reasonable to believe that only the purported sender would have had access to the cell phone; (3) the communication contained information only the purported sender could be expected to know; (4) the purported sender has responded to an exchange of electronic communication in such a way as to indicate circumstantially that he was in fact the author of the particular communication; or (5) other circumstances, peculiar to the facts of the particular case, have sufficed to establish at least a prima facie showing of authentication.

The Tienda Court also noted, however, that the "provenance of such electronic writings can sometimes be open to question" because "computers can be hacked, protected passwords can be compromised, and cell phones can be purloined. . . ." As a result, evidence of a text message purporting to come from a cell phone number assigned to the purported author, without more, typically has not been sufficient to support a finding of authenticity.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas

City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos





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Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.

My parents were teachers and their income in the 1960's and 1970's was very modest, so our family vacations with four boys involved long car trips and camping. My father taught his four sons to leave every camping spot cleaner than it was when we found it. He told us we owed it to those who came after us and he reminded us that if everyone did it, everyone would all benefit.

I plan to honor my Dad's philosophy and leave family law in the Houston area better than it was when I found it.

Now that Pratt is gone, I am going to work on far more fundamental changes, that include:

1. Real transparency in court appointments and an end to amicus appointments as political patronage.
2. Getting Harris County four more Family District Courts and two dedicated CPS courts.
3. A re-write and modernization of the local rules for family courts. I was able to get this done in Galveston County and we badly need to update the local rules for Harris County's family courts.
4. Curtailing the tendencies of our legal culture to accept and encourage enormous fees and legal tactics that delay and run up bills and do not really help the clients. Judges are allowing this and the "big shot" club of high dollar attorneys perpetuates it for their own benefit. A very interesting *New York Times Magazine* article on a smart Canadian guy who figured out how Wall Street was rigged against investors, even the enormous ones, entitled, "The Wolf Hunters of Wall Street" by Michael Lewis in the April 6 edition said:

The deep problem with the system was a kind of moral inertia. So long as it served the narrow self-interests of everyone inside it, no one on the inside would ever seek to change it, no matter how corrupt or sinister it became..."

This quote describes some aspects of our local family law system, which I hope to fundamentally change. It will require judges to stand up to those lawyers who are the biggest political donors and it will mean attorneys must be outspoken against our legal colleagues who run up big bills and take

***"Together, attorneys can
improve our family courts!"***

In this issue...

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[Word the Geographic Residence Restriction Correctly "OR" Else!](#)

[An Unwritten Rule of Evidence - Pedagogical Summaries \(Also Known as "Shorthand Summaries"\)](#)



Choose a Side and Live a Life!

Too many attorneys during election years are too scared or apathetic to take a side in judicial races. Most lawyers are willing to bravely support incumbent judges and suck up to them. In open races, when it is not clear who will win, the majority of lawyers prefer to safely straddle the fence and wait until there is an election. Sitting Associate Judges seem to be safe bets and lawyers

enormous "non-refundable" retainers.

5. Developing "best practices" for different types of cases and situations that smart judges and attorneys accept as being the best way to proceed and then educating and mentoring attorneys on how they should practice family law in a better way

6. Promoting proper courtroom behavior and a civil, cooperative mentality between attorneys. We can advocate for our clients and still be polite and friendly and respectful toward court staff, other attorneys, witnesses and even opposing parties.

7. Changing the basic child custody terminology in the Texas Family Code to "legal custody" (rights and duties) and "physical custody" (possession) so that regular folks can more easily understand what legal arrangements are being made for their families. Real life people never use the word "conservatorship" and there is no reason why we still confuse everyone with 1950's terminology.

8. Developing and preparing high quality judicial candidates in both parties, especially when the inevitable switch in Harris County (based on demographics) occurs and Democrats start regularly electing judges.

I know it sounds like a lot and it is. However, no one really thought an incumbent judge like Pratt could be forced out of office and we accomplished that. The battle against Pratt created a lot of friendships and a network of like-minded attorneys willing to stand up for our profession and our justice system. I hope those colleagues and most of the judges will join me as I work on these goals.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm



Cleaning Up The 311th Mess

Denise Pratt resigned and she left others to clean up the huge mess she created in the 311th District Court. The Governor will not appoint a replacement until after the May 27 runoff election. Retired Judges Doug Warne and Tom Stansbury are

often will jump on their bandwagons even as they appear in front of those same AJ's for hearings and trials. Once a candidate wins, then he or she suddenly has a lot of new friends and ardent supporters and contributors.

A few weeks ago, I attended the most moving funeral service I have ever experienced. Hundreds of friends and family gathered in Waco to say farewell to Raymond Fletcher. "Fletch" was married to my mother's cousin, but he was like an uncle to me. His son, son-in-law and a golfing buddy spoke at the service.

This is something workaholic lawyers like me should consider - at the funeral they barely mentioned his work or Mr. Fletcher's great success as a businessman. They spoke about his humor, compassion, his character and all he did outside of work. For one thing, I did not know that he had a PhD or that he lead the nation in free throw shooting in the 1959-1960 college basketball season or what he did to help inmates at Huntsville Prison.

One quote attributed to this extraordinary man stuck in my head and I think this motto should guide the way lawyers approach politics:

"Pick a side, pick the right side, then work hard and honorably for that side."



[Click here](#) to read the obituary of Raymond Fletcher, the sort of man and father and grandfather we should all aspire to be.

Where Should Depositions Be Conducted?

The Texas Rules of Civil Procedure do not say a client gets deposed in his or her lawyer's office, contrary to common practice. The rules on where a deposition should take place only mention the county. Rule 199.2(b)(2) does say that the deposition, "notice must state a reasonable

basically alternating weeks in the 311th as visiting judges. Pratt remains on the primary runoff ballot, but surely even the Republican electorate has enough sense to vote for Alicia Franklin. Pundits expect Franklin to win the GOP runoff and then soon thereafter to be appointed to the 311th. Franklin would then serve as judge of that court until the votes are canvassed after the November General Election.

The Court Coordinator and Associate Judge of the 311th, who clearly knew what Pratt was doing, have not been terminated, presumably for the sake of continuity. The defenses of "I was just following orders" and "I did not really realize how bad it was" and "what could I have done any way?" are apparently live and well, 68 years after the Nuremberg Trials rejected those defenses for those who assisted their evil, mad leader in his wrongdoing. The 311th needs a fresh start with a completely different staff serving the new judge.

Here are just a few of the problems discovered after Pratt resigned:

- About 150 files were in boxes in the back hallway and those files had not been imaged.
- Many, many orders were found unsigned with post-it notes with handwritten notes from Pratt. Many of those orders have now been signed and others have been set for entry.
- Associate Judge Newey signed many of the orders reinstating cases which Pratt had dismissed at the end of 2013. It turns out that an A.J. cannot sign an order reinstating a dismissed case because that action is not listed in Family Code Sec. 201.007 under the powers of an A.J.. So, those cases reinstated by Judge Newey remain dismissed – even those where the parties then went on to prove up their divorce and modification cases and now probably do not realize they have void orders and may still be married.



2014 Harris County Family Court Candidates

The following chart is a reminder of the candidates for family court benches in Harris County:

Court	Republican	Democrat
245th	Roy Moore	None
246th	Charley Prine	Sandra Peake
247th	Meca Walker or John Schmude	Clinton "Chip" Wells
280th	Lynn Bradshaw-Hull	Barbara Stalder
308th	James Lombardino	Jim Evans

time and place for the oral deposition" and perhaps the deponent's lawyer's office might be more convenient because of cost or voluminous documents. Rule 199.2(b)(2) goes on to say that a deposition can be taken in:

- the county of the witness's residence;
- the county where the witness is employed or regularly conducts business in person;
- the county where the lawsuit is pending if the witness is a party or corporate representative;
- the county where the witness was served, or within 150 miles of the place of service, if the witness is not a Texas residence; or
- any other convenient place directed by the court.

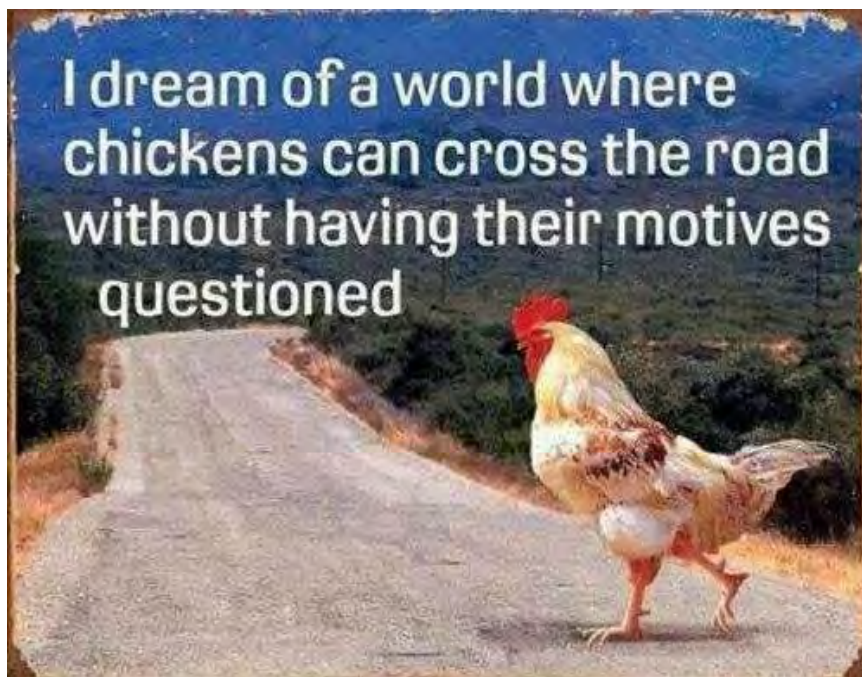
So, Houston lawyers need to respect the suburbs and realize that depositions may have to take place in Montgomery or Fort Bend or Galveston counties if that is where the case is pending and where the witness works and lives.

Word the Geographic Restriction Properly "OR" Else

Attorneys should use "or" instead of "and" when describing more than one county where a child's primary residence must be. An order that says the child must reside in, "Harris and contiguous counties" literally requires the child to reside in more than one county. The proper way to word the geographic restriction would be, "Harris County, Texas or counties contiguous to Harris County, Texas." It would be even more precise to say, "Harris County, Liberty County, Chambers County, Montgomery County, Fort Bend County, Brazoria County, Waller County or Galveston County, Texas."



309th	Sherri Dean	Kathy Vossler
310th	Lisa Millard	None
311th	Alicia Franklin or Denise Pratt	Sherri Cothrun
312th	David Farr	None
May 27 Republican runoffs for 247th and 311th		



Four Family Courts Are Moving to the Civil Courthouse at the End of May 2014

Harris County family attorneys need to adjust their forms, notices of hearing, orders to appear and instructions to clients before the end of May, because four family courts are moving to the 16th floor of the Civil Courthouse over the Memorial Day weekend. By June 1, the following courts will have new locations and beautiful new courtrooms:

246th Judge York
 257th Judge Warne
 309th Judge Dean
 312th Judge Farr

The two courts "left behind" in the Family Law Center, the 308th (Judge Lombardino) and the 311th (Judge to be determined), should move to the Civil Courthouse by the end of 2014.

Documents Admitted As Shorthand Renditions Are Really "Pedagogical Summaries"

You often see documents, such as proposed requests for relief, admitted into evidence as a "shorthand rendition" or summary of a party's testimony. There is nothing in the Rules of Evidence about this commonly accepted "real world" exception to the hearsay rule.

It turns out that what really is being admitted is called a "pedagogical summary."

[Click here](#) to read an article on summaries as evidence under the Federal Rules of Evidence, which are the same as the Texas Rules of Evidence in this area.

There are Texas appellate cases on the subject, but they do not use the term "pedagogical summaries." See e.g., *Champlin Oil & Refining Co. v. Chastain*, 403 S.W.2d 376, 389 (Tex.1965) ("charts and diagrams designed to summarize or perhaps emphasize" the testimony of witnesses are, within the discretion of the trial court, admissible into evidence); *Speir v. Webster College*, 616 S.W.2d 617, (Tex. 1981) (chart summarizing 66 damage issues was admissible in evidence to aid the jury in recalling the testimony); *Uniroyal Goodrich Tire Co. v. Martinez*, 928 S.W.2d 64, 74 (Tex. App.-San Antonio 1995), *aff'd*, 977 S.W.2d 328) (Tex. 1998) (trial court did not abuse its discretion in admitting time line prepared by witness to illustrate the sequence of events to which he had already testified); *Mayfield v. State*, 848 S.W.2d 816, 819 (Tex. App.-Corpus Christi 1993, *pet. ref'd*) (diagram of a school prepared by the prosecutor and authenticated by the witness was admissible in evidence); *Barnes v. State*, 797 S.W.2d 353, 357 (Tex. App.-Tyler 1990, *no pet.*) (containing dicta that if the evidence summarized by charts is admissible, admission of summary charts into evidence, and their use before the jury, is within the discretion of the trial court).

So next time you make an offer of a request for relief or inventory or proposed property division, see how the judge reacts when you say, "Your Honor, I am offering this as a pedagogical summary."



Work on the 16th floor is almost done.

National Medical Support Order

Large national employers, such as DuPont, are starting to reject typed "Qualified Medical Child Support Orders" and insist on the "fill in the box" National Medical Support Order. The National Medical Support Notice (Notice) is a standardized medical child support order that State child support enforcement agencies are required to use to enforce medical child support obligations. The federal law requiring this form is the Child Support Performance and Incentive Act of 1998 (CSPIA) and the federal regulations about this form appear at 29 CFR § 2590.609-2 and 45 CFR § 303.32.

[Click here](#) for an explanation of the form and to download the form in PDF.

Private attorneys are not required by federal regulation or law to use this somewhat awkward form, but large national employers somehow think they are.

The form consists of Part A - Notice to Withhold for Health Care Coverage for the employer to withhold any employee contributions required by the group health plan(s) in which the child(ren) is/are enrolled; and Part B - Medical Support Notice to the Plan Administrator, which must be forwarded to the Administrator of each group health plan identified by the employer to enroll the eligible child(ren), or completed by the employer, if the employer serves as the health Plan Administrator.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos



Be this guy





Issue: No. 41

May 22, 2014

The Enos Law Firm

17207 Feather Craft Lane, Webster, Texas 77598

(281) 333-3030 Fax: (281) 488-7775

E-mail: greg@enoslaw.com

Web site: www.divorcereality.com

Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.

***"Together, attorneys can
improve our family courts!"***

In this Issue....

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[Don't Mess With Bob Newey!](#)

[Sherlock Holmes Freed By Court Ruling](#)

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[Race for 212th is Ugly](#)

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[Notices of Hearing Must Actually Give
Notice and Unsigned Notices Will Not
Cut It!](#)

It is hard work running a law practice and a family while at the same time telling judges how they should do their jobs and trying to inform Galveston County Republican primary voters whose party leaders are so suspicious of me. My last six weeks have focused on politics, mostly in Galveston County, and I feel a little dirty and disgusted from the experience.

I successfully staged the first ever political fundraising CLE seminar in the history of Texas and raised over \$12,000 for a political action committee now called, "Real Republican Moms for Good Judges." The independent women running that PAC then went rogue on me and endorsed a few candidates I would not have endorsed and they refused to endorse at all in a race I hoped they would get involved in. That just proves that **Wilfried Schmitz**, candidate for the 306th Family District Court in Galveston County, is once again not telling the truth when he says I am controlling that PAC which endorsed his opponent. [Click here](#) to see the mailer sent by this PAC to Republican voters in Galveston County.



I mailed a special print edition of "The Mongoose" to 7,000 League City and Friendswood families who voted in the Galveston County Republican primary at my own expense. I wanted to educate primary runoff voters about my efforts at judicial reform as well as about Mr. Schmitz and the dirty tricks his minions have been up to. [Click here](#) to read the third print edition of "The Mongoose" I have ever published and see just how dirty Mr. Schmitz's campaign helpers have been playing. The e-mail edition of my newsletter has gone to about 2,000 Harris County Republican activists for the last year and now I am



Don't Mess With Bob Newey!

Some lawyers strongly disagree with the following comment in my last newsletter:

The Court Coordinator and Associate Judge of the 311th, who clearly knew what Pratt was doing, have not been terminated, presumably for the sake of continuity. The defenses of "I was just following orders" and "I did not really realize how bad it was" and "what could I have done any way?" are apparently live and well, 68 years after the Nuremberg Trials rejected those defenses for those who assisted their

expanding my franchise to Galveston County GOP voters yearning for the truth.



In this e-mail newsletter, I bemoan the nasty race for the 212th District Court in Galveston and I say way too much about the race to replace wacky Bonnie Hellums (who cannot be off the bench soon enough!).

I hope I am making District Attorney Anderson nervous, because The Mongoose empire is expanding to the criminal law courts in the Fall and Ms. Anderson's deal with Denise Pratt is just one reason to question her ability to be DA. [Click here](#) to read a Houston political blog that discusses the sweet deal Pratt got: resignation and no indictment. This blog gives me way too much credit and says:

Perhaps the biggest point of the night is that Enos has now decided to continue his crusade after Anderson. Speaking on [Facebook](#) earlier, Enos wrote "Devon Anderson is my next target." For those skeptical of Enos' power, just remember that we wouldn't be having this conversation if the DA hadn't started investigating the complaints lodged by none other than Enos himself.

(Note: I am highly skeptical of my "power" but I am sure going to keep trying to change the world).

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm

evil, mad leader in his wrongdoing. The 311th needs a fresh start with a completely different staff serving the new judge.

Here are few e-mails that attorneys blasted out in strong disagreement with my comment, which was interpreted as calling for Judge Newey to be replaced along with the court staff:

I am writing to you after reading the most recent issue of The Mongoose. While I am a supporter of advocating for fairness and integrity in the family courts, and I encourage the efforts made by Greg Enos for having the courage to do so, I feel compelled to write to you about Judge Newey. I understand how perception can lead one to believe that Judge Newey could have done more, said more, behaved differently to obtain a more swift result rather than the long-awaited resignation of Denise Pratt on March 28.

However, when the 311th was at its worst, when no one could get anything done, families were suffering daily and chaos was king, please remember that it was Judge Newey who showed up for work every day, heard cases, and actively tried to help the families trapped in that court.

Judge Newey could have very easily quit his job, formed a very lucrative mediation practice and left us all in a lurch. He did not. Judge Newey never quit. Just this morning, he was hearing a very long CPS docket, without any assistance from a visiting judge; and he did so gracefully, pleasantly and efficiently. What more could we possibly ask of him? I, for one, am grateful he is there and feel strongly that each one of us owe him a debt of gratitude. Thank you, Judge Newey, for serving the families of Harris County and for being the lighthouse in the storm.

Another lawyer wrote:

Well said. Judge Newey showed up every day, treated people courteously, made prompt decisions, and acted as a judge should. He continued to work under incredible chaos without the power or authority to change anything. No sensible person would have changed places with him. I don't know his plans for the future but any new judge, in that court, would be well advised to rely on his experience, demeanor and work ethic.

Perhaps in response to my newsletter, Judge Newey was named the first recipient of the "Outstanding Jurist Award" from the Berta Raborn Inns of Court on May 15th.

My position on good Judge Newey is set forth below, but first I must provide these three caveats:

First, I have no real track record with Judge Newey, but I know he is greatly liked by many attorneys and he has spent many years in the trenches serving out justice as best he can in our difficult arena of law. Judge Newey deserves plenty of credit for that. He is a nice, personable guy who shows up and works hard.

Second, I am in no position to "cast stones" because I have made plenty of mistakes as a lawyer, boss, father and spouse and a

The Good News is that Judge Judy Warne is Not Opposed for Re-election in 2014

Oopsy. I left out one extraordinarily good judge from my chart and she was quick to point that out to me. The following corrected chart is a reminder of the candidates for family court benches in Harris County:

Court	Republican	Democrat
245th	Roy Moore	None
246th	Charley Prine	Sandra Peake
247th	Meca Walker or John Schmude	Clinton "Chip" Wells
257th	Judy Warne	None
280th	Lynn Bradshaw-Hull	Barbara Stalder
308th	James Lombardino	Jim Evans
309th	Sherri Dean	Kathy Vossler
310th	Lisa Millard	None
311th	Alicia Franklin or Denise Pratt	Sherri Cothrun
312th	David Farr	None
May 27 Republican runoffs for 247th and 311th		

Sherlock Holmes Freed by December 2013 Federal Court Ruling

All but ten of the stories of Sherlock Holmes, known as "the Canon," shared with the world by Dr. Watson's literary agent, Arthur Conan Doyle, are no longer protected by U.S. copyright law and the characters may be used by current authors, according to a December 23, 2013 ruling from a U.S. District Court in Illinois.

[Click here](#) to read the District Court opinion of some significance to my own retirement plans. [Click here](#) to read the brief filed by the Conan Doyle Estate in its appeal to the 7th Circuit.



Walker v. Schmude

Meca Walker has the experience and the love of family attorneys. John Schmude has only been a lawyer for five years, but he has the support of many Republican activists, especially those in the so-called "pro life" movement. If you give him the chance, Schmude may convince you he should be elected over his more experienced rival.

I was really surprised that the ladies running the "Real Republican Moms for Good Judges" PAC endorsed Schmude and I think they even surprised themselves. I organized the PAC's seminar to raise the PAC's funds, but I am neither a mom nor a Republican and those four independent minded women attorneys have made their own decisions, a few of which are contrary to what I would have done. The lady attorneys heard the debate between Schmude and Walker at their seminar and they saw that the results of the "straw poll" overwhelmingly supported Walker. Yet, after interviewing both candidates at length, the women endorsed Schmude. Given that these women lawyers all know and like Meca Walker, that is a real tribute to Mr. Schmude and the case he is able to make for total change in the 247th.

newsletter critiquing my past bad decisions would be lengthy. However, my many past misdeeds were not done as a judge sworn to uphold the law with the duty to protect children and families.

Third, I realize that the heir-apparent to the 311th Throne of Swords, Alicia Franklin, will almost certainly keep Judge Newey and someday soon I will appear in front of him. **I know Judge Newey is not going away anytime soon, regardless of what I write.**

I am simply saying that there can be no doubt that Judge Newey helped carry out Judge Pratt's crazy and illegal policies. Newey may have smiled, shrugged his shoulders and apologetically said, "I am not allowed to do that" or "an agreement like that has to go to Judge Pratt," but he was in fact part of what was being done to families that we all know was so very wrong.

Here is what one Texas appellate court said about the duty judges owe to our system of justice:

*We recognize our obligation not only to ensure the proper administration of justice in this Court but also our duty to the system of justice as a whole. We hasten to add that we are not merely the gatekeepers who monitor and patrol the conduct of members of the Bar. **While we owe a duty to the legal system as a whole and to the administration of justice, we are ever mindful that the judiciary also has a duty to the lawyers who appear before them, to the public at large which elects them, and even to other members of the judiciary to ensure that our democracy is preserved and protected and that professionalism reigns supreme. We take this duty seriously.***

Matter of J.B.K., 931 S.W.2d 581, 584-5 (Tex. App. - El Paso 1996, no writ)

[Click here](#) to read a law review article on "A Judge's Ethical Duty to Report Misconduct by Other Judges."

Judge Newey had duties imposed on him by the ethical rules for lawyers and for judges to report what Judge Pratt was doing. The usually worthless Commission on Judicial conduct would have paid a lot more attention to a letter from Associate Judge Newey than it did when it heard from a disgruntled attorney like me.

I understand that Judge Newey wanted to help us attorneys and he needed to make a living. But, every subordinate in the business world whose boss is doing something illegal faces the same dilemma - "do I sit silent and go along or do I quit and report what is happening?"

A junior executive at Enron may have faced the same tough choice, but she had not taken a solemn oath on a Bible to uphold the laws of Texas and the Constitution.

I cannot help but like Bob Newey and I admire the work he and his wife do for disadvantaged children in our community. But, if a presiding judge is doing something that is very wrong and illegal and will not stop when confronted, then the associate judge should, in my

I have gotten to know Mr. Schmude and I really like the guy even though we have some big differences on political and religious philosophies. Schmude is genuine, nice and intelligent and he has a lot of good ideas on how to make the 247th more efficient and more fair. I actually suspect that Schmude will make a pretty good judge. Yet, Schmude does lack legal experience. I have issues with how the 247th court is currently run and I think at some point an Associate Judge has to refuse to participate in policies that are illegal or unconstitutional. However, Walker has the experience and the judicial track record (and the sublime smile). We already know she is a good judge. On the other hand, Walker should not have accepted the illegal contributions from the family and employees of the car dealer with a big case in her court. Walker is now agreeing with Schmude that Hellums' policy of taking kids from parents just because a parenting class was not taken has to stop. I go back and forth, in part, because I personally like both of these folks.

My opinion does not count much in any Republican circles, but as long as I had not had a case in the 247th recently to remind me how jacked up that court is, I would probably choose M.L. Walker over Schmude if I were to ever to vote in a Republican primary (an unlikely event indeed).

However, I predict that Schmude will win the primary run-off, which is as much a comment on how the GOP primaries are decided as it is on Mr. Schmude himself. A sure sign that Schmude is now seen by many as a likely winner is the fact that Bobby Newman and friends held a small, private dinner fundraiser for Schmude. Walker outspent Schmude 20 to 1 in the primary and Schmude came in first. Fundraising in this race is now about even for the primary runoff. More evidence that the smart money is betting on Schmude is demonstrated by that paragon of political bravery, Gary Polland, who is now sticking his neck out and endorsing both Walker and Schmude (talk about hedging your bets!). Polland must assume that one of the two candidates he is endorsing will still hand out CPS appointments to him.

TEXAS CONSERVATIVE REVIEW
2211 Northline, Suite 505
Houston, Texas 77068

EARLY VOTING RUNS MAY 19 TO 22
ELECTION DAY IS MAY 27
For a free online newspaper to Texas Conservatives:
Browse, go on article, Texasconservative.com, or scan with your QR reader.

TCR RECOMMENDATIONS
By law, you can detach this page and take it into the polls with you.
We have chosen the most conservative candidate in each selected contested race.

Each endorsed candidate is shown in **BOLD** with a **YELLOW HIGHLIGHT** and red checkmark ✓.

U.S. REPRESENTATIVE DISTRICT 36 ✓ BEN STREUSAND BRIAN BABIN	STATE REPRESENTATIVE DISTRICT 132 ✓ MIKE SCHOFIELD ANN HODGE
LIEUTENANT GOVERNOR ✓ DAN PATRICK DAVID DEWHURST	JUDGE DISTRICT 247 ✓ M.L. WALKER ✓ JOHN SCHMUDE
ATTORNEY GENERAL ✓ KEN PAXTON DAN BRANCH	FAMILY DISTRICT JUDGE 311 DISTRICT ✓ ALICIA FRANKLIN DENISE PRATT <i>(Has resigned from office and stopped campaign)</i>
AGRICULTURE COMMISSIONER ✓ TOMMY MERRITT SID MILLER	COUNTY CRIMINAL COURT AT LAW NO. 10 TONYA ROLLAND MCLAUGHLIN ✓ DAN JEFFREY SPJUT
RAILROAD COMMISSIONER ✓ RYAN SITTON WAYNE CHRISTIAN	JUSTICE OF THE PEACE ✓ LARYSSA KORDUBA LOUISE GUTHRIE
STATE REPRESENTATIVE DISTRICT 129 ✓ DENNIS PAUL SHERYL BERG	

The good news is that there is a Democrat running for this position and perhaps we should all get to know Chip Wells and find out what his 37 years of legal experience counts for. Check out <http://www.chipwells.com/>.



Attorney Clinton "Chip" Wells is the Democratic nominee for the 247th Family

puritanical view of our justice system, resign rather than helping carry out a policy he or she knows is wrong.

The good news is that Bob Newey will hopefully not face that problem with his new boss, Ms. Franklin. Newey's experience and wisdom will certainly help Ms. Franklin learn her new challenging job. **This is all I intend to write on this subject** (except for the article below on the old movie "Judgment at Nuremberg").

Judge Newey had the nerve and grace to invite me to lunch and I had a very pleasant meeting with him. It is impossible not to like the guy. When he does eventually retire, we all should throw a huge party to thank him for all he had done over the years for our area of law. However, I am sticking to my lonely guns on what he should have done under the prior regime. The fact that almost everyone else disagrees with me does not change my mind.

Notices of Hearing Should Give Actual Notice of When and Where the Hearing Is and Unsigned Notices Do Not Cut It

There is no specific rule that tells us what a "Notice of Hearing" for a motion should say. TRCP 21a(b) says, "An application to the court for an order and notice of any hearing thereon, not presented during a hearing or trial, must be served upon all other parties not less than three days before the time specified for the hearing..." Rule 21a(b) does not say what a notice of hearing should look like. In enforcement actions, Texas Family Code Sec. 157.062(a) says, "The notice of hearing must include the date, time, and place of the hearing." Common sense and Due Process would seem to require those elements in any notice of hearing.

Too many lawyers are sending motions with a section entitled, "Notice of Hearing" with a date and time and court filled in but a blank signature line for a clerk or judge. If the notice of hearing I receive is NOT signed by a clerk or judge, then I do not think that is good notice that a hearing is definitely set. An unsigned notice of hearing is not official notice of anything. It could mean that the lawyer is asking for that date but has not been given that date.

indicated as a service only)
Attorney for Petitioner, DAVID E. WILLIAMS

NOTICE OF HEARING

The above motion is set for hearing on **May 14, 2014 at 9:00 AM** in the 304th Judicial District Court of Harris County, Texas.

SIGNED on _____

Judge or Clerk _____

In my view, an unsigned Notice of Hearing is not an actual notice of a hearing.

If you want to be sure you have given good notice, then send a fax that clearly identifies the case and the motion and which clearly states when and where the hearing will be held. You can also e-file and e-mail a pleading entitled "Notice of Hearing" that is signed by the lawyer and has a certificate of service. The

Race for the 212th Gets Ugly and Ridiculously Nasty

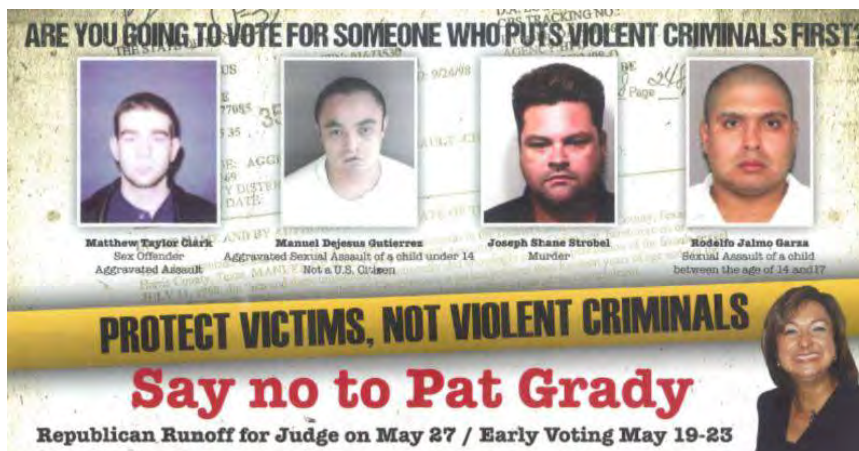
It is disgusting to me as a lawyer and a citizen to see how nasty the race for the Republican nomination for the 212th District Court in Galveston County has become. The two survivors going into the run-off election next week are Patricia Grady and Bret Griffin. Three factors explain the revolting and misleading attacks being hurled in this race: (1) big money is involved because the fight between Grady and Griffin has become a battle between multi-millionaire plaintiff's attorney Tony Buzbee (who is Griffin's mentor and biggest supporter) and State Senator Larry Taylor, assisted by anti-lawsuit business interests, who support Grady; (2) the ugly civil war ripping the county GOP party apart is being played out in this race; and (3) Bret Griffin is allowing folks to campaign for him who are sleazy, lying political lowlifes who are comfortable with half-truths and spreading false rumors.

Griffin's supporters have gone beyond the pale of human decency. For one thing, it is pretty sad when one elected Republican official is spreading totally false and mean rumors about the top Republican elected official in the county and a Republican judicial candidate, like Patricia Grady, who is happily married to another elected Republican official. *Why not whisper to folks that Pat Grady has committed murder with the help of illegal immigrants or gone on vacation with Bill Clinton while you are at it?* If Mrs. Grady's opponents want to talk about her legal experience or philosophy, that is fair game. But to LIE and spread false rumors about such a good woman is abhorrent and does not live up to the "Christian" and "family" values the GOP always claims it represents. I am very proud of how Patricia Grady confronted the officeholder who was lying about her and made the scumbag admit what she had done. That tells me just how tough Mrs. Grady can be.

Crazy amounts of money are being spent in this race. Voters are getting 5 - 10 mailers from each candidate plus, as noted below, outside PAC's are sending nasty mailers as well. Candidates have paid for television ads, phone banks and block walkers. It would cost a judicial candidate well over \$2 million to run a primary campaign like this in Harris County. But, this primary runoff in Galveston County may involve only a total of 6,000 votes after barely 16,000 voted in the March primary.

Bret Griffin is in deep trouble in this race and he is acting like someone desperate to keep the judgeship Governor Perry appointed him to over the objections of Senator Taylor. Griffin is a former prosecutor who went into private practice and he has represented dozens of criminal defendants. Representing criminal defendants is a totally proper and honorable thing to do and it shows that Griffin has broad experience in both sides of the criminal law world, which is a good thing since this district court handles both felony criminal cases and civil cases. Yet, Griffin is attacking Grady for also having represented criminal defendants.

Here is one mailer sent out in this race:



"Notice of Hearing" should say something like, "Petitioner's Motion for Interim Attorney's Fees is set for hearing on June 11, 2014 at 9:00 a.m. in the 308th District Court of Harris County, Texas." That would be clear notice of the hearing and would allow a judge to go forward if the other side does not appear. This sort of pleading entitled "Notice of Hearing" which is signed by the attorney is commonly used in Harris County civil courts and some civil courts require that the notice be filed with the clerk a certain number of days before the hearing.

This is what a notice of hearing should look like as a pleading (just please use the children's initials and not their full names):

CAUSE NO. 14-FD-1149

IN THE MATTER OF THE MARRIAGE OF FRANK McCLOSKEY AND DELLA McCLOSKEY AND IN THE INTEREST OF MARY L. McCLOSKEY AND FRANK L. McCLOSKEY, CHILDREN

IN THIS COUNTY COURT AT LAW NO. 1 GALVESTON COUNTY, TEXAS

PETITIONER'S NOTICE OF HEARING ON TEMPORARY ORDERS

Please take notice that on **Thursday, May 29, 2014, at 9:00 a.m.** a hearing will be held on Petitioner's request for Temporary Orders in the above entitled and numbered cause, in Judge's Stephen Baker's Court, located at 800 50th Street, Galveston, Texas 77551.

Respectfully submitted,

GRIMES & FORTITTA, P.C.

Richard M. Grimes, TDR: 80795060
Julian J. Fortitta, BE, TDR: 80796542
448 Louisiana, Ste. 1818
Houston, Texas 77002
(713) 224-7644 Telephone
(713) 224-0733 Facsimile

ATTORNEYS FOR PETITIONER,
FRANK McCLOSKEY

Certificate of Service

I hereby certify that a true and correct copy of the foregoing instrument was served on each attorney of record or party, listed below, in accordance with the Texas Rule of Civil Procedure 21a on May 21, 2014.

Greg Enos
The Enos Law Firm, P.C.
17207 Feather Creek Lane
Webster, TX 77598
Telephone (281) 333-3030
Facsimile (281) 488-7775

FAX: (281) 488-7775

Richard M. Grimes

This is what a notice of hearing sent as fax can look like.

The Enos Law Firm, P.C.
17207 Feather Creek Lane
Webster, Texas 77598
Telephone (281) 333-3030
Facsimile (281) 488-7775

Helping families through tough times

FAX

CONFIDENTIALITY NOTICE: This document contains confidential information and is intended only for the use of the person to whom it is addressed. If you receive this fax by mistake, please notify the sender immediately by return fax. Do not copy, distribute, or otherwise use this information. If you receive this fax by mistake, please notify the sender immediately by return fax. Do not copy, distribute, or otherwise use this information.

Date: May 21, 2014

To: Recipient: Fax No.: No. of Pages Confirmed:

Julian J. Fortitta (713) 224-0733

From: Greg Enos

Re: No. 12839352; In the Matter of the Marriage of Della Michelle Hall and James Hilton Hall and In the Interest of J.A.H. and A.L.H., Children, In County Court No. 1 of Galveston County, Texas

No. of Pages: 1 (including this page) Original: 1, with an index

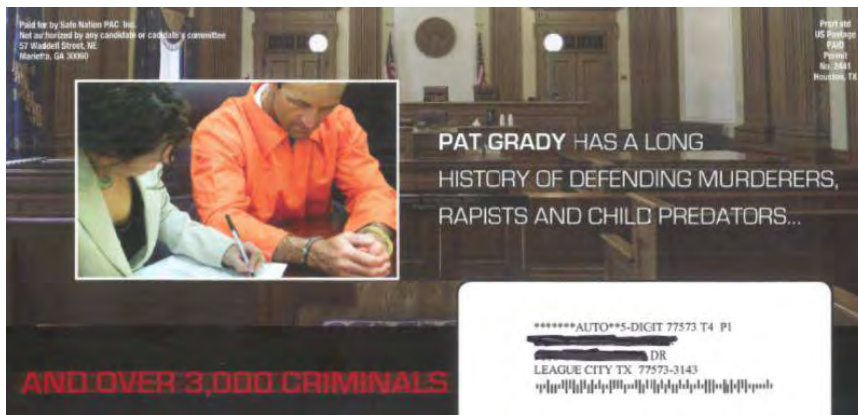
MESSAGE:

A hearing on Respondent's Motion for Interim Attorney's Fees is set for the Associate Judge of County Court No. 1 of Galveston County on June 11, 2014 at 1:30 p.m. in the Lamar Courtroom, 800 South Galveston County Justice Center.

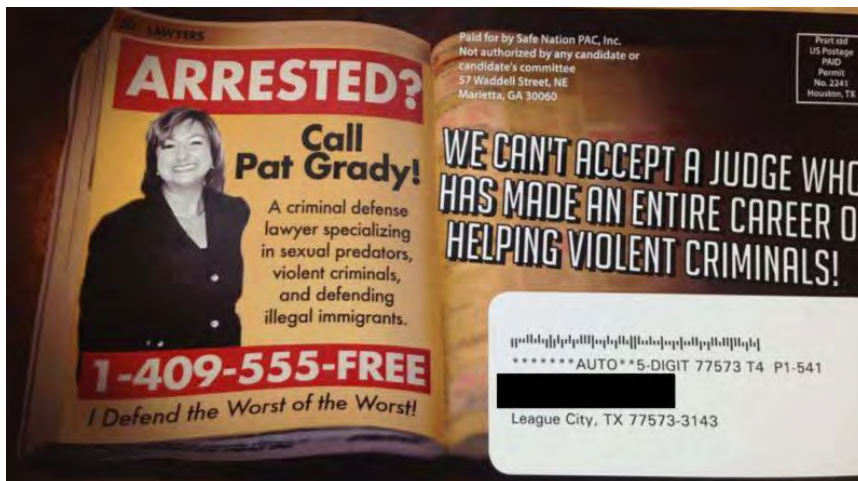
Judgment At Nuremburg

Nothing is as bad as what Nazi Germany did to people and the world. Obviously, what Denise Pratt did or what Bonnie Hellums does not cannot compare to the horrors of Hitler's Germany. However, the ethical questions posed by one of the best courtroom movies ever, the 1961 *Judgment at Nuremburg*, are applicable to the issue of what an associate judge should do when he or she realizes his or her boss is committing illegal acts and seriously harming families and children.

In *Judgment at Nuremburg*, Spencer tract played a war crimes judge who hears the case

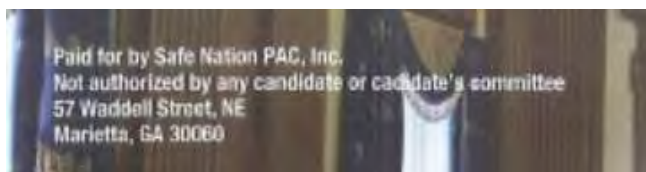


These attack mailers say they are from "Safe Nation PAC, Inc." and that they are not authorized by any candidate. **Here is another even more repulsive mailer that just arrived from this same PAC that looks like a Yellow Pages ad for Pat Grady, who has not actively practiced law privately in several years:**



The statements in this outrageous advertisement are simply not true. At one time Grady did practice some criminal law, but most of her career has been focused on children in CPS cases or in public service working for the County.

It is very mysterious why a Super PAC from Georgia chaired by an Atlanta political consultant would get involved in a state judicial race in Galveston County, Texas.



This PAC, according to the Federal Election Commission, has given more in the last four years to Democrats than to Republicans, but all of the other candidates were either seeking federal office or state office in Georgia. These "hit pieces" from the PAC in Georgia that Bret Griffin supposedly has nothing to do with say they were mailed using Permit No. 2441 from Houston, Texas. Interestingly, that same bulk mail permit number is used on Judge Griffin's own political mailers. Griffin's mail pieces also use the exact same unflattering photograph of Patricia Grady as the Super PAC mailers. **These Super PAC hit pieces need to be investigated by the Texas Ethics Commission and the District Attorney.** We may never know who provided the money for these mailers, but besides being so untrue and unfair, the lawyer funding these mailers has almost certainly used this PAC to illegally circumvent the \$2,500 per person and \$5,000 per law firm contribution limit that applies to Galveston County judicial races.

of a respected German judge who kept his post when Hitler came to power and then followed the new regime's terrible laws. The American judge cannot understand why the German jurist just did not resign his position rather than make immoral rulings based on the Nazi laws.

I have rewritten a scholarly synopsis of that classic movie and changed a few words regarding the climatic scene when the German judge takes the stand and tries to explain his actions:

[The defendant former judge] then noted that, even once the complicit realized the unconscionability and [illegality of the presiding judge's policies], they stayed at their posts to help things from getting even worse, but predictably, failed to derail the atrocities of the times. He agreed that claiming he did not know the extent of the horrors was really an admission that he did not inquire as he should have. [The judge] admitted it was not a defense that he once felt that if he resigned, someone else with less empathy would have simply taken his place and carried out orders.

The judge explained that loyalty and allegiance had motivated most of them to the point that they sacrificed their own personal senses of morality. In a deeply personal, yet self-damning statement, he conceded that most of them should have known better, and that those that had gone along had betrayed true justice.

At long last, the issue at the heart of the case becomes clear - the choice that the [associate judge] had to make was between allegiance to their [boss, the presiding judge] and allegiance to their own senses of right and wrong.





The attack mailers from the Super PAC in Georgia use the same bulk mail permit and the same odd photograph of Patricia Grady as Bret Griffin's own campaign mailers.



Griffin got appointed by Governor Perry over the objections of Senator Larry Taylor apparently because of the pull Tony Buzbee has with Perry. That itself is odd given how often Perry lambasts trial lawyers. Money from Buzbee and other personal injury attorneys is primarily funding Griffin's campaign. Buzbee is even using meetings of clients in his mass chemical exposure cases to help his protege. Here is part of an e-mail from Galveston County Republican Chair Barbara Meeks to her GOP e-mail list (a friend shared it with me as I am not on Meek's list):

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos



STOP DEMOCRAT TRIAL LAWYERS!

Many of you have contacted me to tell me how disgusted you are by the negative campaigns and I fully agree with you. I am convinced it is a power struggle and war is being waged with money from democrat trial lawyers funding candidates who will be favorable to their clients.

HERE ARE THE FACTS:

Tony Buzbee, former Chair of the Democrat Party and trial lawyer, held meetings for his clients in the Doyle Center in Texas City. Hundreds attended the invitation-only meeting, hungry for big settlements in the upcoming BP Benzene case. Tony Buzbee told his clients who to vote for, by explaining which candidate would be the most sympathetic to their case.

By 5:30pm Monday, fewer than 100 people had voted in the Surf Room just down the hall from lawyer Buzbee's meeting. By 8pm when the last voter left, nearly 400 had voted, which is frightening! Yesterday voters arrived by buses at two other Early Voting locations, and voters thanked Mr. Buzbee for the bus.

We understand that there will be more Plaintiff meetings at the Doyle Center Wednesday and Thursday. I can't do a thing to stop what sounds like influence peddling but you can! You can vote against the trial lawyers.

Please don't allow democrat trial lawyers to decide who will be YOUR judge. If trial lawyers had their way, I believe they would do everything they could to help their friends get elected. They want to win big cases so they can enjoy a lavish lifestyle and punish our county's largest employers.

PLEASE, PLEASE, PLEASE go vote! Better yet, take your friends, neighbors and family to go vote! Research the candidates and make an informed vote!

Barbara Meeks, Chair Galveston County Republican Party

[Click here](#) to read a *Galveston News* story about how Buzbee flooded the Texas City early voting center with his clients (and probably really helped Texas City lawyer Anne Daring in her race for the 306th).

I admit I am amused to see the Republican purebloods upset that the unwashed common folks are voting in their primary. But, at least this tactic by Buzbee is (1) clever, (2) 100% legal, and (3) done openly for the world to see. Buzbee is motivating folks to vote and getting them to the polls, which is how democracy is supposed to work.

In the Republican Runoff, you have a real choice for Judge of the 212th District Court

Bret Griffin

- Was a criminal defense lawyer in Oklahoma.
- One of Griffin's clients was released and later arrested for assaulting a police officer. Another was released and later arrested for eight drug crimes.
- Griffin has made his living mostly as a personal injury trial lawyer.
- His campaign is largely funded by personal injury trial lawyers.
- Griffin's largest contributor is a notorious personal injury trial lawyer who often teams up with mass tort lawyer Steve Mincey, who is our State's largest contributor to liberal Democrats.

Grady

Patricia Grady

- Grady will make sure that the rights of the accused shall not compromise the rights of the victim.
- She will hold those found guilty of crimes accountable for their actions.
- Diverse legal experience.
- Grady is a longtime community leader in Galveston County.
- Fair and impartial.
- CONSERVATIVE REPUBLICAN.

Sadly, Mrs. Grady is also attacking Griffin for having represented criminal defendants, just like she did. Grady is also hitting Griffin for being a plaintiff's personal injury attorney. While true, that fact also merely shows Griffin has civil experience which is also needed to effectively preside in the 212th. Apparently, in Republican circles, representing injury and chemical exposure victims against big corporations is a bad thing and it is a shame that Grady is pandering to that ignorance instead of just touting her own impressive credentials. At least Grady's statements are all true and she is making them herself rather than hiding behind an out-of-state Super PAC to lie about her opponent.

Judge Griffin should be ashamed and embarrassed by what is being done in his name and he surely had the power to stop it all. Something tells me he is not bothered by it at all and that, if true, would be a telling indictment of his ethics and character. If Griffin is elected using these dirty tactics, the Galveston County Republican Party should be embarrassed and also realize it has a big problem. If his appointed candidate, Griffin, wins, Buzbee is going to think he owns Galveston County. We will need some judges with fortitude to stand up to Buzbee after this.

Politics and the desire to win seems able to make good people do bad things. Truly believing that you are the best candidate should not allow your morals to slip and

excuse unethical behavior by your campaign or your supporters. However, a candidate who is being relentlessly attacked, especially with false or misleading allegations, simply has to respond. Politics is so unpleasant that it makes the world of child custody litigation look genteel and proper in comparison!



Patricia Grady is running for the 212th District Court in Galveston County.



Patricia has been married to her husband, John Grady, for 20 years. John Grady is the Judge of County Court No. 1 in Galveston County.

It is a shame that political candidates for judge cannot act like they did as lawyers in the courtroom. Attorneys can strongly disagree in court but we usually do so with friendship and courtesy and some respect for ethics and the truth. It is no wonder that most attorneys would never demean themselves by sinking into politics and running for judge.





Issue: No. 41

May 22, 2014

The Enos Law Firm

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Web site: www.divorcereality.com

Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.

***"Together, attorneys can
improve our family courts!"***

Four Family Courts Move This Weekend

Four family courts move to the 16th floor of the Civil Courthouse this weekend. Judges Farr, Warne, Dean and York will have new addresses starting next Tuesday!



Politics is Just a Nasty Business

Local judicial races may sometimes get dirty, but they pale in comparison to state-wide or national elections. I never thought I would sympathize with Dan Patrick, but what Jerry Patterson did in revealing Patrick's mental health problems from 30 years ago is despicable.

This year's Texas Governor's race is going to be nauseating too. A rich Midland lady who is a right-wing anti-abortion zealot paid a California artist to make life-size posters calling Democrat Wendy Davis "Abortion Barbie." The posters were put up in Hollywood in time for a Wendy Davis fundraiser.

I have two reasons for two newsletters in two days:

1. I found some typo's in yesterday's edition and I could not sleep because of those errors. So, I am reprinting and expanding the story about the classic movie *Judgment at Nuremberg*; and
2. More fun poop is hitting the fan on the election scene.

I will have a special Election Edition next Wednesday morning to let you know how many of these lying scumbags managed to fool the voters and win.

P.S. - Some dim wit wrote on Facebook this week, "Greg Enos hates Republicans." I have far too many Republican friends for that to be true. The best judges on this planet, such as David Farr and Roy Moore, happen to be Republicans. I sometimes hate what certain Republicans do, but that is true of Democrats sometimes as well.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm

Pratt is Back on the Campaign Trail

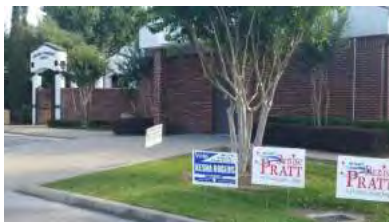
Do not take the Republican race for the 311th Family District Court for granted. Suddenly, on Thursday, on the fourth day of early voting in the runoff election, "Denise Pratt" campaign signs started appearing at voting sites. [Click here](#) to read a Houston Chronicle story titled, "Campaign signs for resigned judge spotted at early

voting sites" and subtitled, "Is she is isn't she?" The article says in part:

Harris County Republican Party Chairman Jared Woodfill said he is sure Franklin will win, as she has secured every key endorsement and people who vote in runoff elections are more "well-versed in who the candidates are and what the issues are in the race."

"You've got to be kidding me," Woodfill said, when asked about the signs.

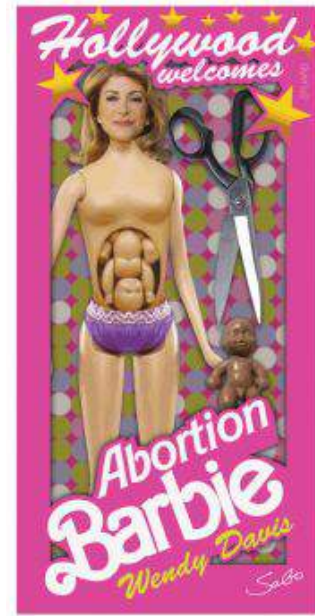
Franklin also said she "can't understand it." "To me, it's sabotaging the Republican Party and sabotaging the Republicans' chance to continue the party's service on this bench and it's confusing and it's appalling," she said.



My news teams across the city sent me photographs but were unable to confirm rumors that the signs were planted by two folks in "Oompa Loompa" costumes closely resembling George Clevenger and Ronnie Harrison.



Judicial Candidate Calls Fake PAC Website "Lies, Lies and More Lies."



Every time I find something in politics I find "despicable," it gets topped the next week by something even worse.

Judgment At Nuremburg

This is the corrected and slightly expanded story from yesterday's edition without typographical errors.

Nothing is as bad as what Nazi Germany did to people and to the world. Obviously, what Denise Pratt did, or what Bonnie Hellums does now, cannot compare to the horrors of Hitler's Germany. However, the ethical questions posed by one of the best courtroom movies ever, *Judgment at Nuremburg*, are applicable to the issue of what an associate judge should when he or she realizes his or her boss is committing illegal acts and seriously harming families and children.

This 1961 movie starred Spencer Tracy, Burt Lancaster, Richard Widmark, Judie Garland, Marlene Dietrich, Maxmillian Schell, Montgomery Clift and a very young William Shatner.



[Click here](#) to view a three minute movie trailer that shows all of these actors and excerpts from some of the best scenes.

[Click here](#) for a longer clip of the stirring

Wilfried Schmitz's campaign minions have put up several fake web sites pretending to be the PAC "Real Republican Moms for Good Judges" who endorsed Schmitz's opponent, Anne Darring. It was one of many reasons why I am letting the world know Schmitz lacks the ethics to be judge. [Click here](#) to see the real web site for these Republican ladies who have sent their slate mailer to all Republican voters in Galveston County. [Click here](#) to see one of several phoney websites put up by Schmitz' friends.

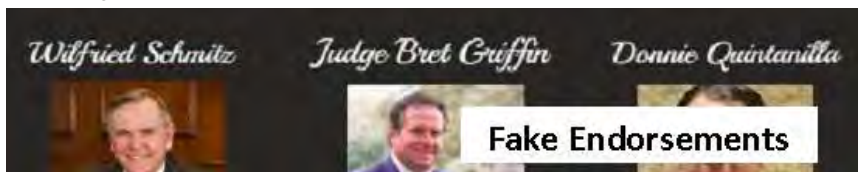
Attorneys Marcia Zimmerman, Maisie Barringer, Shari Goldsberry and Christina Tillinger formed a PAC called "Republican Moms for Good Judges" and planned to interview and endorse judicial candidates. They raised their own money and conducted a candidate forum, but they forgot to snag the website name. Imagine their surprise when they discovered a website using their name which "endorsed" three Republican candidates before the ladies had even conducted their candidate interviews!



This fake website says it owned by Nakala Bookout, a woman who is a volunteer for Wilfried Schmitz and whose mother-in-law is Schmitz's paid campaign manager.



Schmitz refused to be interviewed by the real political action committee and he refused to appear at the PAC's candidate forum. I asked Schmitz to comment on this story and he refused that offer as well. Donnie Quintanilla at least had the ethics to demand that he be removed from the fake website, which includes false smears against Patricia Grady, who has threatened legal action. The "real" political action committee had to quickly change its name to "Real Republican Moms for Good Judges."



Jack Ewing, a candidate for County Court No. 3, was endorsed by the real "Real Republican Moms for Good Judges." Ewing's endorsement is proof I do not control this PAC because I support Donnie Quintanilla (even though I recognize Ewing has the experience to be a fine judge).

Ewing sent out an e-mail blast that blasted the fake website obviously put up by Schmitz supporters. Ewing's e-mail also shows how my involvement in Republican races often becomes a campaign issue in Galveston County because I am alleged to be a liberal Democrat even though the GOP judges we have now have all had fundraisers at my office or accepted my political support. Here is part of what Ewing sent out:

verdict delivered by Spencer Tracy and you can see the young Bill Shatner (before he was Captain Kirk) call the court to order. This is part of the judge's ruling:

*A country isn't a rock. It's not an extension of one's self. It's what it stands for. It's what it stands for when standing for something is the most difficult! Before the people of the world, let it now be noted that here, in our decision, this is what we stand for: **Justice, truth, and the value of a single human being.***

In *Judgment at Nuremberg*, Spencer Tracy played a war crimes judge who hears the case of a respected German judge who kept his post when Hitler came to power and then followed the new regime's terrible laws. The American judge cannot understand why the German jurist just did not resign his position rather than make immoral rulings based on the Nazi laws.



I have rewritten a scholarly synopsis of that classic movie and changed a few words regarding the climactic scene when the German judge takes the stand and tries to explain his actions:

[The defendant former judge] then noted that, even once the complicit realized the unconscionability and [illegality of the presiding judge's policies], they stayed at their posts to help things from getting even worse, but predictably, failed to derail the atrocities of the times. He agreed that claiming he did not know the extent of the horrors was really an admission that he did not inquire as he should have. [The judge] admitted it was not a defense that he once felt that if he resigned, someone else with less empathy would have simply taken his place and carried out orders.

The judge explained that loyalty and allegiance had motivated most of them to the point that they sacrificed their own personal senses of morality. In a deeply personal, yet self-damning statement, he conceded that most of them should have known better, and that those that had gone along had betrayed true justice.

At long last, the issue at the heart of the case becomes clear - the choice that the [associate judge] had to make was between allegiance to their [bosses, the presiding judges] and allegiance to their own senses of right and wrong.

LIES, LIES AND MORE LIES!! WHAT A SHAME!

Dear Greg,

An e-mail and phony website has circulated claiming I "pandered" to Greg Enos for an endorsement from the Real Republican Moms for Good Judges PAC.

Anybody who knows me knows there would be nothing further from the truth!

From my understanding, my opponent was invited to and participated in the same interview process by this group of Family Law Attorneys and Moms as I did. Upon reviewing and comparing the experience and credentials of myself and my opponent, this PAC of Family Law Attorneys and local Moms made the independent decision to endorse me over my opponent.

It also states that I contributed to the Galveston County Democratic party and "Hard Democrats" like the former mayor of Galveston.

This is NOT true. In fact, I've never contributed to any former mayor of Galveston.

In fact, if we want to talk about connections to the Democratic Party, here are some facts about my opponent:

1. My opponent has accepted over \$9,600 from his father's "Democratic" Campaign Fund, as shown in his financial report dated January 13, 2014.



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.

Senator Taylor Calls Out the GOP Faithful to Stop the Infidel Trial Lawyers From Taking Over!

I count State Senator Larry Taylor as a friend even though he and I disagree on more than a few issues of political philosophy. Taylor apparently agrees with me that Bret Griffin should not be allowed to beat Patricia Grady with lies and false smears. The lies being told by Griffin's supporters now include the falsehood that Pat Grady lost her law license for several years. Have you no shame Bret? How could you as a judge expect witnesses in court to tell the truth when you as a judicial candidate are willing to allow your campaign to lie its collective pants off?

As former personal injury attorney myself, however, I do not find Tony Buzbee as objectionable as he is to Senator Taylor just because Buzbee represents victims suing big corporations. I do wonder why I find myself these days agreeing with so much of what local establishment Republican leaders are saying, including the wise Senator Taylor. I know the only cure for such wayward thinking is to put "**Wendy Davis**" and "**Hillary Clinton**" bumper stickers on my eco-friendly car and renew my ACLU and Sierra Club memberships as fast as I can.

Here is part of what Senator Taylor sent out to Galveston County Republicans on the race for the 212th District Court:



Attorney Greg Enos



Dear Friends,

Please join me in voting FOR Patricia Grady for judge in Galveston County's 212th District Court. If you live in Galveston County, you can vote in the Republican Primary runoff on May 27th or in the week of early voting that begins on May 19th. If you don't live in Galveston County, please forward this on to your friends and family that do. This is important for all of us.

I am supporting Patricia because she is qualified, has a proven record as a Republican, and is not beholden to anyone. She has run a positive campaign based on her merits and was the number one vote getter in the Primary.

Her opponent in the runoff is Bret Griffin. The foremost problem with Griffin running for judge is that his biggest benefactor is this guy:



.....

Why does Buzbee want Griffin to be judge so badly? First of all, Buzbee has bragged and threatened in the past about his use of "friendly" venues and judges. Apparently, Buzbee would prefer that justice not be blind and impartial.

In Griffin's prior campaign for judge, Buzbee was almost his sole benefactor. In fact, he contributed \$15,000 personally to Bret's campaign, which is a violation of the contribution limits for a judicial candidate. According to the last report we have available for this campaign, Buzbee and his colleagues at his firm have contributed 42% of the total contributions to Griffin's campaign. Between Buzbee, his associates, and other plaintiffs lawyers they account for over 79% of Griffin's campaign contributions. With only one more report to come, 8 days before the election, I think you will see those numbers increase substantially. Remember, plaintiff lawyer Democrat money looks bad in a Republican primary so they keep it hidden until the very end. In my race for the Senate, Steve Mostyn spent almost \$1,000,000 against me after the final 30-day report was due.

Finally, I have been amazed at the level of truth deprivation that has come from the Griffin campaign and its supporters. Everything from claiming that Patricia was supported by Steve Mostyn, nothing more than a

ruse perpetrated by Buzbee and Mostyn, to claiming that Patricia has lost her law license, an unbelievable assertion. Many of these ridiculous claims came from fake PAC's, shadow groups that didn't follow election laws, and bogus websites mimicking legitimate groups and making false claims. It looks an awful lot like the types of tactics that have been used against me and other Republicans by Mostyn and some other Democrat personal injury trial lawyers.

I ask the Republican voters of Galveston County to stand up against this blatant cronyism and the onslaught of Democrat money and deception in an effort to sway this election.

We Republicans in Galveston County have fought too hard and too long to change the government and our courthouse to simply hand it back to the highest bidder.

Please join me in voting for competency, honesty, impartiality and true conservatism. Please vote FOR Patricia Grady and bring your friends and family along as well. If you would like more information or want to show your support for Patricia, go to PatGradyForJudge.com.

Thank you for your time and your support.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Taylor", with a stylized, cursive script.

Larry Taylor
Texas Senate
District 11

PS - Election day falls on the Tuesday after Memorial Day. Vote early!!

Be this guy





Issue: No. 42

May 28, 2014

The Enos Law Firm

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"Together, attorneys can improve our family courts!"

Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.



Election Results

Harris County

247th District Court

Schmude	42,771	51.6%
Walker	40,058	48.4%

311th District Court

Franklin	65,060	77.5%
Pratt	18,948	22.5%

Galveston County

306th District Court

Darring	6,933	54.5%
Schmitz	5,793	45.5%

County Court No. 3

Ewing	6,628	51.5%
Quintanilla	6,243	48.5%

212th District Court

Grady	6,951	51.4%

Time for the vast majority of attorneys who straddled the fence and failed to commit to a candidate to suddenly because best friends and ardent supporters of those who won.

I am not terribly comfortable just waiting to see which way the wind is blowing and this election cycle I was "all in" in Galveston County races. I suggested the formation of a Republican Moms PAC and helped the ladies running the PAC raise money and I designed their mailer. ALL of the candidates endorsed by the PAC won.

My office has been a phone bank for the last two weeks for Anne Darring and I spent all of yesterday working an election voting site for her. A lot of other enthusiastic supporters helped Mrs. Darring win to be the new Family District Judge in Galveston County. Special thanks to Carey Crump in my office who managed the Darring phone bank!

I was out early this past Sunday putting up signs for Patricia Grady and providing her encouragement against the ridiculous and false smear campaign run against her. I am so very happy that Mrs. Grady won as well. I intend to continue my investigation into the shadow Super PAC from Georgia and who funded its mailers that so unfairly attacked Grady.

The PAC I helped was local and run by actual Republicans. Everything the Real Republican Moms for Good Judges PAC did was 100% in the open and in strict compliance with the law. They got started late but now they are going to change their name and be more inclusive to those of all genders and political parties. I hope they put on another candidate forum in the Fall for the General Election.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
 The Enos Law Firm

Pratt is Finally Gone

Harris County families and attorneys no longer have the slightest worry that Denise Pratt will return after Alicia Franklin defeated the zombie candidate resoundingly.

Now, Governor Perry needs to stop running for President long enough to appoint Franklin so she can get to work on the mess Pratt created.

Franklin will face the far more experienced and well liked Sherri Cothrun in November.

Why Meca Walker Lost

Associate Judge Meca Walker was more qualified and had far more lawyer support than John Schmude, yet Schmude won the primary runoff. Schmude had few funds but he had the ideas, the shared revulsion with how nutty aunt Bonnie is running her court and, most importantly, the support of the conservative, "right-to-life" crowd that still dominates Harris County GOP politics. Schmude was greatly boosted by the candidacy of local hero Dan Patrick for Lieutenant Governor. Walker also had to deal with the fact that she is not white and that is, in all frankness, a handicap in Republican primaries. Our primary system in Harris County, where voters cannot possibly know much about judicial candidates, is not designed to pick the "best and the brightest," although somehow it still occasionally manages to.

The amazing accomplishment of Mr. Schmude in winning his race should not be downplayed, however. Schmude was a lone champion for reform in the 247th when almost no lawyers would even talk to him. I am guessing he will suddenly have a lot of new "best friends" this week. Schmude will face Clinton "Chip" Wells this Fall.

Meca Walker's experience and talent should not go to waste and I hope she is hired as Associate Judge by one of the new judges who will take office in January.

Galveston County Analysis

Wilfried Schmitz may now regret spending \$56,500 of his own funds on his race for the 306th Family District Court. I certainly hope Schmitz (and Griffin and Quintanilla and O'Brien who also lost) regret using the services of Lianne Russell as a political consultant because her vile and misleading campaign tactics did not fool Republican voters in the end. A Republican candidate would be very foolish to use Ms. Russell on future campaigns, given the many elected and influential local leaders who are highly disturbed by her tactics.

The few attorneys who supported Mr. Schmitz over Anne Darring should demand a refund. Genevieve McGarvey, Sondra Kaighen, Erin Groce, Dan Amerson, Allison Jones, Donne Leleux, and Dennis Slate all are hopefully sending Mrs. Darring their warmest and most sincere congratulations this morning (just like I am for Jack Ewing!).

Young Donny Quintanilla ran a great race and impressed a lot of folks. Quintanilla came so very close to winning the judgeship once held by his father and Donny clearly has a bright future in politics if he wants to run again in the future.

Griffin 6,568 49.6%

In the Justice of the Peace Precinct 1 race, Alison Cox defeated incumbent Toni Randall by 215 votes. Cox received a little more than 52 percent of the vote.

The Power of Moms and Social Media

We can no longer doubt the influence that political active and informed mothers can have on elections nor the power of social media. The "Real Republican Moms for Good Judges" sent out a slate mailer in Galveston County and it also was very active on Facebook thanks to Shari Goldsberry. The Facebook postings of this group were seen by more people than who voted in the Galveston County primary runoff.



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very



successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos





*The International Journal on the
Reform of Family Courts*

The Mongoose

Published by Greg Enos

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August 3, 2014

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[Click here](#) for an archive of past issues of *The Mongoose*.

It is gratifying when so many folks call my office and ask when the next issue of this newsletter will come out. Even I am impressed when a judge in open court suggests a story idea and asks, "When is the *Mongoose* going to write about that?"

I have been busy this summer going on vacation, spending time with the grandson, actually working as a lawyer and working a few hours every day on my *magnus opus* on "Grandparents' Custody and Visitation Rights in Texas." The booklet is up to 47 single spaced pages and will include legislative history and every case in the last ten years on the subject and some as far back as the 1950's. This writing project is a cruel, demanding mistress and I have decided it will be done when it is done. If you want a preview, [click here](#) to download a portion of this mini-book on grandparents' rights entitled, "An Important New Case on Standing Should Prevent Many Custody Cases Filed by Grandparents from Being Dismissed Early in the Case." Every lawyer dealing with non-parents seeking custody needs to be familiar with *In re K.D.H.*, 426 S.W.3d 879 (Tex. App. - Houston [14th Dist.] 2014, no pet.).

Some of my summer has been spent on work behind the scenes on projects that are not political (thank goodness), but which should result in real improvements in family law in our area. I am going to have plenty to write about this Fall, including an exposé about CPS appointments and the highly questionable billing practices of lawyers with more political clout than scruples.

I am also reading this summer. I am half through the fascinating *Nature's God* by Matthew Stewart which examines in detail the "religious" beliefs of America's Founding Fathers. A paragraph on attacks made by pastors against a rabble rousing radical, Dr. Thomas Young, reminded me of some of the things people today might write about [me](#):

[He is] a purveyor of "inaccuracy, malevolence, bad grammar and nonsense"; a perfect specimen of "self-conceit, vain-baiting, and invincible impudence"; a "firebrand" and an "incendiary of the lower order"; a man of "noisy fame"; the last word in boorishness and impertinent loquacity"; "the great Apollo of the ignorant"; and, most memorably, "an eternal Fisher in Troubled Waters."

I remain interested and involved in politics of course. The national mood and

***"Together, attorneys can
improve our family courts!"***

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**Visit the *Mongoose* Booth at the
Advanced Family Law Seminar!**

This year, I will again be operating an exhibitor's booth for *The Mongoose* at the Advanced Family Law Seminar in San Antonio. Come by our booth to visit and get a free traveling coffee mug emblazoned with a feisty mongoose and grab some free educational handouts. The world famous *Mongoose Girls* will be running a raffle for

I suppose it is only fair for the judges who have lost their jobs because of my efforts to return the favor and point out my alleged misdeeds to the world. I filed criminal complaints against Galveston County Court at Law Judge Christopher Dupuy and he was ultimately indicted, temporarily removed, resigned and convicted of the charge I originally filed, plus a perjury charge involving me! Amazingly, the State Bar has not yet managed to take away Dupuy's law license and he is actually taking on cases in Galveston County. I certainly wonder how much he discloses to his new clients about his past and how he is viewed in Galveston legal circles.

I now have a family law case against Dupuy and he filed a humdinger of a motion to recuse Judge Jan Yarbrough. Dupuy's motion claims I spent a lot of time in the back corridors and in judges' chambers and even suggests that the judge and I had a romantic relationship. Judge Jan has far too much common sense and knows far too much about me for that to possibly be true. The motion was denied without a hearing by Judge Underwood. [Click here](#) to see the motion to recuse filed by Dupuy. He has recently filed motions to recuse other Galveston County judges, including Kerri Foley who replaced Dupuy, and all of his motions have been denied so far.

FYI Dopey: The time mentioned in your motion when I was indeed in the back before our hearing before Associate Judge Baker involved a long conversation between me and Judge Lonnie Cox, the Godfather of Galveston County Republican politics and supreme diet guru (who is not even a family court judge), in Judge Cox's chambers.

Harris County Family District Court Judge Denise Pratt resigned earlier this year to avoid indictment in a case I brought to the District Attorney's attention. Pratt was also the focus of many stories in the *Houston Chronicle* written by Kiah Collier. This month, an "anonymous" mass e-mail was sent out from what looks like Denise Pratt's MailChimp account to Republican activists that says some pretty inflammatory things about me and Ms. Collier. The e-mail at the very bottom says it is from "Denise Pratt for Judge · PO Box 8012 · Baytown, TX 77522 · USA ." The sender is someone calling themselves, "ComplicitNoMore."

Here are a few excerpts from this juicy e-mail:

The Republican primary season in Harris County is one of the most contentious and vicious in recent memory. It is made all the more sanguine by the fact that Republicans joined forces with Democrats in several key family court races to depose sitting pro-family judges or put transparent Obama supporters (one-time R's) on the bench.

Such moves are not simply the result of ignorance, as evidenced by the case of Denise Pratt. Republicans from start to finish were virtually complicit with Pratt's attackers. [Silence is not the absence of wrongdoing but rather, passive wrongdoing.]

Pratt, like many Republicans, was the victim of a leftist tirade. The Houston Chronicle, and its neophyte reporter Kiah Collier, succeeded in filling the blogosphere with patent falsehoods about the embattled judge. The reality? Pratt allowed plaintiffs to speak directly to her, minimizing the role of attorneys and impacting the pocketbook of a few left-leaning attorneys with an ego to protect. Moreover, many of these attorneys profited from a system that perpetuates abuse and is biased against the traditional family unit.

*The attorney leading the charge against Denise Pratt is a man named **Greg Enos**, who went so far as to tap her phones and monitor her private, privileged communications while she sat as judge. Harris County is starting to look more like an episode of *Dukes of Hazzard* with men like Enos running around loose. Enos would likely be content if Boss Hog were sitting in Pratt's place. Instead, Obama supporter and pro-abortion attorney Alicia Franklin will.*

No self-righteous "crusade" legitimizes the violation of a judge's private communications.

I am not sure which allegation is more astounding: that I tapped Judge Pratt's phones and e-mails or I am a figure from the "Dukes of Hazard" trying to elevate Boss Hogg to the bench (even though, oddly enough, there was a deputy named "Enos" on that television series). It is even more ridiculous to suggest that Judge Franklin is a supporter of President Obama or is pro-abortion. Comparing thin, elegant Alicia Franklin to Boss Hogg is the most absurd statement of all. It is almost as if the author of this e-mail tirade is a little jealous of Ms. Franklin and is

filled with mating geckos. [Click here](#) to read more on that sad tale.

Judge Alicia Franklin Takes Charge and Is Getting Good Reviews

Alicia Franklin was appointed and sworn in as Judge of the 311th Family District Court by Judge Lisa Millard in a very private ceremony on June 17. A public and formal investiture ceremony will be conducted on Friday, August 15, 2014 at noon in the Ceremonial Courtroom in the Civil Courthouse, 17th Floor. Everyone is invited to that event.

Franklin has changed her coordinator and bailiff, but will continue to benefit from the wise experience of Bob Newey (at least through the end of this year). The 311th staff now consists of:

Judge: Alicia Franklin
Assoc. Judge: Robert Newey
Coordinator: Victor Almendarez
Reporter: Marilee Anderson
Clerks: Stephanie Garcia, Monica Caballero
Bailiffs: Two uniformed, armed Sheriff's Deputies (bailiffs will rotate in and out of the court).

Franklin is getting really positive reviews in her first few weeks as a judge. It is clear that she is intelligent, enthusiastic and motivated to fix the gigantic mess Pratt left her. A few have grumbled that Franklin went ahead and enjoyed a long planned vacation just weeks after she took office, but I think that is an unfair criticism (even though I have never been on a vacation as long as three weeks since I was a kid). Regardless of how the November election turns out, Franklin has months of really hard judicial work ahead of her and a vacation now that was committed to well before she was suddenly appointed is not something any of us should begrudge her.

Meet the Democrats: Jim Evans Candidate for 308th District Court

Now that the mayhem of the GOP primaries is over, it is time to remind folks that there are Democrats running for Family District Courts in Harris County. In my next few issues, I will introduce them to you.

Jim Evans is running for the 308th Family District Court against James Lombardino. Evans graduated with honors in 2003 from the University of Houston Law Center where he served as the Research Editor on the *Houston Law Review*. Evans Jim has practiced law for just over 10 years and, currently, his practice is dedicated exclusively to family law. Jim has done a lot of bankruptcy law in the past.

Prior to attending law school, Jim served as a minister and taught in Louisiana public

juvenile enough to call her names. Hmm, I wonder if that is any clue to who wrote this e-mail?



The e-mail went on to besmirch the *Chronicle* reporter, Ms. Collier:

*Dismissals of the kind attacked by Collier in her role as **Enos-lackey** were lawful and a normal clerical practice of courts with large caseloads and backlogs of cases that are inactive and not in compliance with the rules of the courts. Making dismissals is part of any judge's JOB, and turning dismissals into a scandal would be akin to gasping in shock that a preacher preaches or that a lawmaker makes laws.*

*Reducing a common part of a judge's duties to the absurd is beneath even the *Chronicle*, a publication that always seems to endorse the most liberal Republicans for offices.*

So, a few attorneys do not like Denise Pratt or her decisions - what manager in an organization is loved or adored by all its employees? If businesses were run this way, businesses would fail.

I am confident that even ardent Fox News watching Republicans (who ordinarily believe almost anything they are told if it involves "liberals" or the press) can tell this e-mail is silly lunacy.

Unsolicited Advice for Judges' Spouses Who Practice Law

As a young personal injury attorney over two decades ago, I was astounded to learn that Galveston County's Family District Judge, Andrew Baker, presided over cases that involved his daughter, Susan, as a lawyer. Everyone conceded it was not proper, but no one was willing to cross Andy Baker and few thought that Susan Baker took advantage of the situation. As it turned out, Susan Baker, replaced her father on the bench and Susan turned out to be a really good, forward thinking judge (with just a few exceptions - sorry Lloyd).

We continued to deal with conflict situations in the family courts in Galveston County involving relatives and part-time associate judges. Once I started practicing family law, I raised hell over the practice of allowing a conflict to automatically require the transfer of a case to another court. During the recusal battles with Judge Dupuy before his arrest and suspension, our Regional Administrative Judge, Olen Underwood, took the position that an attorney who knows he has a conflict with a judge should decline a case that is already pending in that court.

So, here is my unsolicited advice to any lawyer whose spouse (or domestic partner or fiancé or parent or child or sibling) is a judge:

- If you file a new case and it lands in your spouse's court, you keep the case and the case is again randomly reassigned. No one can say you are taking advantage of the system in that situation.
- If a client comes to you with a case that has been pending in your spouse's court for a while and hearings have been held, you do not take the case

schools. Evans has the added qualifications of being a parent and a divorced father and an adoptive dad. If elected, Evans would be the county's first proud, openly gay family court judge.

[Disclaimers: (1) I represented Evans' husband in an appeal and a family case; (2) I admire the friendly, efficient way Judge Lombardino runs his court and I love the way he treats fathers so fairly, even though I do not always like some of Lombardino's amicus appointments]



This is why Evans says he is running for the family court bench:

I am running to be your next presiding judge in the 308th Judicial District Court because the people of Harris County desperately need an informed and attentive judge. I am committed to applying impartial and careful consideration to the cases brought before the court, and I will render judgment based on the best interest of children and fairness for litigants. I have the necessary background to understand the complicated property issues that sometimes arise in divorces. I know the value of mediation and other ADR alternatives as tools for resolving family law disputes. And as an individual who has personally navigated through the legal system with my own family, I possess a level of empathy that will assist me in making practical decisions with positive long-term results.

I am the better choice for this bench for a number of reasons, and I would like to highlight one of them. I will reform the appointment system by basing my appointments on education and experience. For example, I will ask attorneys who are seeking appointments in adoption cases or custody cases to let me know their background with regard to children, child development, child psychology and family systems so that I can appoint an appropriate person based on the family circumstances before the court. This will encourage an objective basis for recommendations brought to the court. And, of course, I will not base appointments in my court on political contributions or connections.

Judges: Do Not Sext Bailiffs

unless all of the opposing attorneys have no problem with the fact that the case will be removed. The best practice is simply to turn away such cases because some attorneys may feel uncomfortable telling you "no" in a case where your spouse is the judge

- If a new case filed by someone else lands in your spouse's court, no hearing has been held and the respondent wants to hire you, I think that as long as the client knows the case will be moved and as long as you are not delaying an already set hearing and only if opposing counsel agrees, you can take the case and it will be transferred to another court. If a hearing is already set and the opposition does not want it reset or wants the case to be in your spouse's court, then you decline the case and send the prospective client to another lawyer.

Many folks will feel very uneasy about a judge's spouse even conducting consultations with potential new clients with cases pending in the judge's court. How do we know for sure that what is told the lawyer in his office does not end up shared with the lawyer's spouse/judge over wine that evening? Can we be sure that the lawyer spouse is not sharing insights into her husband's thinking and approaches to cases during those consultations? The safest procedure is to refuse even consultations if the case is pending in your spouse's court.

Any lawyer married to a judge enjoys a lot of benefits, including socializing with other judges and access to information most attorneys can only guess at (unless they read this newsletter). A lawyer married to a judge probably gets business just because people assume he or she has special clout in the court. On the other hand, being married to a judge has some downsides, including all of the boring political events that must be attended. A judge's spouse cannot freely speak her mind on Facebook and certainly cannot appear to throw her weight around with other lawyers simply because she is married to a judge. Most importantly, the spouse of a judge owes it to the judge not to take any cases that might potentially embarrass the judge or cause people to think there is something improper going on.

A judge's spouse must err on the side of caution and turn away cases to avoid the appearance of reverse forum shopping. It would be really bad if attorneys hired the lawyer-spouse as co-counsel just to get cases out of the judge-spouse's court.

Obviously, a lawyer-spouse cannot mediate cases in her husband's court even if the judge had nothing to do with the selection of the mediator. It goes without saying that a lawyer simply cannot be appointed to do anything in his spouse's court, even by the associate judge. At least we do not have to worry about an elected judge ever asking her spouse to serve as a free, substitute associate judge in her own court because the impropriety of that is simply too obvious.



Good Bye and Hook 'Em Horns to Kenneth Kaye

Kenneth Kaye, 71, an extraordinary attorney in League City, passed away July 29 in Houston, after a decades-long battle with Crohn's disease. He graduated from Ohio Wesleyan University in 1964 and in 1968, was awarded his law degree from the University Of Texas at Austin. Kenneth was a loyal Longhorn all his life, particularly during football season. The man wore burnt orange almost as often as I do!

Kenneth was board certified in civil trial law and was selected by the National Trial Lawyers of America as one of the top 100 trial lawyers in the nation. Kenneth served

and Do Not Have Sex With Litigants in Your Chambers!

A Detroit family court judge got in trouble last year for texting an almost naked photo of himself to a female court bailiff, which her husband discovered on the bailiff's phone. When confronted about the photo by a local television reporter, the judge said, "Hot dog, yep, that's me, there's no shame in my game." The Michigan Supreme Court accepted a recommendation from the Judicial Tenure Commission and publicly censured Judge Wade H. McCree.



This year, things got even worse for McCree when it came to light the married judge was having an affair with a woman who had a case pending in his court.

Naughty Judge McCree met the woman in his court and started a sexual relationship that involved the dirty deed done repeatedly in the judge's chambers. McCree discussed aspects of the case and possible punishment of the baby-daddy with his lover; helped her violate court rules by sneaking a cell phone in through the employee entrance; sent "inappropriate and derogatory" texts about litigants, defendants and witnesses from the bench; and "lied about when and why he finally recused himself" from the woman's case.

Once he was busted, the judge made false claims that the woman was stalking him and lied under oath when an investigation into the matter began.



During the affair, the woman became pregnant. McCree, who investigators say

the Bar and his fellow lawyers in several capacities and served three years as chairman of the district Grievance Committee. Kaye was the municipal judge for Taylor Lake Village from 2006 until 2013. Kenneth worked with and loved his wife Patsy for 44 years.

Kaye was a funny, quiet man to talk to but a fierce, no-holds-barred litigator who would take on anyone. Several local governments lost cases to Kenneth and had to pay some whopping attorney fee awards. Kenneth was a humorous, scholarly friend and a formidable foe in court.



A Memorial Service and a celebration of Kenneth's life will be held at 2 p.m. on Monday, August 4, at the Crowder Funeral Home in Webster, Texas. In lieu of flowers, the family requests that donations be sent in memory of Kenneth Charles Kaye to the Crohn's and Colitis Foundation of America, National Processing Center, Attn: Honor and Memorial Gifts, PO Box 1245, Albert Lea, MN 56007.

Interesting Book on Economics and the Decline of Marriage

Marriage Markets: How Inequality is Remaking the American Family by June Carbone and Naomi Cahn explores how macroeconomic forces and liberalization of divorce laws are changing the institution of marriage in the United States. This really interesting and thought provoking book shows how and why traditional marriage is increasingly becoming a privilege of wealthier Americans. At the root of the problem is the profound wealth inequality in our nation. Even the conservative *Wall Street Journal* dedicated a lengthy and positive review to this book, which has suggestions for reforming family law in light of the increase in single parents and of couples living together without marriage. [Click here](#) to read the *Wall Street Journal* review of this book. [Click here](#) to see the book on Amazon.com.

referred to himself as the "king of latex," told the woman he would finalize a divorce he had filed against his wife if she aborted the baby. The judge also gave the woman money while her case was pending before him.

As part of his defense, McCree's attorney and doctor argued the judge suffers from hypomania, a symptom of bipolar disorder that results in impulsive behavior. The defense did not work because Judge McCree was suspended and then removed and barred from being a judge for six years. [Click here](#) to read more juicy facts in the opinion of the Michigan Supreme Court.

Sadly, McCree comes from an esteemed judicial background. His late father, Wade H. McCree, Jr., was appointed the U.S. solicitor general by Jimmy Carter, and taught at the University of Michigan Law School. The elder McCree made history as the first African American to sit on a Michigan court of record when he was appointed to the Wayne County Circuit Court in 1954.



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos





Issue: No. 45

August 13, 2014

The Enos Law Firm

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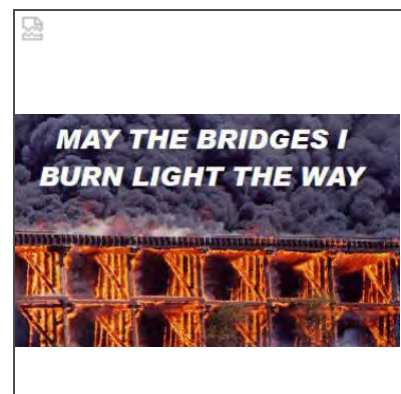
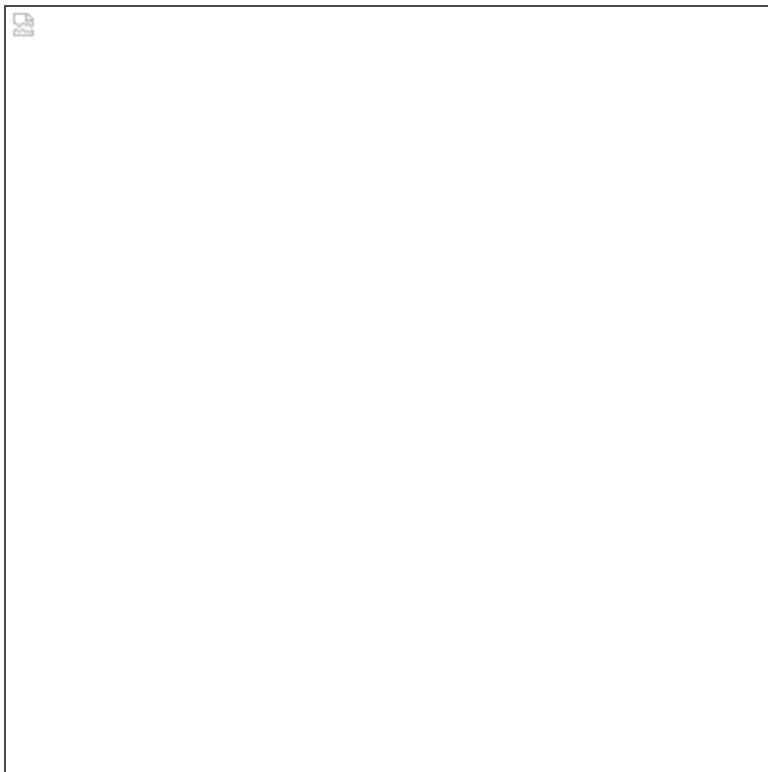
E-mail: greg@enoslaw.com

Web site: www.divorcereality.com

Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.

It makes me sick to my stomach to report that Harris County has paid Gary Polland **\$1.9 million** since January 1, 2010, primarily in CPS cases (although his fees include some criminal and civil appointments). [Click here](#) if you want to download the 313 page report from the County Auditor which verifies that astounding amount, which does not include fees from appointments in private cases, (that are largely not reported). Here is the last page of that report:



***"Together, attorneys can
improve our family courts!"***

bridges

**Want to See How Much the
County Paid Your Friends? Go
to the County Auditor Website!**

The Harris County Auditor's website has a very useful and interesting Vendor Payment Search screen that allows you to see how much a particular attorney or company has been paid by the county over a specified time range. [Click here](#) to go to that web page.

What will Polland, a former Republican Party Chair, publisher of the *Texas Conservative Review* and GOP political-endorser-heavy-weight, say about a crusading pseudo-journalist working to protect taxpayers, government ethics

and abused children? Polland had better come up with something to say, because this newsletter is going to focus this Fall on this disgusting situation, which effects more families, which involves more courts and which costs tax payers far more money than former Judge Denise Pratt ever did.

As part of my "fair and balanced" coverage of this situation, I am giving Mr. Polland a chance to write his explanation of his fees and his ad litem practices. I will publish what he sends me verbatim in my next issue.

I need the help of the legal community to thoroughly and accurately examine this phenomenon. Please contact me if you have any amicus or ad litem "horror stories" involving Mr. Polland or George Clevenger. Call me or e-mail me at greg@enoslaw.com. I do not quote or name my sources. To be fair, please also contact me if either of these extraordinarily politically connected gentlemen have done a really good, "above and beyond what was expected" job on behalf of a child. I need cause numbers and, if possible, contact information for the parent or person caring for the child, so that every allegation can be verified or refuted. Most CPS cases are confidential, so copies of court orders would be appreciated.

I am also interested in general in any attorneys ad litem or amicus attorneys who did not meet the child or go to the child's home as required by the Texas Family Code. This would include the probably illegal situation where a lawyer bills for a home visit but instead sends a non-lawyer (such as a social worker) to actually visit the child.

Warning to judges (many of whom I consider friends): some of you, if you have any shame at all, are going to be embarrassed by this series of stories. I cannot imagine how you can explain what is happening to either conservative Republicans or abused children. I consider this a "Republican" scandal because everyone involved are Republicans, including Mr. Polland and the judges who appoint him and sign his pay vouchers. In my opinion, this is a scandal because it just does not seem right for one man with political connections to be paid so much by the county, regardless of how good a job he is or is not doing for the abused children and alleged criminals he is appointed to represent.

I am paying to order copies of every invoice submitted by Mr. Polland to the county for a certain time period. It will cost money and time to obtain and analyze hundreds of invoices. Let me know if you want to help with that effort.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

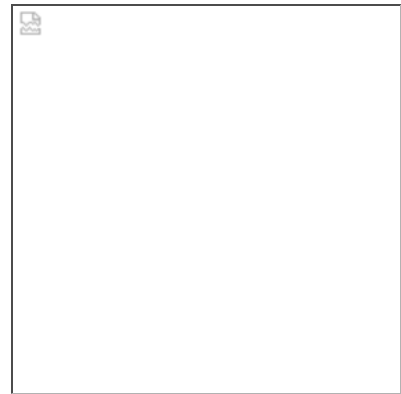
Greg Enos
The Enos Law Firm

How to Make Millions from Abused Children & Taxpayers

There can be no doubt: Gary Polland is a smart, successful lawyer who knows how to make a lot of money from the practice of law. Polland is politically powerful and able to influence and profit from every Republican primary election. Polland should be your hero and role model if high income and political influence are your goals in life.

I asked a bunch of attorneys with experience in CPS cases how much they guessed Gary Polland had been paid in four and a half years for court appointments. Their guesses ranged from \$300,000 - \$700,000. They were totally floored to hear that Polland had been paid **\$1.9 million** by Harris County since January 1, 2010 for court appointments. Just to be very clear, that is taxpayer dollars being paid to this one man for government court appointments only. It does not count the many cases where Polland was appointed by judges but paid by private parties.

My investigation into this incredible situation has just begun, but here is what I



The Top 22: Who Got Paid the Most Since 2010 for Court Appointments?

[Click here](#) to see a list from the County Auditor showing everyone who has been paid by the County for court appointments since January 1, 2010. This report has a slightly different total for Mr. Polland than the other report I received, even though it covers the same time period.

Here are the top 22 recipients of county funds for court appointments out of 1,574 payees according to this report:

Oliver Sprott Jr \$1,682,655
Gary Polland \$1,676,194
Jerome Godinich \$1,161,871
R.P. Cornelius \$1,619,476
Ricardo Gonzales \$1,596,910
National Screening Center \$1,297,398
Danny Easterling \$1,036,530
Alvin Nunnery \$1,031,498
George Clevenger \$1,001,987
Donna Everson \$981,361
William Thursland \$973,759
Angela Phea \$973,650
Michael Trent 965,053
Hattie Shannon \$950,180
Geraldo Acosta \$917,927
The Griffin Law Firm \$910,299
Sylvia Escobedo \$901,981
Bonnie Fitch \$852,952
Jimmy Ortiz \$843,672
John Maisel \$814,444
Claudia Canales \$822,387
Alicia Franklin \$806,005

As a taxpayer, I am astounded that Harris County spent a total of \$160.3 million for court appointments in a little over four years.

Mea Culpa: More Brave Folks Who Opposed Pratt and an Admission of My Uncouth Words

I screwed up in my issue before last. I omitted some brave folks who helped oppose Judge Pratt and I wrote something that caused a class guy and a great lawyer to compare me to George Clevenger (oh the pain!) and accuse me of a public shake down for campaign cash.

Bill De La Garza should have been included on the list of attorneys who

know:

Polland has enormous political influence in Harris County Republican primaries, especially with judges, because he is one of the "Big Three" endorsers. It is virtually impossible to win a Harris County GOP judicial primary, even for an incumbent, without at least two of three endorsements from Hotze, Lowry or Polland. Unlike Hotze or Lowry, Polland is an attorney. [Click here](#) to see who Polland endorsed in the 2014 GOP primaries.

In CPS cases, where the Texas Department of Family and Protective Services is a party, the courts are required to appoint attorneys for the children and for indigent or absent parents. The child's attorney in CPS cases is called an "attorney ad litem." Each judge has near total freedom to choose the attorneys who are appointed in CPS cases. Attorneys appointed in CPS cases are paid by Harris County after a voucher signed by the lawyer "upon penalty of perjury" is approved by the Judge. [Click here](#) to see a very small sample of CPS vouchers submitted by Mr. Polland. Note the charges for "travel for and conduct home visit and prepare report with photo's" on each invoice.

Texas Family Code Sec. 107.004(d)(1) states:

(d) Except as provided by Subsection (e), an attorney ad litem appointed for a child in a proceeding under Chapter 262 or 263 [CPS cases] shall: (1) meet before each court hearing with: (A) the child, if the child is at least four years of age; or (B) the individual with whom the child ordinarily resides, including the child's parent, conservator, guardian, caretaker, or custodian, if the child is younger than four years of age; and (2) if the child or individual is not present at the court hearing, file a written statement with the court indicating that the attorney ad litem complied with Subdivision (1).

Attorneys appointed on CPS cases are paid a lower hourly rate than lawyers in private cases are paid. For example, I charge my clients \$350 per hour for my work in divorce and child custody cases. Harris County pays CPS attorneys hourly rates which range from \$75 to \$125 per hour, depending on the specific service provided. Pay for trials is \$300 to \$500 per day. Young attorneys, who need experience and who want any paying case they can get, often seek CPS appointments. These young attorneys work hard to impress the judges and, because they are new, do not take CPS clients for granted. Massive amounts of appointments for just a few older, politically connected attorneys, take away from younger attorneys this opportunity to gain experience, help children and make a little money.

Most importantly, representation of abused children in CPS cases is not supposed to be an "assembly line" business to enrich the politically connected. CPS work takes time, dedication and focus on a few children at a time.

The \$1.9 million paid to Polland by Harris County does not include what Polland has been paid in private cases by the parties where he was appointed a mediator or amicus attorney by a judge. In non-CPS child custody cases, the attorney appointed to represent a child is usually called an "amicus attorney."

The vast majority of amicus attorney appointments in family cases in Harris County are not reported as required. Texas Supreme Court Order No. 07-9188 and Section 71.035(b) of the Texas Government Code require each district clerk and county clerk to prepare a monthly report listing each fee paid in the amount of \$500 or more for each appointment made by a judge of any district, county, or probate court, a court master, or court referee of a person to a position for which any type of fee may be paid in a civil case, probate case, or proceeding governed by Titles 1, 2, or 4 of the Texas Family Code.

The reports from Harris County does not include most private case appointment fees in civil cases. However, the current report from the Texas Judicial Council shows, for example, that Polland was paid \$5,143.00 in May 2014 in cause no. 2013-19426 where Civil District Judge Lana Shadwick appointed Polland to be an attorney ad litem in an injury case. [Click here](#) to see a campaign video of Polland endorsing Judge Shadwick. Here is an image of Mr. Polland I found with a Google search:

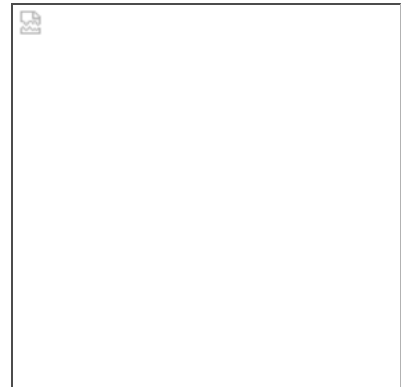
signed the public letter calling on Pratt to resign. Sallee Smyth played a big part in standing up to Pratt in appellate courts and in providing me information and early encouragement.

The post-election Mongoose included this sentence on election results from Galveston County:

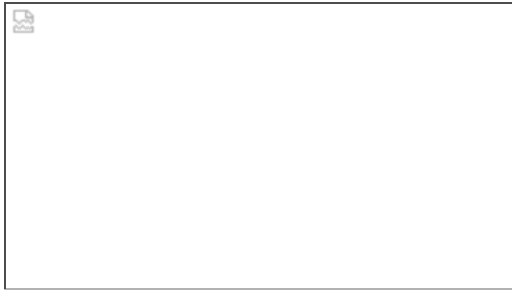
The few attorneys who supported Mr. Schmitz over Anne Darring should demand a refund. [7 names of lawyers] ... all are hopefully sending Mrs. Darring their warmest and most sincere congratulations this morning (just like I am for Jack Ewing!).

A Harris County attorney named in my article took this to be a public shake down for campaign contributions for Ms. Darring, which could not be further from my intent. I meant it to be a humorous jab at the very few lawyers who supported a very bad judicial candidate (Schmitz) even as I noted that I myself did not support one of the winners, Mr. Ewing. I apologize to those attorneys who contributed to Schmitz who were offended by my silly writing.

I do want to note that Jack Ewing has turned out to be the most gracious winner of a contested judicial election I can recall. Just after the election, Ewing called a lawyer who had posted some comments about him on Facebook that questioned Mr. Ewing's temperament and emotional control. Ewing told the lawyer that what he had written was mostly right and Ewing admitted he had been like that in the past. Ewing told the surprised attorney what an honor and obligation it was to be elected judge and he told the lawyer to immediately call him out if he ever failed to show a calm, fair judicial temperament. That phone call and Ewing's actions in general since the election have really made a positive impression on the folks who supported Judge Foley or Donnie Quintanilla.



**Sober Reflections on the
Advanced Family
Law Seminar**



Judge Lombardino just appointed Polland as amicus attorney, for example, in July 2014 in Cause No. 2014-35039 (a private custody case) and ordered an initial fee of \$1,750. Judge Denise Pratt in October 2013 (when she was seeking Polland's endorsement) appointed Polland in Cause No. 201340272 and ordered that Polland be paid an initial fee of \$5,000. The fees in those cases were not reported by the District Clerk. These are just a few examples of many appointment fees Polland has been paid in private civil cases. An amicus attorney in some custody cases is paid \$30,000 or more by the parents. Polland could easily be making tens of thousands of dollars per month from appointments in private cases and there is no way of knowing because judges, attorneys and the District Clerk are not complying with the Texas Supreme Court order and Government Code requirement to report such fees.

Mr. Polland is also often appointed to represent indigent defendants by criminal judges in Harris County. Appointed criminal defense lawyers are also paid by the county. For example, in June 2014, Polland was ironically appointed in the 351st Criminal District Court to represent a woman charged with **prostitution** (3 or more priors) in Case No. 143094001010-3. A search of the District Clerk's website for Polland's bar number (16095800) shows dozens of criminal cases where Polland was appointed to represent defendants.

The \$1.9 million Polland has been paid by Harris County since January 1, 2010 works out to \$8,119.66 per week. Divided by \$125 per hour (the minimum and usual non-trial hourly rate for CPS cases), that is **65** hours of billed legal work per week, every week, 52 weeks per year with no vacations or holidays. That would leave Mr. Polland very little time for his private appointments, mediations and civil cases where a client actually hires him. In contrast, for my clients, I work 7 - 10 hours per day but I usually bill a total of 4 - 6 hours per day. I clearly could learn a lot from Mr. Polland on how to efficiently bill for my time.

Every two years, Polland makes a lot of money from his business, Conservative Media Properties, LLC, doing business as the *Texas Conservative Review*, which endorses candidates in Republican primaries. Candidates give Polland money to pay for his mailers and local judicial candidates almost have to pay Polland because voters simply cannot know which of the dozens of judicial candidates are qualified. In election season, judges come to the attorneys asking for contributions, except for Polland. Unlike the rest of us, Polland is able to go to the judges and ask them for money. He is in a truly unique and powerful position.

My next issue will attempt to analyze which judges are appointing Polland and which paid his for-profit business for "advertisements" in his endorsement newspaper. For the next few months, a special feature in this newsletter will list each new appointment in family courts Polland gets and which judge appointed him. The judges who are appointing Polland are going to feel the spotlight even if they are unwilling to publicly explain why they choose him out of the hundreds of lawyers who seek appointments.

You will soon see a day by day analysis of the fee vouchers Polland has submitted for payment so we can see how many hours he is actually billing for all cases for each day (something each judge reviewing individual vouchers would not know).

However, to be fair to Mr. Polland, I am inviting him to write an explanation of his massive fees paid by county taxpayers and I will print verbatim what he has to say in my next newsletter. I do ask Mr. Polland to include answers to these specific questions:

1. How do you explain to fiscally conservative Republicans how one man could be paid \$1.9 million by the county in four and a half years? Did you know that is roughly how much the United States pays the President?
2. When you bill the county for 5.0 hours almost every time for home visits with the children you represent, are you personally going to see the kids?

We survived another Advanced Family Law Seminar in San Antonio. In the midst of the drinking, networking, judicial ass-kissing, golfing, wine tasting and politicking, there was some very high quality CLE. Kyle Sanders and his cohorts did an awesome job this year planning this seminar.

The Mongoose booth was one of the most popular stops on "exhibition row" and I handed out many coffee travel cups, legal articles, court charts and seditious ideas. The "Mongoose girls," my beloved Toni and our pal Anna, had a well deserved break from work and kids.



I organized a party for the Galveston County judges and lawyers for Tuesday night and forensic CPA Charlie Gerhardt, sponsored the fun event.

The talk on "Testimony of Children" by Judge Meca Walker and me seemed to go well. A presentation at Advanced is different from almost any other CLE event because of the big room and audience, bright lights and cameras. It was a true pleasure working with Judge Walker.



New Courtroom Chart for Lawyers

[Click here](#) to download my chart that tells you where Harris County Family Courts are located, who their judges and staffs are and when their docket calls are supposed to start.

3. Do you agree that the Texas Family Code, Sec. 107.004(d)(1), requires the attorney appointed to represent children in CPS cases to personally visit the child at home before every court hearing? Does this law allow a non-lawyer or an attorney who is not the amicus appointed by the judge to conduct these mandatory home visits?
4. Do your bills to the county include any charges for other attorneys or even non-lawyers to perform these home visits? If so, do the judges know you are doing this?
5. Does every single voucher you sign when you request fees for court appointments state that you certify "under penalty of perjury" that the County Auditor can rely on the information you provide? Are these payment vouchers a "government record?"
6. Do almost all of your appointments in CPS cases come from just a few judges? If so, why?

Mr. Polland: write a defense of your "get rich off the tax payers and appointments from the judges who depend on me for endorsements" business model and I will print it verbatim in my next newsletter. Please answer my questions and point out any part of the above story that is incorrect. The hundreds of lawyers who aspire to help people, make decent incomes and uphold the integrity of our judicial system all want to learn from you!

Greg Enos - The Anti-Polland

All fans of Star Trek have heard of "matter" and "anti-matter." I am the "anti-Polland," not because I am against him or harbor any ill-will toward him. I do not know him personally and he is probably a smart, fun guy. I am proudly the "anti-Polland" because we are so different.

I rely on private enterprise and paying clients for my business. Polland makes the vast majority of his large income from taxpayers and judicial appointments.

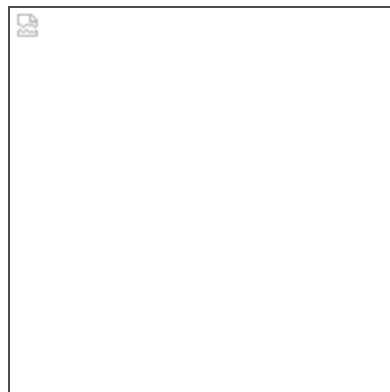
I am very involved in politics, like Polland, but it costs me a lot of money every election. In contrast, Polland makes money off elections.

I do not handle CPS cases and, except for Judge Roy Moore once per year, I do not accept appointments from judges.

Polland makes his money off the system. I spend my money and a ridiculous amount of my time criticizing the system and trying to reform it (which explains why I have been up by 4:30 a.m. three days in a row working on this newsletter).

Polland is a Republican and calls himself, "conservative." I am a Democrat who is very liberal on social issues, even though I work with and support Republican officeholders all the time. The Republican candidates I supported this election cycle got my help, not a bill for payment. I held fundraisers for Republicans, contributed money, used my office for phone banking and spent Election Day at a voting place. In short, I actually tried to help candidates instead of just counting the cash I received from them.

I worry about abused children, honest government and how taxpayers' money is being spent, so maybe that makes **me** the true conservative. The integrity and reputation of our judicial system is truly important to me. If **Ronald Reagan** in his prime came back to life and visited the Harris County family and juvenile courts and read this newsletter, I bet the "Gipper" would agree with me that this entire situation is just not right.



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos



be him



*The International Journal on the
Reform of Family Courts*

The Mongoose

Published by Greg Enos

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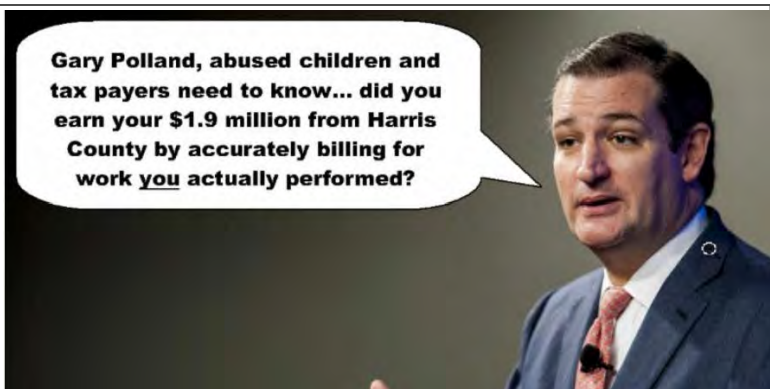
Web site: www.divorcereality.com

Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.

Dear Reader,

Gary Polland has not accepted my offer to print his response to my issue last week that described how he has been paid \$1.9 million by Harris County since 2010 for court appointments, so a lot of folks still have questions we want Mr. Polland to answer.



Writing about what is wrong with family law would be a lot easier if I did not have a conscience, did not care about people's feelings or the facts or was simply a politician trying to stir up controversy. My complaint about one politically connected attorney who has earned over \$1.9 million in court appointments in the last four years was taken by some as a jab at a few other

***"Together, attorneys can
improve our family courts!"***

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bridges

Thoughts and Prayers to Carel Stith and Bonnie Hellums

We all need to send our best wishes and, if you are religious, prayers to Carel Stith and his wife, Judge Bonnie Hellums. Stith was badly hurt when a hit-and-run driver in a car struck him while he was riding his bicycle. Stith is at Hermann Hospital.



Carel Stith, a former University of Nebraska defensive tackle who played three years for the Houston Oilers in the late 1960s, is a sweet guy but a tough man. We all wish him the best as he tackles a long and difficult recovery.

attorneys who handle mostly CPS cases and who make a fair living at it (just not nearly as much as Mr. Polland).

For example, I listed Claudia Canales on the county auditor's list of the top 22 highest paid attorneys for court appointments since January 1, 2010. Ms. Canales was number 21 on the list and earned almost exactly half of what Mr. Polland was paid during the same time period. She is actually the only attorney on the list who I really know and whose work is familiar with me. Here is what I can say with some confidence about Canales and I am pretty sure almost all lawyers and judges agree with me:

- Canales gets her appointments because of the diligent job she does for children and her skills as a lawyer, not her political connections.
- She works about as much each week as a lawyer can on her cases, which means she takes calls late at night and most evenings is out doing home visits herself. Her own family misses her because she is gone so often visiting children at home, the hospital, at school or at the therapist's offices.
- Canales almost always does her own home visits and she sends her associate attorney only when Canales' schedule prevents her from doing it and the judge always knows who was sent and why. Canales does not bill for a non-lawyer to conduct home visits with children she is appointed to represent.
- Canales does what we all should hope attorneys appointed to represent abused children do. Her practice is limited to appointed representation and it is her specialty and her passion. She truly cares about "her kids" she is assigned to represent and it shows.

I should also note that most of our family court judges also truly care about the children and parents involved in their CPS cases and they expect the attorneys they appoint in CPS cases to live up to their high expectations. I do not mean to condemn all of our judiciary or all of the attorneys who handle CPS cases.

Lastly, let me acknowledge that all too often attorneys (like me) who only handle paying, private clients look down on the lawyers who work on CPS cases. We often forget how emotionally taxing CPS cases are, how complicated the law and procedures are and how much of a time commitment CPS cases involve. Given the comparatively low pay for CPS appointments, we all should be respecting and thanking those attorneys who work so hard for abused children. Most honestly earn what they are paid for their work.

I have received a lot of support from attorneys, judges and Republicans of all stripes. Here is an example of the many e-mails I received, this one is from a prominent attorney who has been a leader of the family bar for decades:

Greg-once again I have to commend you for taking the plunge into more exposing public records which speak for themselves and let the people decide. This is true Bill O'Reilly approach-fair and balanced-you decide. I respect you as a person and respect your work as it is not partisan and I could not care less if you are liberal, conservative, libertarian, independent, black, white, yellow or brown. You expose what needs to be exposed and let the people decide. I am beyond shocked at the amount Polland got but am more shocked at the \$160 MIL paid. Lawyers are going to play in the system. That is a given as the system demands it. Judges need to control it by being more attentive, diverse and selective of appointments and mandatory review of vouchers.

Another, equally prominent attorney wrote me:

I suggest you add another field to your analysis. If someone gets all of the paying appointments out of a court, who does that judge appoint when he needs an appointment that cannot pay a fee (i.e. a pro bono case, a pro se case, or one where the parties simply do not have the resources to pay for an amicus). I am confident you will find that those appointments are burdened on other attorneys, not those who are lining their pockets with the paying appointments. They carry the same obligation as the CPS appointments and are many times more time consuming.

Court appointments as political patronage is one of those issues where 99% of the attorneys agree with my position. We just have to get the information out and motivate the judges and county commissioners (and if needed, voters) to do something about it.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and



Judge Hellums is understandably going to be spending a lot of time with her husband and a schedule of visiting judges for the 247th District Court has been announced:

August 21-22 - John Wooldridge
Aug. 25 - Sept. 5 - Carolyn Marks Johnson
September 8 -11 - Doug Warne
September 12 - TBA
September 15 - 30 - Carolyn Marks Johnson

Family Court Judge Candidate Forum September 21

A bi-partisan group now called Family Lawyers For Good Judges is sponsoring a candidate forum and CLE event on September 21 at the Joe Green auditorium at South Texas College of Law. The candidates for Harris County family court benches will speak and the group has commitments from Judges Moore and Millard to conduct a lunchtime CLE on "What makes a good family law Judge." More information will follow. Contact Marcia Zimmerman, Bill De La Garza, or Kimberly Levi for more information. [Click here](#) for their web site.

Bikini Model/Attorney Struggles Against Prejudice

Folks, I just report the news. [Click here](#) for an article entitled, "Lawyering While Hot." [Click here](#) to read the essay by the subject of that article, a new California attorney Cathy McCathy. McCathy's essay is titled, "I'm A Lawyer And A Model, And It Doesn't Stop There." This brave, civil rights pioneer has opened a new front on the battle for women to be taken seriously in the legal profession. In her essay, McCathy wrote:

...this is not the first time that I have faced backlash from colleagues who think that a lawyer should not also get the privilege of "looking hot in a bikini." I was ostracized at school by several classmates and even shunned by some professors.

We should all look in a mirror (preferably while wearing a bikini or thong) and ask ourselves if we harbor this sort of cruel prejudice against attorneys who are also able to make a living posing almost nude and are brave enough to speak about their suffering on the Internet.

does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm

A Problem Discovered and Hopefully Solved

I have spent about 50 hours in the last week looking through CPS files on-line, focusing on appointments and billing of ad items (I did not bill the county for my time). I saw many interesting and disturbing things. But, as I researched, I became very concerned about something I was seeing in almost every CPS case pending in the family courts. So, I wrote a letter Tuesday to District Clerk Chris Daniel and the nine family district judges.

I immediately heard back from Chris Daniel and several judges and within a day a solution was identified and action taken. It seems like the problem will be solved within days. I am not going to describe the actual problem I discovered in detail until it is fixed because I do not want to cause the harm I was worried could occur. Let's just say that I felt I was able to see way too much on-line and that the safety of children taken by CPS and their foster parents was potentially in jeopardy.

On one hand, I am happy that immediate action was taken after I raised the issue and threatened publicity and a lawsuit against the county. On the other hand, it troubles me that the judges knew about this issue already and nothing had been done about it. One judge e-mailed me and said basically that this problem had worried the judges for a while and they hoped I could bring some attention to their concerns. Say what? You need me to help powerful judges bring attention to a very serious problem of privacy and even a life threatening problem for some kids in CPS custody?



Everyone in the family court system (judges, lawyers and clerks) needs to stop being comfortable seeing a problem but not doing anything about it. If there is a real problem, we all should speak up about it and work together toward a solution.



Ms. McCarthy could perhaps teach a class on how to market a new law practice, because she has certainly garnered herself a lot of media attention.

I am starting an occasional series of articles on state and federal criminal laws which family law attorneys need to be aware of. I will look at Interference with Child Custody in my next issue.

The Crime of Tampering With a Government Record

Texas Penal Code Sec. 37.10 states in part:

37.10. TAMPERING WITH GOVERNMENTAL RECORD. (a) A person commits an offense if he: (1) knowingly makes a false entry in, or false alteration of, a governmental record; (2) makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record;....

Sec. 37.01(2) defines a "government record" to mean:

(A) anything belonging to, received by, or kept by government for information, including a court record;

This is the law former Judge Denise Pratt is alleged to have violated when she apparently back-dated court orders.

One example of how attorneys can run afoul of this law arose in San Antonio recently:

Former defense attorney Hilda Valadez, who pleaded guilty to charges of forging judges' signatures and double billing the county for indigent defense work, was sentenced Monday to 10 years in prison.

....
Valadez, 52, was once regarded as the county's busiest court-appointed defense attorney. She was paid nearly \$600,000 from 2008 to 2011, according to the district attorney's office.

"Lawyer Sent to Prison for Billing Scheme," *MySA.com*, April 21, 2014.

The statute has been applied to a deputy constable who submitted false time sheets for pay to the county in *State v. Collier*, 285 S.W.3d 133, 136-37 (Tex. App.-Houston [1st Dist] 2009, no pet.).

Tampering with a government record is a Class A misdemeanor, "unless the actor's intent is to defraud or harm another, in which event the offense is a state jail felony." Sec. 37.10(c).



SEPTEMBER 12-13, 2014

Cast For A Cure Fishing Tournament

Benefiting Galveston P.D. K-9 Officer Chris Sanderson Cancer Fund

- Awards for 1st, 2nd, 3rd in each category
- Categories: Red Drum, Speckled Trout, Flounder, Hardhead
- \$250 per Four Man Team. Team Entry includes meal and drink ticket for Friday Night Calcutta at Pelican Rest Marina
- Teams may fish from land but must be together

Friday, Sept 12 Calcutta with food and drinks from 6-11pm
If you are not fishing, but would like to show your support, \$20 per ticket for Friday Night Calcutta for meal, drinks, and entertainment.

Saturday, Sept 13 Tournament from Noon to 8:00pm
Meal, Drinks, Entertainment, Silent Auction and \$50 Raffle Tickets

To register yourself or a team, go to Castforacure.org

You should take part in this fundraiser for such a worthy cause. I find fishing "icky" and it conflicts with college football on Saturday, but I am going out on a boat, handling bait and possibly slimy fish and so should you! This law officer deserves our support in his battle with cancer.

The Polland Problem, Part 2

Most Republican judges and party leaders, to their credit, realize that the brewing scandal involving court appointments and their former party chair, Gary Polland, has the potential to effect the November elections. They also realize that the current system just is not right. They point out to me that Democratic politicians, such as legislators who are also attorneys, are getting lucrative appointments from Democratic civil judges.

The solution is very simple: a commitment by judges to appoint attorneys based on merit only and transparency of information. All judges of both parties should simply stop using court appointments as political patronage and ALL appointments and fees should be reported and made available to the public.

Currently, the system hides appointment fees and makes it very difficult to determine accurately how much various attorneys are being paid. The County Auditor website is a great example of sharing information with its searchable database of payments which includes all courts. However, I cannot tell what courts those payments came from and the cause numbers appear to be wrong. Most of the cause numbers the auditor has associated with fees paid to Mr. Polland, for example, do not appear to be cases Polland is working on.

The monthly report sent by the District Clerk on appointments misses most appointment fees and is very incomplete because the Supreme Court order only requires the clerk to report the fees. Judges and attorneys are not required to report appointment fees to the clerk. A 38 page divorce decree might contain an award of \$2,400 for the amicus attorney on page 27, so how is the clerk supposed to know the fee award is there? Also, the ancient JIMS program still used by the District Clerk makes it very hard for the clerks to gather this information.

At least until yesterday, I could see CPS cases in family courts on-line and print Polland's pay vouchers and most of the pleadings he had filed. Polland makes most of his money from the juvenile courts and I cannot access those cases on line.

Here are four findings I can report so far in my investigation into Mr. Polland's billing for fees for court appointments (in addition to the fact he has been paid \$1.9 million since January 2010 for court appointments):

For example and for educational purposes only, an ad litem attorney in a CPS case who files a pleading called "Attorney Ad Litem's Statement of Compliance" which consists of just 38 words, arguably commits the crime of tampering with a government record if the ad litem submits a false pay voucher that bills 0.50 hours or 30 minutes for "Draft Attorney Ad Litem's Statement of Compliance." I can type the body of this pleading with one finger in three minutes and the only blank that changes from case to case is the date of the home visit. A trained paralegal would call up the form on the word processor, insert the case caption, type in the date of the home visit and the pleading would be ready for the attorney to sign in 90 seconds. To be very clear, I am not suggesting Mr. Polland has done this because he does not file these written statements that are required by Family Code Sec. 107.004 (he instead files home visit reports which I think satisfy that law's requirement of certifying that a home visit was performed before each court hearing).

An attorney appointed in a CPS case who knowingly submits a false pay voucher that over bills or which bills for something the attorney did not do is, knowingly mak[ing] a false entry in ... a governmental record" and "mak[ing], present[ing], or use[ing] any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record..." The attorney is also committing theft from the county. Each fraudulent pay voucher would be a separate felony.

At some point, the District Attorney needs to look at ad litem billing as closely as I am.

Standard Mutual Injunctions Can Make Your Gun Owning Client a Federal Criminal!

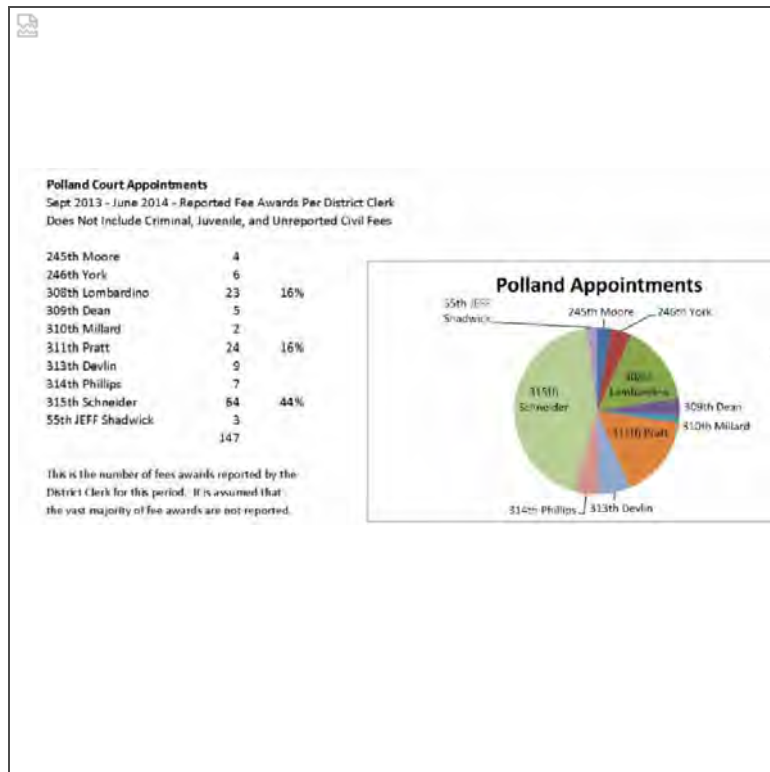
Standard injunctions routinely imposed in family cases in Texas can make cause our clients to violate "The Brady Bill", 18 U.S.C.A. § 922(g), which states:

*"It shall be unlawful for any person--
(8) who is subject to a court order that--
(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; .."*

The mutual injunctions used in place in divorce cases in Texas include standard language prohibiting the use or threatened use of violence by one party to the divorce case against the other party. Therefore, it would appear that anyone subject to such an injunction in a divorce case is prohibited from possessing a firearm, even if no domestic violence has ever occurred or been threatened.

In *U.S. v. Emerson*, 270 F.3d 203 (5th Cir. 2001), the husband, Dr. Emerson, appeared pro se at a temporary hearing in his divorce case. His wife, testified mostly on financial

1. It looks like three-quarters of Polland's civil appointments come from the three judges: disgraced former judge Denise Pratt, Judge James Lombardino and, especially, Juvenile Judge Michael Schneider. Admittedly, this is based on the District Clerk report of fees in civil cases to the state and we know this report is incomplete, but it matches with what I can see on-line when I search for cases with Polland's bar number. I cannot see CPS cases in juvenile courts on-line, so perhaps judges Devlin and Phillips are under-reported in this count. Maybe Schneider actually appoints Polland less than the other juvenile judges but his fees are reported and theirs are not. I know this count of cases does not include criminal cases for adults or juveniles or probate cases. This count is based on the number of fee awards reported to the State this fiscal year.



Polland apparently does not get any appointments at all from a few really good Republican family court judges.

2. Polland, and almost all CPS ad litem, are not complying with the Supreme Court rule that requires attorneys to redact sensitive information about children from pleadings or file the pleading with the note, "This document contains sensitive data." Polland does most of his work in the juvenile courts where these records are not posted on-line, so perhaps he was so used to that system that he did not bother with these tiresome new Supreme Court rules on privacy in court filings. However, none of the other ad litem or even the County Attorney, who represents CPS, are following those rules either.

3. Polland is billing Harris County in almost every CPS case exactly 5.0 hours for someone to perform home visits with the children he is appointed to represent as required by Tex. Family Code Sec. 107.004.

I really urge you to [click here](#) to see a sample of the dozens of bills Polland has submitted that time after time bill the county exactly 5 hours for home visits, using the exact same language each time. In fairness, I included a voucher for four hours and one for seven hours, but 95% of his vouchers claim five hours for home visits with children.

The CPS ad litem I have talked to tell me two things: (1) they almost never bill as much as 5 hours for a home visit unless the kid lives out of town, and (2) the time billed for home visits always varies because some kids live 20 minutes away and some live an hour away and because a visit to a toddler does not take long but a visit to a troubled 16 year old might take hours. Totally aside from the question of whether Mr. Polland himself is performing these home visits (and so far, he refuses to confirm to me that he actually does them), it seems very odd that he almost always bills 5.0 hours for this work and it seems just as odd that judges are approving his vouchers for \$500 for every home visit. In one of the sample Polland vouchers I attach to this newsletter, he billed 7.0 hours but noted that the child lived

matters, but also testified about a threat by Dr. Emerson to kill Mrs. Emerson's boyfriend. The divorce court issued standard temporary injunctions, including:

- "2. Threatening Petitioner in person, by telephone, or in writing to take unlawful action against any person.
4. Intentionally, knowingly, or recklessly causing bodily injury to Petitioner or to a child of either party.
5. Threatening Petitioner or a child of either party with imminent bodily injury."

When the temporary orders were entered, Dr. Emerson owned a pistol, which he had purchased a year earlier. Dr. Emerson never got rid of the pistol and federal grand jury returned a five-count indictment against him. Four of the counts were eventually dismissed, but, "Count 1 . . . alleged that Emerson on November 16, 1998, unlawfully possessed 'in and affecting interstate commerce' a firearm, a Beretta pistol, while subject to the above mentioned September 14, 1998 order, in violation of 18 U.S.C. § 922(g)(8)."

The district court ultimately dismissed Count 1 of the indictment on Second and Fifth Amendment grounds, and the government appealed.

The Fifth Circuit followed a literal reading of the statute, which states only that the Court must explicitly forbid the use of threats or violence against a spouse or minor child. The court refused to read into the statute a requirement that there be a finding of abuse or danger of abuse. The Court of Appeals reversed the trial court's dismissal and remanded the case to the lower court for prosecution.

The Fifth's Circuit interpretation of 18 U.S.C. § 922(g) makes clear that it a federal criminal offense to possess a firearm while under an injunction, issued after notice and hearing, which contains the standard violence/harassment language which is included in almost all of the mutual injunctions and temporary orders in divorce cases. Given that almost half the households in Texas contain at least one gun, this decision is one all family lawyers must bear in mind when drafting temporary orders.

Here is what Lynn Kamin wrote about the *Emerson* case in an article for the State Bar Paralegal Division:

First, it should be noted that the [Emerson] Court makes it clear that the law does not apply to an individual served with an ex parte temporary restraining order. The Emerson Court makes a point of clarifying that an August 28, 1998, temporary restraining order which was served on Dr. Emerson was "not the order alleged in the indictment, and in any event it is not within the terms of § 922(g)(8)(A) which requires that the order have been 'issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate.' " Id. at 211 & n2.

However, if injunctions are put in place as a result of a temporary hearing or after a temporary hearing occurs, the party possessing the firearm is in violation of the federal statute. It would appear that this would be the case even if the parties waive a hearing and enter into agreed mutual injunctions or agreed temporary orders which include the "magic words" regarding threats or violence. Moreover, there are no statutory exceptions included in 18 U.S.C. § 922(g), so it would appear that once the injunction is in place, the ban on possession

in Austin. Driving to and from Austin at posted speeds takes about seven hours, so that number of hours also seems suspect. Maybe the home visit lasted two minutes once the person who did the home visit got to Austin.

I attach to this newsletter, along with vouchers, a few sample home visit reports which Polland filed with the court (I at least redacted these reports to protect the child). These home visit reports have blank signature blocks for Polland and are usually not signed. These reports all state, "A home visit was conducted..." It seems like Polland should write, "I conducted a home visit..." or "The guardian/attorney ad litem conducted a home visit..." Polland's wording of these reports almost implies that someone other than Mr. Polland performed the home visit. However, that surely could not be the case if Polland is billing the county as if he, the attorney appointed by the judge and the only person authorized by statute to be paid by the county, performed the home visit.

The good family court judges who care and follow the law seem to universally expect the person they appoint as ad litem to personally perform the home visits with children as required by law. I certainly hope this is what is happening in Mr. Polland's cases.

4. Polland seems to be the only ad litem who files in almost every case a motion to be paid \$100 instead of \$75 per hour for out of court work, which would include home visits. These motions never seem to be ruled on, because his proposed orders are never signed by the judges. However, the judges are approving vouchers that pay Polland \$100 per hour for home visits.

To be fair to Mr. Polland, besides last week's invitation to provide his side of the story contained in my newsletter, I sent this fax to Polland:

Mr. Polland:

I want to again make it clear that I will print verbatim in my next newsletter, which I plan to issue on Wednesday, anything you want to say in response to my last article about you. Please let me know if I got any of the facts wrong (I already corrected the error regarding Lana vs. Jeff Shadwick). I want to be fair to you and get the facts 100% correct. Please e-mail me at greg@enoslaw.com.

I specifically seek your answers to these questions:

1. *Do you personally perform home visits with the children you represent? If not, do you send other lawyers or do you send non-lawyers? Do the judges know you are doing this? Do your invoices to the county or your home study reports make clear that you are not the one performing the home visits if it is not you who visits the child?*

2. *Why do almost all of your invoices to the county bill 5.0 hours for most home visits?*

3. *Why don't you put "This document contains sensitive data" at the top of your pleadings in CPS cases? Do you realize that some of your home visit reports with photographs of the children are viewable on-line on the District Clerk's web site?*

I just paid the County Auditor a big chunk of money to obtain every voucher Polland submitted during a three month period last year so that a detailed, day-by-day analysis can be performed. My investigators will soon be checking with foster parents to see who exactly did the home visits with the children CPS placed with them. Expect to hear more from me soon!

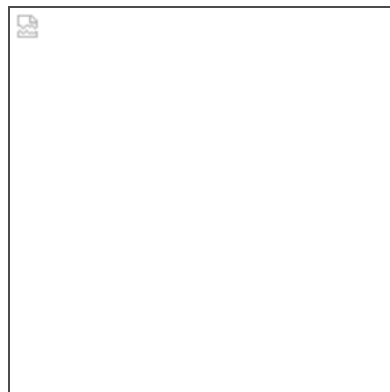
If Mr. Polland writes me back and answers my questions, I will issue an immediate special issue. He can put some of this controversy to an end by simply affirming that he does his own home visits and his bills accurately reflect the time he spends on his cases.

is absolute, until further order of the Court.

This ruling places on the family law practitioner the duty to explain the ramifications of the boilerplate injunction language. While previously, mutual injunctions could generally be agreed to with a minimal amount of controversy, now the lawyer must clarify whether or not his client possesses any firearms before agreeing to any injunctions containing such language. Should the client own a gun, it will be necessary to eliminate the language from the injunctions which would trigger the applicability of 18 U.S.C. § 922(g).

In a scenario where your client owns a gun and the other side is insisting on including the injunctions against violence or threats in any injunctions, you have little choice but to seek a hearing, unless your client agrees to voluntarily relinquish his firearms during the pendency of the suit. At the hearing, it will be critical for you to spell out specifically for the Court your concerns regarding the applicability of 18 U.S.C. § 922(g) and the reasons why your client's right to keep his firearms should outweigh the other side's equitable right to an injunction. Should the Court issue an injunction anyway, you should ask the Court to specifically order a date and place by which your client must turn over his weapons, and include language regarding his right to retrieve those weapons upon the expiration of the order. Furthermore, to avoid future complications, once the case is resolved, it may be worthwhile to request the Court to enter an order dissolving the temporary injunctions and specifically authorizing your client to re-gain possession of his weapons.

For clients whose occupations require that they be armed, such as law enforcement officers, avoiding having such an injunction imposed by the Court obviously takes on much greater significance. If your client has engaged in behavior that would appear to make him a clear and present danger to the other party or the child, your chances of avoiding the "magic words" from the Court would appear to be slim. If, however, your client's behavior has not risen to such a level, the fact that the imposition of such an injunction would basically strip him of his livelihood should be enough to prevent the Court from making such a draconian ruling, so long as you make it clear to the Court what the consequences of such a ruling would be, in light of the Emerson decision. If the Court chooses to enter such an injunction anyway, it would appear that mandamus would be the most applicable remedy to pursue.





Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos

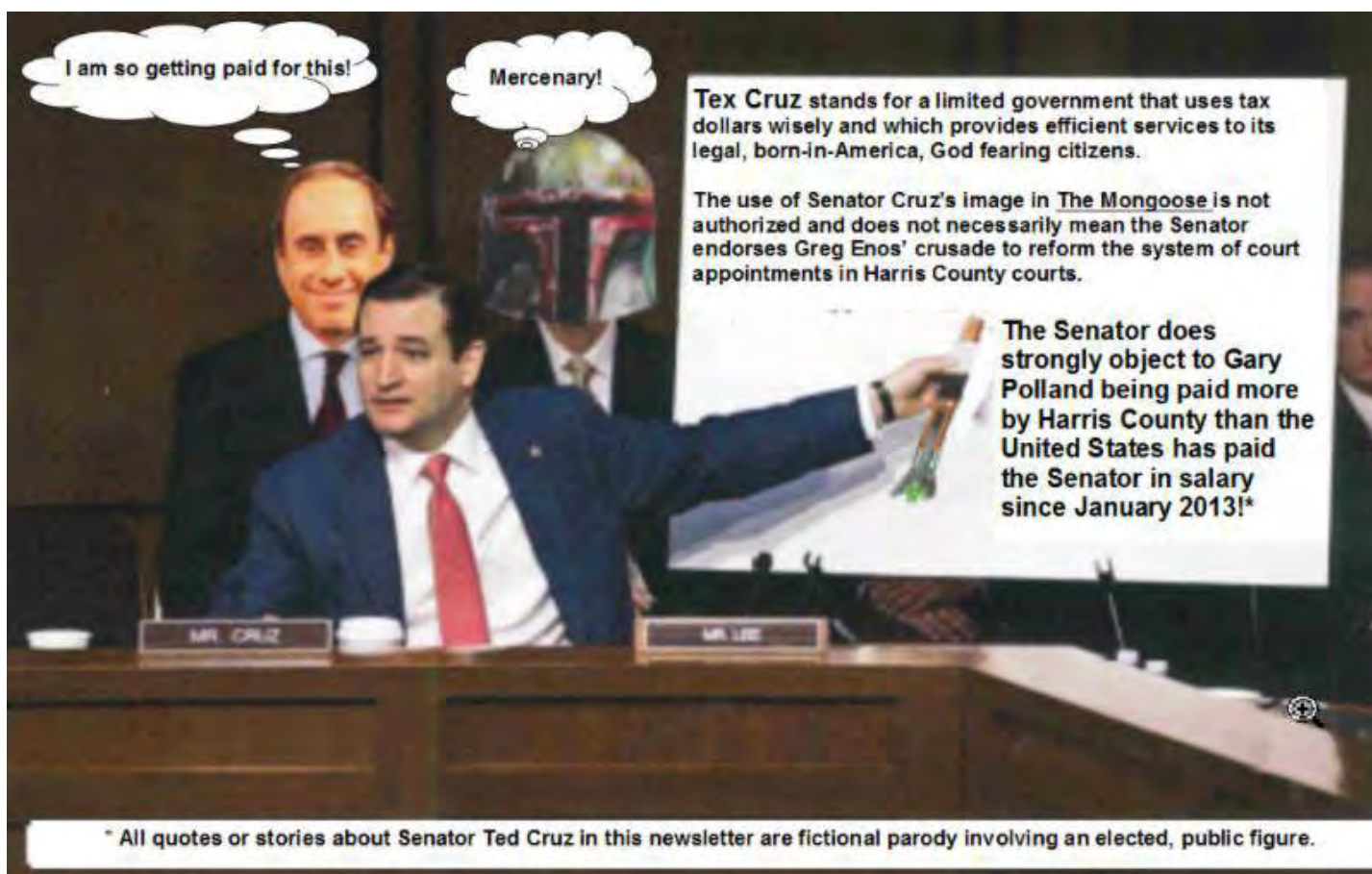




*The International Journal on the
Reform of Family Courts*

The Mongoose

Published by Greg Enos



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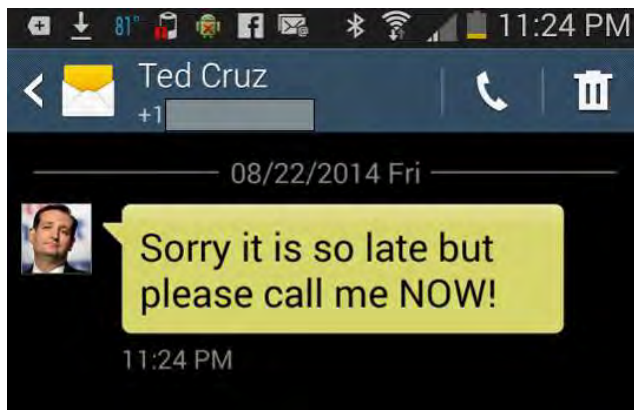
Web site: www.divorcereality.com

"Together, attorneys can improve our
family courts!"

Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.

It was a dark, but not a stormy night. Toni and I were up late, enjoying a *Dr. Who* view-a-thon, and my phone was on vibrate, so I missed the text message from Senator Ted Cruz.



During commercials, I picked my phone up off the bedside table so I could Google to confirm the name of the 4th Dr. Who (Tom Baker) when the phone started vibrating. It was Ted calling. 11:41 p.m. in Houston meant it was way past Teddy's usual bed time in D.C.

"Enos, you up watching some Hubert Humphrey documentary?" the Senator growled. I could hear the clink of ice in a glass and thought I heard a female giggle in the background.

"Ted, it's late, I am kinda busy here," I grumbled back. Toni paused the DVR and shot me one of her typical "I ain't putting up with late night calls from high ranking federal officials" looks.

"Look, Enos, you simply gotta keep me out of this Polland mess," Senator Cruz said to me on the phone. "The fine Republicans in Iowa and New Hampshire think tax dollars should be used sparingly and wisely and, hell, some even think abused children should get visited at home by the attorney appointed to represent them."

"But..." I tried to explain.

"But nothing, you stop using my name and sure the hell stop using my picture in your Polland stories... you are killing me out here. Am I clear?" Cruz yelled.

"Sure, Ted, sure," I replied. Senator Cruz hung up without even an "adios." But, before I could set the phone back down, he sent me a silly old photo by text message of a leering Clarence Thomas shooting the bird at the camera at very close range. I chuckled because I had sent that same photo to Ted the night before he argued his first case in the U.S. Supreme Court. I never had told him how Justice Thomas, a liter of Bombay Blue Sapphire gin and I ended up back stage at a Motley Crue concert in Atlanta. There are some tales even I must not share.



Okay, for real this time, on the day I sent out my last newsletter, I actually did get an e-mail from Senator Cruz' office, asking me very politely not to use his image in stories associated with Gary Polland.

From: Sawyer, David



In this Issue

[Judicial Candidate Forum](#)

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[I Make It Real Easy for Gary Polland to Share His Side of the Story.](#)

[The Crime of Interference With Child Custody](#)

[Are Pleadings Even Needed in Family Courts?](#)

Franklin & York: Hate the Facts, Not the Fact Finder

This issue of my newsletter deals with a serious issue with a fair amount of humor and parody, which partly reflects the fact that I am a silly guy who values whimsy. However, my next issue will be very serious and focus almost exclusively on issues raised about our newest judge, Alicia Franklin.

I take a fair airing of facts about Judge Franklin and her work as an appointed CPS attorney very seriously. I played a significant role in the chain of events that resulted in Franklin becoming a judge and I genuinely like her. I have helped Franklin in ways no other lawyer could and I contributed financially to her campaign when she was running against Denise Pratt.

I also know and really like the Democrat running against Franklin, Sherri Cothrun. Cothrun provided me most of the information described below, but I have done my own home work as well. I write below about facts I have verified, not partisan attacks from the opposing candidate.

I now have a box of copies of every fee invoice Ms. Franklin ever submitted to the county and I have someone doing my own independent, non-political analysis of those vouchers. I really hope to announce soon that I have found a sterling example of how ad litem attorneys should do their billing. But, I have already seen enough to make me worry that may not be my conclusion.

Here is a brief preview of my next issue regarding Judge Franklin:

1. Franklin's campaign web site says "Re-Elect Alicia Franklin" when she has never been elected to office.

Sent: Thursday, August 21, 2014 11:19 AM
To: greg@enoslaw.com
Subject: Re: The Polland Problem, Part 2

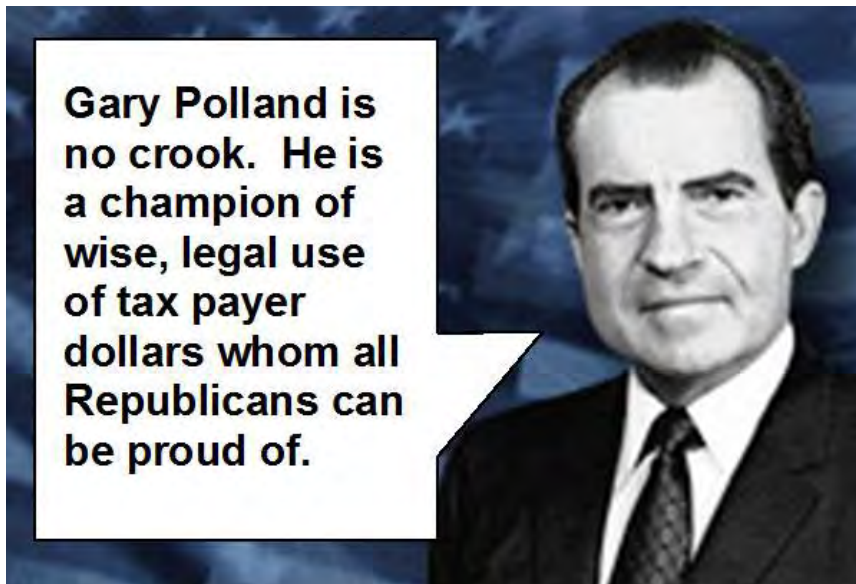
Mr. Enos,

We would appreciate it if you cease using the senator's likeness for this purpose. It suggests that the senator has taken a position on this issue when he has not. Ironically, we recently expressed similar displeasure with Mr. Polland for using the senator's likeness for his annual mailer without the senator's permission. Please let me know if you have any questions.

Best Regards,

David Sawyer
Southeast Texas Regional Director
United States Senator Ted Cruz

So, after this issue, I will leave Ted Cruz alone (for a while). There are plenty of other recognizable Republicans I can ask to provide commentary on Mr. Polland.



I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm



Appointed judges must say something like "Keep Judge Franklin" according to the Texas Commission on Judicial Conduct.



2. Attorneys: when is the last time you billed **18.75** hours in one day? How about **21.0** or **21.5** hours in one day? Those are the total hours that Alicia Franklin billed the county on May 1, 5 and 6, 2014, while she was busy campaigning in the primary runoff election against Pratt. Those hours billed do not include work on the private cases where she was the amicus attorney. She did not bill for trials or mediations on those days.

I am analyzing ad litem invoices submitted to the county for payment in ways judges and, apparently, the county auditor are not. I assume the attorneys submitting invoices to judges never imagined someone like me would carefully look at their invoices either.

I have this very puritanical view on billing the county for legal work and being paid with our tax dollars to represent children in CPS cases: the bills paid with tax payer dollars must be accurate and **false billing is a crime**. Fraudulent billing in cases involving abused and neglected children is morally repugnant. I am not saying that is what Franklin did on those three days in May (and those were just the first three days semi-randomly selected for analysis). I just want to hear her explanation before I make a judgment. I do know as insanely hard working as I am, I have never billed that many hours in one day (instead, I was up at 4:30 a.m. today working on this newsletter).

3. Judge Franklin billed the county for work on CPS cases as an attorney on dates after Franklin was sworn in as a judge. I am not saying her invoices were dated after June 18 when she was sworn in. I am saying she did work as a lawyer after June 18 and billed the county while she was a sitting judge. Franklin seems to feel she was entitled to "wind down" her law practice while she was a judge.

4. Do you think an amicus attorney in a hotly contested custody case who is also running for judge should accept campaign contributions from a party to the case? Should the amicus disclose the contribution to the other attorneys and to the judge who appointed her?

5. Why don't Franklin's campaign finance

Houston Chronicle Scoops The Mongoose on My Own Story!

My research into CPS appointments revealed that pleadings in CPS cases in family courts were available on-line. Attorneys, including the County Attorney (who represents CPS), Gary Polland and virtually all of the rest were not putting, "This document contains sensitive data" at the top of pleadings. I was thus able to see things on-line I felt were too sensitive for anyone, even an intrepid investigator like me, to see. I wrote the nine family court judges and Chris Daniel and pointed out the problem. I gave them a cause number they could use to see that the CPS case worker's status report and Polland's home visit report (with photographs) were viewable on-line.

My letter threatened a lawsuit if something was not done quickly. Chris Daniel, perhaps the most responsive and competent public servant I have ever dealt with, immediately got all over the problem, even though the entire issue was not his fault. The clerk must make court documents public unless there is a law, rule or court order that tells him to do otherwise. The juvenile judges long ago adopted an order that makes their CPS cases confidential (which explains why it is so hard for me to research Polland's appointments in juvenile courts).

The County Attorney and Judge Farr decided a standing order was needed for the family courts and one has been, or will be, signed by each of the nine courts. Those CPS records are off-line or will be soon. Only attorneys of record on a particular CPS case will be able to view documents on that case. [Click here](#) to read the standing order Judge Farr notified me has was going to sign for his court. I understand each of the nine family district judges will sign the same order for his or her court that makes the CPS pleadings confidential.

My letter to the judges got circulated and the *Houston Chronicle* started investigating. On Wednesday, I suggested to the *Chronicle* reporter that the newspaper delay writing about the problem until after it had been fixed. I did not want some pedophile parent whose children had been taken by CPS to use the court records to figure out who the foster parents were and where they lived (which I was able to do on several of Polland's cases). I published my newsletter early Thursday morning and intentionally did not share the details about this issue because of my concerns. Unknown to me until later in the day, the *Chronicle* scooped me on my own story and ran it as a front page, over-the-fold story.

reports provide the street and street number as part of the "full address" of contributors required by the Texas Election Code? It sure makes it hard to track down a specific contributor if all you have is "Houston, TX 77059."

I have been so truly hopeful about this bright young, enthusiastic attorney becoming judge. I really hope Franklin can explain these concerns and I will certainly give her a chance to do so.

Judge Franklin has already explained some of these issues to the editorial board of the *Houston Chronicle*. In fact, I warned Franklin in advance about these issues so that she could be prepared to explain them. But, attorneys know a little more about hourly billing and the ethical rules that should guide our conduct than do reporters and editors. We all should look forward to Franklin telling us why her actions were proper, despite the initial appearances.

I am begging Judge Franklin to provide a really good written explanation of the five issues raised above and I will print what she says verbatim in my next issue. I want my faith restored in this judge and I hope she can do that for us all.

I have come to really like Douglas Ray York, Alicia Franklin's fiance. I know he is going to bristle at what I have written above. Getting mad because someone has dared question the ethics or common sense of the woman you love does not answer these very reasonable questions. Alicia is a judge now because I dared question Judge Pratt and expose what she had done. Please do not go Rick Perry on me and brush my inquiry off as a "partisan witch hunt." I have 100% provable facts and my questions about those facts should be answered. We will all infer something bad has happened if Judge Franklin does not respond and explain these facts.

September 12 Judicial Candidate Forum

The bi-partisan group, Family Lawyers for Good Judges, is sponsoring a debate between all of the candidates for family courts in contested elections in Harris County on **September 12, 2014** (that is the 12th, not the 21st). Here is the information on this event:

2014 HARRIS COUNTY FAMILY LAW JUDICIAL DEBATE AND JUDICIAL PANEL: "WHAT MAKES A GOOD FAMILY LAW JUDGE"

Date and Time: Friday, September 12, 2014 - 8:00 a.m. to 2:00 p.m.

Location: South Texas College of Law, Joe Green Auditorium, 4th Floor, 1303 San Jacinto St., Houston TX 77002

Cost: \$150.00; 25% discount for Associate Members; Full Members are free of charge, Box lunch included

CLE: 4.0 hours, 1.0 hour ethics included

HOUSTON CHRONICLE

Thursday, August 21, 2014 | HoustonChronicle.com and Chron.com | Vol. 113, No. 312 | \$1.00 ***

Partly cloudy: High 92, Low 77

NATION

Holder tries to reassure Ferguson

Attorney General Eric Holder sought to reassure the people of Ferguson and said he understands why many blacks do not trust police, recalling how he was repeatedly stopped by officers who seemed to target him because of his race. **Page A4**



Associated Press
Attorney General Eric Holder greets a patron at a diner in Ferguson, Mo.

WORLD

Clashes erupt as Liberia sets quarantine

Liberia's efforts to contain the Ebola outbreak turned violent when angry young men stormed barbed-wire barricades, trying to break out of a quarantined area. **Page A7**

BUSINESS

\$110 million in high bids made for Gulf leases

Oil and gas firms

Uncommon collaboration and millions from oil spill deal help protect a slice of the state's coast



A wealth of wildlife and natural areas will offer Texans a 'magical' place for recreation

Pristine piece of Texas becoming a state park

By Shannon Tompkins

It took more than four decades, an environmental catastrophe, two years of negotiations, an unprecedented cooperative effort between a coalition of private conservation organizations and a state agency, and \$50 million to permanently protect what a conservation group official calls an "irreplaceable" piece of native coastal Texas.

On Thursday, the Texas Parks and Wildlife Commission, meeting at Houston's Museum of Natural History, will vote on a proposal to accept the donation of the 17,339-acre Powderhorn Ranch in Calhoun County from the Texas Parks and Wildlife Foundation, The Nature Conservancy and

The Conservation Fund, the three conservation groups that recently purchased it for \$377 million from a Kentucky-based company that has owned the property since 2005.

Almost all — \$34.5 million — of the purchase price comes from the Gulf Environmental Benefit Fund, a \$2.3-billion fund created with money BP and Transocean agreed to pay in plea agreements following the 2010 Deepwater Horizon rig explosion and resulting oil spill. The \$2.5 billion, overseen by the National Fish and Wildlife Foundation, is earmarked to fund projects benefiting natural resources of the Gulf Coast. Texas' portion of that fund totals \$203.5 million.

Park continues on A11



Sized Foster photos / The Nature Conservancy

Top: Live oak on Powderhorn Ranch

Bottom: Wetland marsh waterways at Powderhorn Lake



Online CPS files raise alarm

Easily accessible info could put abused children, caretakers at risk

By Kiah Collier

Harris County court documents in contentious Child Protective Services cases that should be labeled as sensitive, or kept confidential, are being posted online for anyone to see, sparking concerns that abused and neglected children and their caretakers could be put at risk.

University of Houston Law Center professor Eileen Murray, a juvenile law expert, said access to such files online could be used by parents whose children have been taken away to find out where they are living.

In addition, she said, "Children who have been sexually abused or physically abused are great targets for pedophiles, for human trafficking, for people who want to take advantage of a child who's in a very vulnerable position. If that information is available to people, it can get into the wrong hands."

CPS continues on A11

[Click here](#) to download the registration form for this event (which I have nothing to do with other than going as an eager participant).

[Click here](#) to download the membership form to join this group. [Click here](#) for the group's by-laws.



Dang it, Polland, if you really are personally visiting those CPS kids at home and if you are accurately billing the county, just write Enos and tell him that!

I Make It Really Easy For Polland to Give Me His Side of the Story

Gary Polland is a very busy man. He barely has time for his political work, all of his court appearances, home visits I am so sure he personally performs, meetings with investment bankers, etc. So, I sent Polland a fax that should make it easier for him to reply to my questions quickly and accurately, so that his side of the story can be shared with you:

Mr. Polland,

I know you are a very busy man and perhaps you lack the time to respond to my questions about the work you have done as an appointed attorney ad litem in CPS cases. I am therefore providing you the following answers to my questions so that you can take just a few seconds to check the appropriate responses and fax your answers back to me. I truly do want to be fair to you and deal with facts instead of rumor or supposition. I know there are almost always two sides to every story and I really want to get your side of this story and share it with my many readers. I need you to correct me if my facts are wrong or if I am misinterpreting the data and documents I see in your cases.

Question: Do you personally conduct all of the home visits with children in CPS cases before each court appearance as required by law and as shown in your billing invoices to the county?

Answer: (check all that apply)

____ Yes, I do go myself and conduct the home visits with children as shown on my bills to the county. I do not send other attorneys or a social worker I employ. You are barking up the wrong tree Enos.

____ No, I do not go personally to conduct the home visits I bill the county for. I send: ____ other attorneys ____ these non-lawyers:

Question: How is it that you almost always

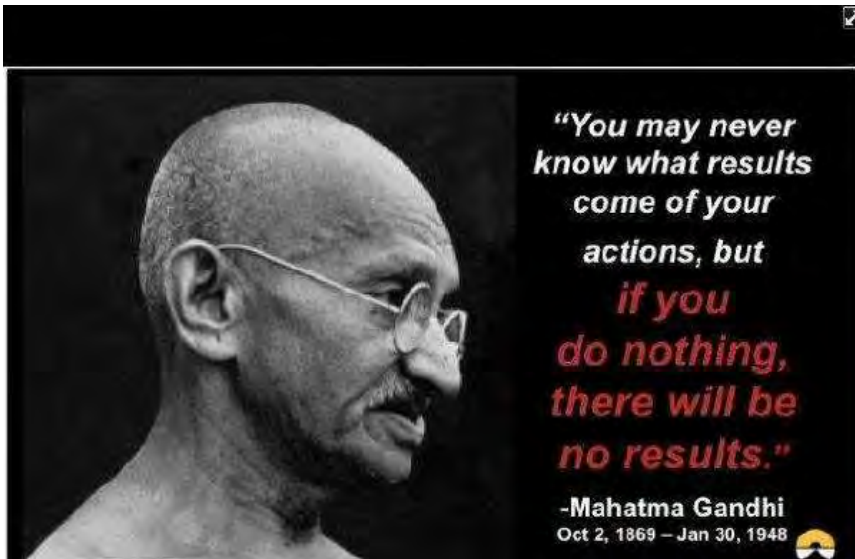
This is one issue where I did not need the mainstream media to pressure judges or politicians to do the right thing. The clerk and judges were promptly acting on my concerns already. I am a huge fan of Kiah Collier and I will continue to work with the *Chronicle* on stories, but I am disappointed with the editors of my newspaper competition in this instance, who decided to run the story before the problem had been rectified.

[Click here](#) to read the full *Chronicle* story, which quotes my letter to the judges and which does give me credit for first raising the issue.

I had drafted a lawsuit to file on behalf of an attorney ad litem representing a CPS child if no action had been taken to seek an injunction or mandamus, but I am glad I can stop researching standing for that sort of suit.

I thank Chris Daniel and David Farr for moving so quickly to solve this problem and protect children in CPS custody and their foster parents.

I am somewhat conflicted about using the information I got off the District Clerk website to find and contact foster parents to ask them if a particular attorney ad litem actually performed the home visits he billed the county for. They obviously do not have to talk to me like they would an investigator from the police or District Attorney. E-mail me at greg@enoslaw.com with your thoughts on that dilemma.



Are Pleadings Even Needed in Family Court?

[Click here](#) to download my complete article with full citations. My article is summarized below.

You Must Have Pleadings to Get Relief

At least in the counties contained within the Houston First and Fourteenth Courts of Appeals, family court judges cannot grant relief unless there are pleadings asking for that relief or unless the issue was tried by consent. A recent case provides a surprisingly broad view of what constitutes a "pleading" that can justify granting relief not explicitly mentioned in the current petition.

I represented the father who won on appeal in *Flowers v. Flowers*, 407 S.W.3d 452 (Tex. App. - Houston [14th Dist.] 2013, no pet.) and that case holds:

1. A family court cannot grant relief unless there are pleadings asking for the relief or the issue was tried by consent. The Rules of Civil Procedure apply in family cases, even those involving children.
2. An issue is not tried by consent if it is never mentioned or discussed at trial.

The Fourteenth Court of Appeals in May 2014 reaffirmed the basic notion that relief cannot be granted without pleadings requesting the relief or trial by consent in *In re A.D.*, No. 14-12-00914-CV (Tex. App. - Houston [14th Dist.] 5/6/2014)(no pet.). This case, however, allowed the trial judge to rely on motions for temporary orders and not the current pleading to justify granting the mother only supervised visitation.

The Houston First Court of Appeals and numerous other courts of appeals in the last 20 years have also held that there must be pleadings or trial by consent in order to grant relief in a child custody case. See e.g., *In re Sanner*, No.(Tex. App.- Houston [1st Dist.] May 20, 2010, no pet.) (mem. op.)("without proper pleadings, the trial court exceeded its authority by modifying and reforming some of the conservatorship and possession provisions of its prior orders...").

Old fogeys and those without the ability to determine if cases have been overruled or bypassed by changes to the Texas Family Code might cite *Leithold v. Pass*, 413 S.W.2d 698 (Tex. 1967) and its progeny, which appear to apply very relaxed (or even non-existent) pleading requirements in child custody cases. An example of this old line of cases said,"... the paramount concern is the best interest of the child, and the niceties of the procedural rules of pleading will not be used to defeat that interest." *Boriack v. Boriack*, 541 S.W.2d 237, 242 (Tex. Civ. App.-Corpus Christi 1976, writ dismissed) (trial court did not err in ordering wife to pay child support even though pleadings did not request support). The Houston Fourteenth Court of Appeals, in *Baltzer v. Medina*, 240 S.W.3d 469, 746 (Tex. App.- Houston [14th Dist.] 2007, no pet.)(note 5) explained that the Leithold decision was basically

bill the county for 5.0 hours for each home visit?

Answer: (check all that apply)

_____ All of my pay vouchers are 100% accurate and I strongly resent any implication that they are not. I stand by my fees and hours on all of these cases.

_____ Almost all of the children I am appointed to represent coincidentally live the exact same distance from my office and house and therefore the travel time is always the same. I always spend the same amount of time (_____ minutes) on each home visit, regardless of the age of the child or the issues involved. Thus, I am accurately billing the county when I charge 5.0 hours for almost every home visit.

_____ Actually, every home visit takes more than 5.0 hours, but to be fair to tax payers, I always round my charge down to just five hours. I am really a bargain!

_____ Okay, I admit it, I might fudge the hours on my pay vouchers, but my buddies the judges presumably know I am doing it and they don't seem to mind, especially at election time when they so desperately need my endorsement.

Question: Why have you been filing pleadings with private information about the children you are appointed to represent without putting at the top of each document,"this document contains sensitive data" as required by the Texas Rules of Civil Procedure? Did you know that people on-line could see the names, birth dates, and photographs of the children you represent and even potentially identify where some of the children were in foster care because your home visit reports were filed without that required privacy statement?

Answer: (check all that apply)

_____ Supreme Court rules do not apply to me, as those justices must also run in Republican primaries and they need my endorsement.

_____ Typing five words at the top of every pleading is so time consuming and I do so much for these children as it is. Asking me to protect their so-called privacy is simply asking too much.

_____ No other attorneys were doing it in CPS cases in family courts, not even the County Attorney, so why pick on me?

_____ Other excuse (please specify): _____.

Gary - if you have done nothing wrong in these CPS appointments and your billing to the county, then just please say so and let me share with my readers your side of the story.

I will stick to my promise to issue a special edition of this newsletter to print verbatim what Mr. Polland sends me so that his views and corrections can be shared with my readers without editing. I promise there will a lot for Polland to reply to in my next newsletter!

overruled when the Texas Family Code was enacted.

Some less informed courts of appeals continue to follow the 1967 *Leithold* case as if the Texas Family Code had never been adopted. *In re O'Neal*, No. 07-13-003358-CV (Tex. App. - Amarillo 12/23/2013) (mem. op.)(orig. proc.) is a recent example. The Amarillo Court of Appeals, whose law books only go up to the late 1960's apparently, granted mandamus on the trial court imposing a new geographic residence restriction without finding the child was in danger. However, the court rejected the mother's argument that the father had no pleadings asking for the relief he received in temporary orders, citing cases from 1937 and 1967 that technical rules on pleadings are not followed in child custody cases.

ProDoc and standard State Bar forms for petitions and counterpetitions do not include very specific requests for relief. The best and safest practice is for attorneys to add a specific list of all relief they seek for their clients in their pleadings and responses to requests for disclosure.

[Click here](#) to download my complete article.



The Crime of Interfering With Child Custody

The next time a police officer tells you that a parent's failure to return a child after visitation is "a civil matter," remind the cop about Penal Code Sec. 25.03, which states:

Sec. 25.03. INTERFERENCE WITH CHILD CUSTODY.

(a) A person commits an offense if the person takes or retains a child younger than 18 years of age:

(1) when the person knows that the person's taking or retention violates the express terms of a judgment or order, including a temporary order, of a court disposing of the child's custody;

(2) when the person has not been awarded custody of the child by a court of competent jurisdiction, knows that a suit for divorce or a civil suit or application for habeas corpus to dispose of the child's custody has been filed, and takes the child out of the geographic area of the counties composing the judicial district if the court is a district court or the county if the court is a statutory county court, without the permission of the court and with the intent to deprive the court of authority over the child; or

(3) outside of the United States with the intent to deprive a person entitled to possession of or access to the child of that possession or access and without the permission of that person.

(b) A noncustodial parent commits an offense if, with the intent to interfere with the lawful custody of a child younger than 18 years, the noncustodial parent knowingly entices or persuades the child to leave the custody of the custodial parent, guardian, or person standing in the stead of the custodial parent or guardian of the child.

(c) It is a defense to prosecution under Subsection (a)(2) that the actor returned the child to the geographic area of the counties composing the judicial district if the court is a district court or the county if the court is a statutory county court, within three days after the date of the commission of the offense.

(c-1) It is an affirmative defense to prosecution under Subsection (a)(3) that:

(1) the taking or retention of the child was pursuant to a valid order providing for possession of or access to the child; or

(2) notwithstanding any violation of a valid order providing for possession of or access to the child, the actor's retention of the child was due only to circumstances beyond the actor's control and the actor promptly provided notice or made reasonable attempts to provide notice of those circumstances to the other person entitled to possession of or access to the child.

(c-2) Subsection (a)(3) does not apply if, at the time of the offense, the person taking or retaining the child:

(1) was entitled to possession of or access to the child; and

(2) was fleeing the commission or attempted

commission of family violence, as defined by Section 71.004, Family Code, against the child or the person.

(d) An offense under this section is a state jail felony.



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.







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Reform of Family Courts*

The Mongoose

Published by Greg Enos

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**Please forward this e-mail newsletter to everyone
who cares about our family courts!**

[Click here](#) for an archive of past issues of The Mongoose.

NOTE: I have repeatedly asked Judge Franklin to explain the facts I describe below. I even delayed sending out this newsletter for a day because I sent the complete rough draft to Franklin first. My e-mail to Franklin read in part:

Doug and Alicia:

I am just about sick to my stomach contemplating the newsletter I plan to send out on Wednesday. I have never done this before, but I care about the truth and about the two of you enough to send you an advance draft of the newsletter.

I naturally expect you to be upset and unhappy. I am asking you to carefully read the newsletter and the linked articles and then tell me PLEASE how I have the facts wrong. If nothing else, please write and send me your side of the story so I can print it along with what I have written.

Franklin has not responded. I really wish I could share her defense with you in this newsletter.

Protest

Ella Wheeler Wilcox (from Poems of Purpose, 1916)

To sin by silence, when we should protest,
Makes cowards out of men. The human race
Has climbed on protest. Had no voice been raised
Against injustice, ignorance and lust,
The Inquisition yet would serve the law,
And guillotines decide our least disputes.
The few who dare, must speak and speak again
To right the wrongs of many....

***"Together, attorneys can
improve our family courts!"***

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2014, the Date of her Secret Swearing In
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Judicial Candidate Forum and Seminar

The bi-partisan group, Family Lawyers for Good Judges, is sponsoring a debate between all of the candidates for family courts in contested elections in Harris County on September 12, 2014. Here is the information on this event:

2014 HARRIS COUNTY FAMILY LAW JUDICIAL DEBATE AND JUDICIAL PANEL: "WHAT MAKES A GOOD FAMILY LAW JUDGE"

Date and Time: Friday, September 12, 2014 - 8:00 a.m. to 2:00 p.m.

Location: South Texas College of Law, Joe Green Auditorium, 4th Floor, 1303 San Jacinto St., Houston TX 77002

Cost: \$150.00; 25% discount for Associate Members; Full Members are free of charge, Box lunch included

CLE: 4.0 hours, 1.0 hour ethics included

[Click here](#) to download the registration form for this event.

[Click here](#) to download the membership form to join this group. [Click here](#) for the group's by-laws.

The folks putting on this event want to make it clear - **Greg Enos has absolutely nothing to do with their organization or this candidate forum.**

We understand our parents more and more as we age ourselves. "Enthusiam" was something my father had for everything in his life: his work as a school principal, organizing his garage, caring for the yard, serving his church, taking apart and reassembling a washing machine just for the challenge, and raising four boys. My Dad loved his work, and for good reason was one year named "National Principal of the Year." When the school district would move him to yet another troubled school that needed help, the parents and teachers at his old school would protest and demand that he stay.



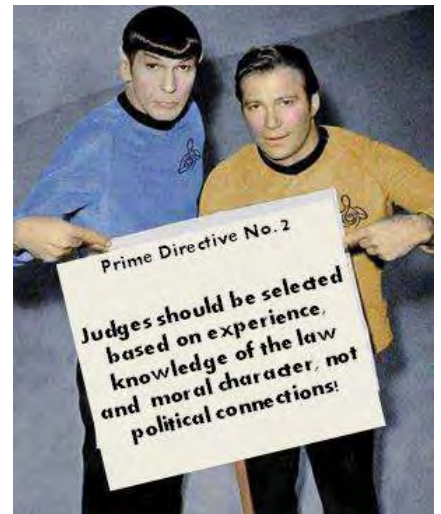
The only time I can recall my father ever being really upset about his work that he loved so much involved a student who was a cheerleader, student body officer and apparently a pretty, likeable, smart young lady who the school staff just adored. This young woman had been caught in a really complex cheating scandal that involved payments, theft of teachers' passwords and even breaking into a teacher's car, as I remember. My Dad was devastated that this young woman had been involved with such a wicked enterprise and that he was going to have to break the news to her proud parents and suspend her from school. He was deeply disappointed and so hurt that he had to do his duty and embarrass the girl and dramatically change her young life. It was one time when he did not want to go to his school the next day.

At the time, I had little sympathy for the girl. I had just had my heart broken by a cheerleader and I felt little pity for her kind.

Now, I know how my father felt.

I truly like Alicia Franklin personally and I do not want to embarrass her or cause her problems. I have even come to actually like her fiance, Doug York (outside of the courtroom). But, the facts are the facts. I would be a stinking hypocrite to go after "poor," defenseless, little Gary Polland regarding his pay for CPS court appointments and then stay silent when I became aware of what Judge Franklin has apparently done. Luckily for Polland, I got my hands on Franklin's pay vouchers first.

I could easily just keep quiet and let the Democrats and the *Houston Chronicle* work Franklin over and see what happened. In fact, I had it made in the 311th finally, since the new Judge Franklin held her position because I had been a prime mover



Count Four: Billing for Non-Lawyer Tasks Such as "Post Office Runs"

Alicia Franklin billed the county for one hour of work on May 6, 2014 in Cause No. 2014-02035J for "prepare letter to client, prepare to mail and post office run." In Cause No. 2008-02442J, Franklin billed a quarter of an hour twice for "post office run" on April 10 and May 19, 2014. Attorneys simply do not bill their clients for running to the post office and Harris County tax payers should not be charged for

in driving her crazy predecessor out of office. Toni and I almost never socialize without the kids and we had gone to dinner with York and Franklin and really enjoyed ourselves. Franklin is young, bright and enthusiastic and seemed so committed to doing a good job as a judge. I was truly fired up about her until the stinking facts got dumped in my lap.

I am writing this newsletter despite the fact that I know Franklin will be a judge through December and she may well win in November and then preside over the 311th for four more years (unless something bad happens that cuts her judicial career short as occurred with Judge Pratt). **However, let me note that a recent survey from July shows Wendy Davis and Greg Abbott tied in Harris County and the Democrats have a ground game this year that the Republicans cannot possibly match. Do not assume that you know for sure who will win here locally in November.**

I am writing this even though I contributed financially to Franklin's campaign and I did a lot of work behind the scenes to get Franklin to switch from running for the 247th to the 311th District Court.

Texas Ethics Commission				P.O. Box 12070 Austin, Texas 78711-2070		(512)463-58	
POLITICAL CONTRIBUTIONS OTHER THAN PLEDGES OR LOANS (JUDICIAL)						SCF	
The INSTRUCTION GUIDE explains how to complete this form.						1 PAGE # Schedule: 3/10 Re	
2 FILER NAME Franklin, Alicia (Ms.)						3 ACCOUNT # (Ethics 00069120	
4 Date 02/03/2014	5 Full name of contributor ☐ out-of-state PAC (ID#) Enos, Greg			7 Amount of contribution (\$) \$1,000.00		8 di	
6 Contributor address; City, State, Zip Code Houston, TX 77059				(If travel outside of Texas,			
9 Contributor's principal occupation Attorney				10 Contributor's job title Attorney			
11 Contributor's employer / law firm Enos Law Firm				12 Law firm of contributor's spouse (if any)			

Franklin's Democratic opponent, Sherri Cothrun, on a Saturday let me know that she had obtained all of the pay vouchers Franklin had submitted to Harris County for payment. Cothrun only had time to look at random at two days in May 2014, the first and sixth, and the total hours Franklin had billed were 18.5 and 21.0 hours in a day. I looked at the Franklin invoices for May that supported those totals and realized that Franklin had billed 23.5 hours on May 5. Knowing that Franklin and Cothrun were meeting with the *Chronicle* editorial board on Monday, Cothrun graciously agreed to send me the documents she had and let me share them with Franklin, so that Alicia would not be blind-sided on Monday by these allegations (facts, actually). Cothrun, to her credit, felt that it was only fair for Franklin to know in advance what she would have to explain when they met with the *Chronicle's* editors.

I was so very surprised and upset by what Cothrun had found. I told Cothrun, "I was really hoping that you would look and not find anything serious." Cothrun actually replied, "It sounds weird, but so was I."

Now, Cothrun has sent me the hundreds of pages of invoices Franklin submitted to the county during her legal career so that I could have them analyzed. Given that I helped put Franklin into office and I have strongly supported her campaign, anything I find will have more credibility, hopefully, than what her political opponent would try to publicize.

I have investigated and confirmed the facts set forth in this newsletter about Judge Franklin. With sadness and regret, I have concluded that these facts suggest possible criminal acts which should be investigated by a prosecutor. I am calling for an independent prosecutor and not the District Attorney's Public Integrity Unit to investigate the bills submitted by Alicia Franklin and other attorneys for work they claim to have done on CPS cases.

I am not flatly accusing Judge Franklin of committing a crime. I am sadly and reluctantly pointing out 100% provable facts that create a reasonable suspicion that

such work either.

On May 1, 2014, Franklin billed the county in Cause No. 2013-41503 a quarter of an hour to e-file a document. She did the same thing on May 7, 2014 in Cause No. 2013-39931 when she charged a quarter of an hour for "e-filed affidavit." Again, this is something clerical staff do in most law offices and I have never heard of lawyers billing clients for that sort of work.

Franklin also billed the county frequently for merely **printing** documents, something attorneys or their clerical staff do simply by pushing a button. I have never heard of attorneys charging clients to print documents. In Cause No. 2011-04867-J, on May 5, 2014, for example, Franklin billed the county for 15 minutes (0.25 hours) to print a CPS report on what must be a really slow printer and then Franklin, on the same day, billed the county one hour to review the same report. It would be a very rare CPS report that was more than 6 - 8 pages long and an average reader can read such reports in ten minutes or less. Attorneys should not bill the county to just print documents.

[Click here](#) to see these examples of Franklin billing for non-lawyer work.

Tax payers should not pay attorneys to print documents, e-file pleadings, lick envelopes or drive to the post office to put envelopes in the mail box. These amazing time entries are proof that the CPS lawyers submitting invoices have no shame and no fear of their bills being reviewed. It is definite proof that the judges do not even read the time entries being submitted before they approve them for payment.

Count Five: Falsely Asking to be "Re-Elected"

Someone actually reads this little newsletter. Sherri Cothrun complained that Alicia Franklin was improperly using the phrase, "Re-Elect Alicia Franklin" on her website, but the naive *Chronicle* editor thought Cothrun was just being picky and "hyper technical." Franklin apparently saw no need to change her web site after their Monday meeting with the *Houston Chronicle* editorial board.



However, after my newsletter that pointed this "re-elect versus keep" problem out was published last Thursday, Franklin quickly changed her website.



something very wrong has been done. I really wish Judge Franklin would provide her side of the story to convince us otherwise.

The facts described in this newsletter also show extremely poor ethical judgment by Judge Franklin and violations of the Canons of Judicial Ethics, which apply to judicial candidates as well as judges.

I am today writing the District Attorney, the State Bar of Texas and the worthless Commission on Judicial Conduct about these matters and asking for an investigation by people with resources and power far beyond me.

I am truly saddened to the core of my being to be writing this particular newsletter and I really wish you were not reading these words.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

**Greg Enos
The Enos Law Firm**

I think Alicia Franklin, a few years ago, fell in with the "wrong crowd" of attorneys and judges who are part of the pay-to-play, corrupt court appointment system in Harris County. Franklin is too smart not to know what she was doing was wrong. However, she could see a lot of other attorneys were doing it and making a lot of money with almost no chance of being caught. So, I theorize that Franklin simply started doing what other attorneys were doing at the expense of Harris County tax payers.

The behavior described in this newsletter, however it first began, was committed in the last few months while Franklin was running for judge and at a time when she should have known she would be under close scrutiny. Some of the bad behavior you will read about occurred after Franklin became a judge.

Franklin has not provided me with a written response to the questions posed in my last newsletter, so I must guess what her defense would be. "I made a mistake" is simply not a believable defense to the facts I reveal in this newsletter. Franklin is way too smart to make such "mistakes" over and over.

The actions of Alicia Franklin in her billing as a court appointed CPS attorney are important because Franklin is now a judge. What standard will Judge Franklin herself apply in court to a parent who says they did not intend to violate the court

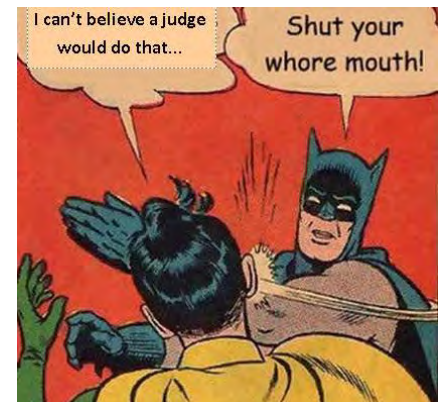
Franklin's problem is that it was simply not true and it was unethical for her to ask to be "re-elected" if she has never been elected in the first place. I checked with the Commission on Judicial Conduct and confirmed that an appointed judge cannot use the phrase "re-elect" (they also cannot falsely claim to be a Rhodes Scholar or to have flown on the space shuttle either). The Code of Judicial Conduct applies to JUDGE Franklin just as it does to all judicial candidates. Canon 5,(1)(ii), says,"a judge or judicial candidate shall not knowingly or recklessly misrepresent the identity, qualifications, present position, or other fact concerning the candidate..."

Anyone with political experience would have known that an appointed judge cannot ask voters to "re-elect" her, so this was not a mistake. Franklin's team has plenty of political experience. However, the common thread you should see running through all of the articles in this newsletter is this: a smart person is making the sleazy choice and expecting to not get caught or called out on it.

A judge telling the truth to voters and knowing the rules and following them does not just involve a "hyper-technical" application of some rule. A judge in family court has to apply "hyper-technical" rules of law to parents and parties and sometimes punish people who do not follow the rules.

The arrogance of the attitude that "the Republicans are going to sweep this election so no one is going to care what we do" is wrong and disgusting. That was almost verbatim what I was told when I first broke the news to the Franklin camp of the distressing stories in this newsletter.

I have yet to hear anything like "Oh my gosh, if we screwed up we will get to the bottom of it, and apologize and make it right." When I called out Judge Meca Walker for accepting \$20,000 in improper campaign contributions last Fall, she immediately recognized the error, apologized and returned the money. That is what a person who cares about right and wrong does.



Enos Schools County Auditor and Harangues County Judge Emmett

Lawyers are stealing tax payer dollars and the system in place at Harris County allows it. Here are the problems:

order over and over because "I did not understand" or "I made a mistake." I assume Judge Franklin herself would not accept the argument "I never expected to get caught" or "everyone else is doing it."

These are ugly, tough words I am writing about this young woman, but the stories in this newsletter are based on 100% provable facts.

I wrote harsh words about Franklin's predecessor, Denise Pratt, but no one ever said Pratt profited from the crazy things she did. The stories in this newsletter go to the fundamental character of Alicia Franklin and her ability to tell right from wrong.

I hope that my words have some credibility because I have twice stuck my scrawny lawyer neck out to publicly expose what judges have done wrong and both times I was vindicated. I took on Judge Dupuy in Galveston and he was eventually removed from office and convicted of the criminal charge I first lodged against him. Denise Pratt resigned to avoid indictment based on information I uncovered and provided the District Attorney. I really hope to someday get myself out of this particular line of business, so let's hope this is the final time I feel compelled for whatever reason to call out a judge for his or her very bad behavior.



Count One: Submitting CPS Pay Vouchers That Simply Cannot Be True

This is a long article and my proof consists of many pages of pay vouchers that Alicia Franklin submitted the month before she became a judge.

[Click here](#) to read my complete, 19 page article: "Alicia Franklin Submitted CPS Pay Vouchers That Simply Cannot Be True." This article includes my legal explanation of why knowingly submitting a false CPS pay voucher to the county for payment is a crime.

Here is the executive summary of my article:

Attorneys, like Alicia Franklin, appointed by judges to represent abused children or their parents in CPS cases, must sign the pay vouchers they submit to the county. In the family courts, the vouchers say that they are submitted "under penalty of perjury."

I looked at four consecutive work days in May 2014 and pulled her charges for those days from dozens of pay vouchers submitted by Franklin. I then added up the hours she billed for each day. Here is what I found Franklin had billed:

Thursday, May 1, 2014 - 21.0 hours
Friday, May 2, 2014 - 11.25 hours
Monday, May 5, 2014 - 23.50 hours
Tuesday, May 6, 2014 - 18.75 hours

Any lawyer would immediately know it is not possible to bill those kind of hours and her pay vouchers for May 1, 5 and 6 simply cannot be true.

Franklin's billing on these days is only for the work on CPS cases that the county pays for and does not take into account any work she did on her private cases. All of this billing supposedly happened while she was campaigning like crazy for a runoff election

1. A paper based system from the 1950's is still in use. Lawyers fill out the pay vouchers by hand, the judges sign the vouchers and then they go to the County Auditor, who pays the amounts approved by the judges, no questions asked.

2. A judge, who may approve dozens of pay vouchers a week, cannot see what an attorney is billing in other cases in that same court or in other courts.

3. No one until me ever took a mass of vouchers from one single attorney and extracted the fees charged on all cases for a particular day to see what the attorney is billing the county for on that day. This is how Alicia Franklin got busted billing 23.5 hours in one day. If I can "audit" vouchers, why can't the County Auditor?

4. The real problem is that no one has any incentive to closely monitor the CPS pay system. The judges are picking their pals for the appointments and therefore obviously want them to make money. The attorneys do not want their vouchers audited either. They have figured out that they can make a lot of money by submitting almost any hours they can make up and no one is ever going to care or catch them.

The simple solution is to go to an all electronic reporting system, like the State makes candidates use for reporting campaign contributions. Candidates must enter their information into a database program that automatically uploads the data to the State database that we can all search. [Click here](#) to see just how searchable the Texas Ethics Commission campaign finance database is.

The county should make ALL billing and pay information for appointed attorneys viewable on line by everyone, including judges and reporters. Our family and juvenile judges should demand that all court appointments and all fees for appointed attorneys be reported. Simple transparency will eliminate a lot of the abuses.

It would also help if our County Auditor actually audited some attorney vouchers on a random basis to keep everyone honest. **However, the County Auditor is hired, fired and managed by the district judges of Harris County. How gung ho will the auditor be to audit the CPS invoices her bosses have already approved?**

Lastly, we need to replace every single judge involved in this dirty CPS court appointment business, which is about three judges in the family courts and at least two of the three juvenile courts.

The children and tax payers of Harris County deserve better!



three weeks away. Early voting for the runoff started May 18 and the election was May 27.

Out of curiosity, I checked to see how many hours I billed on those days in my private practice for clients and here is what I found

May 1 - 9.45 hours
May 2 - 8.5 hours
May 5 - 6.65 hours
May 6 - 10.0 hours.

I work really hard as a lawyer and those hours billed by me are at the very high end of what I usually bill in total for one day. There are plenty of days when I bill three hours or less. The most hours I have billed in one day that I can recall in my 27 year legal career is 14 hours and that involved a jury trial.

A March 8, 2013 Op-ed article in the *New York Times* entitled "The Tyranny of the Billable Hour" discussed billing expectations for young lawyers at large, slave-driving Manhattan law firms and said, "Most big firms require associates to bill at least 1,900 hours a year, according to a survey last year by NALP, the National Association for Legal Career Professionals.... Billing 2,000 hours a year isn't easy. **It typically takes at least 50 hours a week to bill an honest 40 hours to a client.**" A lawyer expected to bill 1,900 hours in a year would have to bill clients a total of 36.5 hours every seven days. In these four days in May, Ms. Franklin billed the county 74.50 hours on CPS cases and that did not include any work she did on her private cases. There were only a total of 96 hours in those four days. At the rate Franklin was billing during those four days, her total hours billed in a year would be over double what big New York City law firms expect of their overworked associate attorneys and those attorneys would not also be running for judge.

Given my firm belief that knowingly submitting a false pay voucher to the county is a crime, I desperately tried to think of a way to explain Franklin's billing that does not result in the conclusion she committed a crime. It does not help that Judge Franklin is not providing me any explanation for this billing. I e-mailed about a dozen really smart, experienced family lawyers with these facts and asked them to imagine what possible explanation for these billing totals could be. Other than the obvious excuse that Franklin made a mistake on her dates, sadly no one could think of any explanation. A "typographical" error on billing dates is an unlikely explanation because these vouchers are handwritten in Franklin's own neat, precise printing.

Rounding up from five minutes on a phone call to a quarter of an hour, as many lawyers in private practice do, is not an excuse for Franklin either because: (1) she has no contract with the county that allows her to round up and bill for work she did not actually do, and (2) I have checked and mathematically, that does not reduce the number of hours she billed on three of these days to a believable number.

The attorneys I e-mailed about this issue collectively represent a few centuries of combined legal experience, and all those who replied agreed with me that Ms. Franklin simply could not have worked the hours she billed the county for on these days.

I hear through others that Franklin is going to claim that her invoices on these days included work done by her associate attorney. The problem with that defense is that it proves her invoices were false because they clearly purport to show legal work done only by Alicia Franklin. The Texas Family Code speaks of an attorney ad litem as singular person, not a law firm. There is no statutory authority that allows a judge to appoint a specific person to represent a child and then allow another lawyer to work and bill in that appointed position. If Governor Perry were, through some miracle, to appoint me to the Board of Regents for the University of Texas, I could not send my brother to appear for me at board meetings and then bill the State as if I had done that work.

I truly hope that Franklin has not engaged in what CPS insiders call "repeat billing." This is one strategy developed by some of the attorneys who live off of CPS appointments to increase what they are paid by the judges. "Repeat billing" is a euphemism for illegal double billing and it involves submitting time for work on a case in one month and then perhaps two months, later submitting the same time on the same case. The judge on the second appearance cannot possibly recall what he approved on a voucher weeks before and he does not have all vouchers submitted in the case before him. If caught, the attorney can always claim it was an innocent clerical error. This allows the attorney to get paid twice for the same work.

My full paper on this topic includes examples of anomalies found in Franklin's billing, which at least make it appear that Franklin could be sometimes billing the county twice for the same work.

Franklin's CPS pay vouchers are all handwritten (presumably in her own hand) and she bills in quarter hour increments. In contrast, other CPS ad litem attorneys submit typed

Alicia Franklin Became a Judge on June 13, 2014, the Date of Her Secret Swearing In

Alicia Franklin was appointed Judge of the 311th District Court by Governor Perry on June 13, 2014. That same day, Franklin had her friend and mentor, Judge Lisa Millard, swear her in as judge in a private ceremony. I soon heard that Franklin had been sworn in but no one would tell me the details. I asked Franklin's fiancé, Doug York, and he would not tell me, so I really became interested. I e-mailed Judge David Farr and District Clerk Chris Daniel and even Doug York and Alicia Franklin, but Farr and Daniel did not know and it took a while for me to learn the truth from Franklin and her fiancé. At the time, I could not fathom why the exact date Franklin took office was a secret. Now that I see Franklin was billing the county for CPS lawyer work she did from June 13 - June 17, I think I understand.

Doug York e-mailed me on June 18 and said, in part:

However, since not knowing is driving you crazy the Doug York in me now wants to keep you guessing and apparently very frustrated....

But alas, here's a clue.....on the day she got the call from the Gov it would make sense to get sworn in by another family court judge she's friends with now wouldn't it....but of course I'm not divulging anything as I am merely the small minion, a cog in the proverbial wheel....

On June 24, Franklin herself e-mailed me:

*From: Alicia K. Franklin
Sent: Tuesday, June 24, 2014 5:29 PM
To: Greg Enos
Subject: Responding to your email of June 17
Hi Greg,
It has been amazing sitting as Judge of the 311th. Things are moving along and we are moving in the right direction. I look forward to seeing you in the 311th.
I wanted to follow up with you regarding the swearing in and upcoming investiture however I was waiting for confirmation that the ceremonial court was available at the date and time certain.
I was sworn in the day of my appointment by the Governor, June 13th, by Judge Lisa Millard. There will be a public ceremony that will take place in the ceremonial courtroom on the 17th floor of the civil courthouse on Friday, August 15, 2014 at noon with a catered reception to follow in the courtroom adjacent the ceremonial courtroom on the 17th floor.
....*

I obtained a copy of the oath of office Franklin signed on June 13, 2014 from the Secretary of State:

pay vouchers that appear to be created by billing software programs. Other CPS attorneys, such as Ronnie Harrison, bill in time increments as short as 0.05 hours or 3 minutes, which is a much better bargain for the county. My full article includes samples of the time sheets submitted by Franklin and three other ad litem attorneys for "out of court" work. The contrast between these samples of billing by ad litem attorneys is striking and makes Franklin's bills look very haphazardly slapped together and unprofessional. George Clevenger's bills for his CPS work are particularly professional looking and I suspect I may have to prospectively take back everything I have not yet written about him. I concede it is possible to be politically well connected and do a good job on cases and accurately bill the county. It is not fair for me to pre-judge anyone.

I am paying someone now to analyze every invoice for CPS work Ms. Franklin submitted to the county for the entire year of 2013. **I had him start with March 2013 and we have already found a day, March 20, 2013, with 20.25 total hours billed by Franklin.**

I do not think Franklin is the only attorney submitting false bills to the county for court appointments in CPS work. Unfortunately for her, Franklin's vouchers (ordered from the County Auditor) arrived before other vouchers I have ordered. Unlike the other attorneys who I believe are involved in this practice, however, Franklin is now a judge. That makes this a really big deal.

A prominent female criminal defense attorney in San Antonio was just sentenced to ten years in prison for double billing the county on criminal appointments (and forging judges' signatures).

This matter should be investigated by someone other than District Attorney Devon Anderson, who first bungled the Judge Pratt investigation then let Pratt off the hook criminally once I found proof even the judge could not deny. Anderson is running on the same Republican ticket this year as Franklin and she is tied into the same political power brokers who are themselves involved with this CPS billing scandal. We need a "prosecutor pro tem" appointed who will actually look into this mess vigorously and objectively. This prosecutor should be from a city far from Houston and not have any ties to the political establishment that currently runs this county. If Franklin did nothing wrong, then a truly independent prosecutor should determine that (which is what I sincerely hope happens).

I would really like to think that Franklin did not knowingly submit these false bills to the county. However, any defendant accused of such a crime would claim "it was a clerical error!" How will such a smart lady ever convince us she could make such mistakes?

The first thing law enforcement should look for are the actual time records kept by Alicia Franklin on her CPS cases. It is clear that these CPS pay vouchers I have seen were filled out by hand by Franklin all on the same day, so they are not contemporaneous records a lawyer would make at the time to record his or her billable time. I sincerely hope that there are such time records to be found!



Count Two: Billing for CPS Work After She Became Judge

Here is a shocker: **judges cannot practice law!** There is a specific provision in the Texas Canons of Judicial Ethics, Canon 4(G) that says a judge cannot practice law. It would also apparently shock and surprise some that it is illegal to bill the county for work

Form 0184 Rev. 10/2011	This space reserved for office use
Submit to: SECRETARY OF STATE Government Filings Section P.O. Box 12857 Austin, TX 78711-2857 512-463-6334	 OATH OF OFFICE
Filing Fee: None	
IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS, I, LINDA A. PANIAGUA, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of <u>Judge of the 33rd District Court</u> of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.	
Signature of Officer 	
State of <u>TEXAS</u> County of <u>PRELUDIS</u> Sworn to and subscribed before me this _____ (year)	13th day of <u>JUNE</u> 2013 Signature of Notary Public or Other Officer Administering Oath <u>LINDA A. PANIAGUA</u> Printed or Typed Name
	

There can be no doubt, Franklin became a judge on June 13.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos

you did not do.

So, taking those two basic principles in mind, consider this: **Judge Franklin, after she was sworn into office as a judge, submitted a pay voucher to the county for lawyer work on a CPS case done after she became a judge.** Moreover, Franklin tried to mislead the *Houston Chronicle* editorial board last week in replying to this allegation by telling them that she started work on the bench on June 18, 2014. Franklin knew she had to tell the editors that she started work on June 18 because she had submitted a handwritten invoice for CPS work signed by her on June 17 for legal work she had done on June 13, 16 and 17, including one hour of "in court appearance."



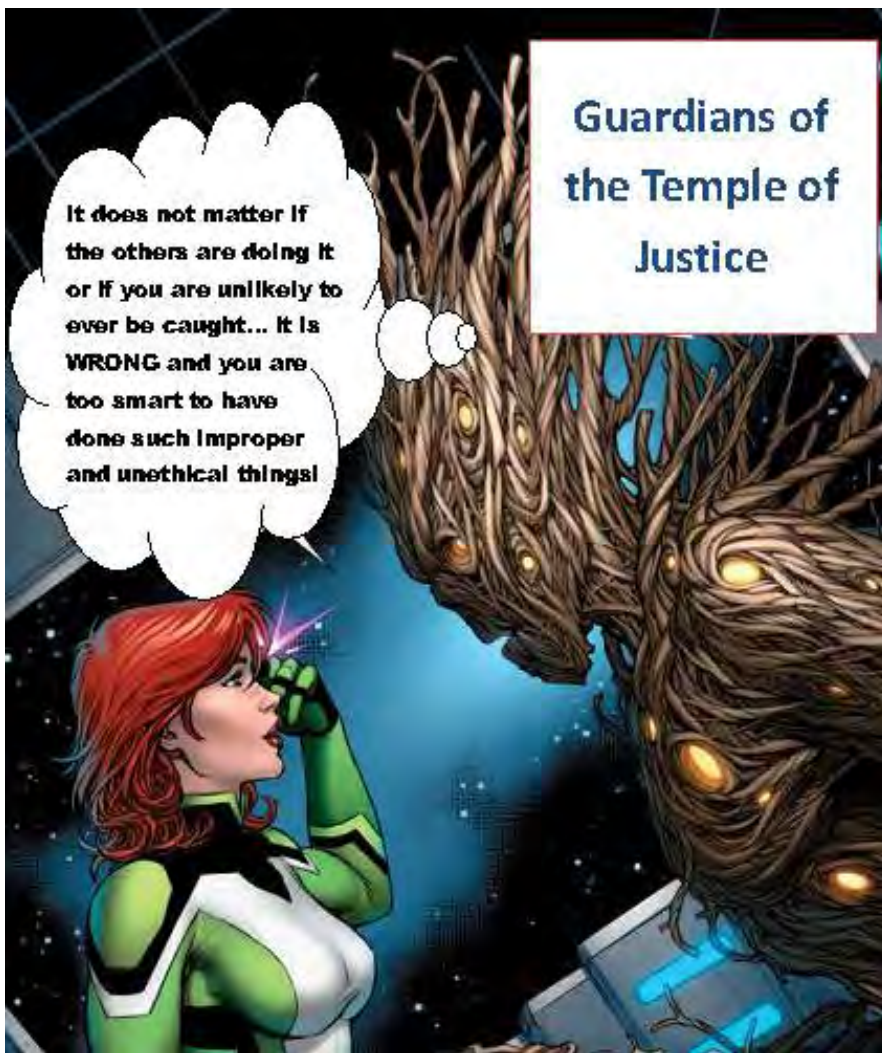
I am guessing that Franklin forgot the e-mail she sent me that confirmed she was sworn in as judge by Lisa Millard on June 13, 2014. I obtained from the Texas Secretary of State a copy of the oath of office signed by Alicia Franklin and dated June 13.

[Click here](#) to see the oath of office, invoices and e-mails involved and my article that seems to show beyond doubt that Franklin billed the county for lawyer work she claimed to have performed after she was sworn in as judge.

I checked with the Texas Commission on Judicial Conduct and they confirmed that a district judge simply cannot practice law. They said that "winding down" a law practice cannot include a court appearance or billing the county for work done by the judge as a lawyer.

So, choose Ms. Franklin: either you falsely billed the county for legal work or you accurately billed for legal work performed after you had been sworn in as a judge. Either way, you have a big problem.

I hear that the County Auditor, after my last newsletter mentioned this issue, is refusing to pay the invoices submitted under Franklin's name for CPS legal work after she became a judge. Most of those invoices were signed by Franklin's associate attorney but submitted under Franklin's name (which itself does not seem proper). However, the June 17 CPS invoice is signed by Franklin herself and clearly purports to bill for legal work Franklin herself did. The court's docket sheet and the other attorneys in that case should be able to confirm if it was Franklin herself who appeared in juvenile court as lawyer on June 17.



Count Three: Accepting A Campaign Contribution from a Party to a Case She Was The Amicus Attorney On

My first published book might not be set in London in the Spring of 1881 after all. It could well be about Judge Franklin and her predecessor, Judge Pratt. I have more than enough information to fill a book.

[Click here](#) to read about this truly too-sleazy-to-believe scenario: an amicus attorney appointed to represent a child in a nasty custody case decides to run for judge and accepts a large campaign contribution from a party to the case. Sadly, Alicia Franklin, is the protagonist in this wretched story as well.

Ms. Franklin was appointed an amicus attorney for a young boy in a hotly contested custody case by Judge Lisa Millard in case no. 2012-04106 on April 20, 2012. This case involved parents and grandparents.

On October 15, 2013, Ms. Franklin and the grandparents' attorney filed a joint motion for enforcement against the mother for not obeying a court order on visitation. It is extremely unusual for an amicus attorney to file a joint motion with another party. I have never actually seen it happen in my 27 years of practice. It certainly shows that on October 15, Franklin was very actively involved in the Maxim case and would have known who the grandfather, Joe Maxim, was.

On the very next day, on October 16, 2013, Ms. Franklin, who then was running for judge, accepted a \$1,000 contribution from the grandfather in that case. That contribution was not disclosed by Ms. Franklin to the other parties or their attorneys or to the judge.

Franklin admitted that she accepted the grandfather's contribution when she met with the *Houston Chronicle* editorial board. Franklin insisted she had done nothing improper, in

part because she had accepted a \$4,000 contribution from a lawyer who briefly represented one of the other parties to that case.

A grandfather who so badly wants custody of a grandchild because of the parents' bad behavior really needs the "neutral" amicus attorney on his side to have chance for custody. How could any lawyer in their right mind ever think it was ethical to solicit or to accept a campaign contribution from such a grandfather while the candidate was the amicus in the grandpa's hotly contested custody case?

This is just another example of very bad ethical decisions Ms. Franklin has made recently. Ironically, the grandfather was represented by Rita Lucido, the law partner of Sherri Cothrun, who is the Democrat running against Franklin. Cothrun made Lucido aware of the grandfather's contribution in May 2014 after Cothrun looked at Franklin's campaign finance reports. I wonder what other ethical lapses of Judge Franklin are out there waiting to be discovered? My next newsletter will provide a few more examples unfortunately.

Our system of justice works only if we have fair, ethical judges who command the respect of attorneys and the public. Franklin's defective moral compass is something to really worry about as long as she is a judge.





*The International Journal on the
Reform of Family Courts*

The Mongoose

Published by Greg Enos

Issue: No. 49

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Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.

***"Together, attorneys can
improve our family courts!"***



[Click here](#) to be inspired by an amazing video of a mongoose taking the fight to a pride of lions. I have seen the same look of surprise that those lions showed on the faces of a few judges in the last few years.

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I know that after spending almost Alicia Franklin-like hours on writing and editing this newsletter (maybe 14 hours over a weekend, not 32.25 in a day), once I press "send," this newsletter will be seen by approximately 11,000 people within the next 24 hours. I have about 2,800 subscribers but this newsletter gets shared and sent far and wide. I have readers in Thailand, France, Mexico, New York City, Lufkin, Midland, Big Sandy and cities all over Texas. This newsletter goes initially to attorneys, judges, about 1,300 Republican activists, newspaper reporters and radio and television news directors and then they forward my work to many more folks. The chairs of both political parties in Harris County get my newsletter.

Hell, I have even been invited to speak to a big Tea Party group despite the "I'm Ready for Hilary" bumper sticker on my car.

My last newsletter generated a huge response and I heard from many attorneys, a few judges and even some parents whose children had been represented by Ms. Franklin. I got tips from some elected officials and county employees on problems with CPS appointments and fees that I had no clue even existed before last week. **This scandal is going to be so much bigger than I thought it could be just a week ago.**

One female attorney was offended by a cartoon of a busty woman getting lectured by Groot from *Guardians of the Galaxy* and another male attorney, who makes a stinking killing off appointments, said he would not attend a judicial candidate forum I have nothing to do with other than publicizing. This fellow, who makes six figure fees from "special master" appointments, said, "I will not have anything to do with any event associated with Greg Enos." Ouch. That sort of rejection from a prominent leader of so many family bar groups really stings.

However, I also received a lot of positive feedback, including these comments:

I applaud your efforts, and admire your bravery in taking on these issues. The pay-for-play system in Harris County has hit the media before and died a quiet death. I hope that will not be the case this time.

One comedian/attorney wrote:

In Franklin's defense, who could have foreseen the likelihood of some nut going out and getting all of her billing from six different courts, paying an expert to analyze them and then cross referencing to a specific day??!! She could sooner have expected a monsoon...as a mongoose!

Another attorney wrote:

We are not professional acquaintances, but as an attorney who does quite a bit of family law in Harris County, I would like to thank you for the work, time and resources that you have dedicated to ferreting out some of the bad actors in the in our local family court scene. I am by no means a "player" of any sort, but I practice honestly and ethically and I, like I am sure many others, feel jobbed on occasion by certain judges in courtroom battles. While I can understand the politics and general BS of the system, it is often very difficult to explain an unfair or obviously unlawful decision to a client - particularly when the client believes that our system is fair and unbiased. In any case, I just wanted to take a moment to thank you for your efforts.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who bill honestly and zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

**Greg Enos
The Enos Law Firm**

Criminal Complaint Filed Against Judge Alicia Franklin

[Click here](#) to read the criminal complaint I have filed with the Harris County District Attorney against Judge Alicia Franklin. The more I see of how Franklin billed the county in CPS cases and parents in her amicus cases, the less pity I feel for her. I know that at some point my perfect batting record in taking down elected judges for criminal behavior will fall below 100%, but this does not feel like the time when I will strike out.

I do not know that Franklin has committed a crime, but I have found 100% provable facts that need to be looked into by someone other than Republican District Attorney Devon Anderson, who bungled the Judge Pratt investigation and then made a "sweet heart" deal with Pratt that allowed her to avoid criminal prosecution. [Click here](#) to read a motion filed by a District Attorney who wisely recused herself and asked for appointment of a prosecutor pro tem under Texas Code of Criminal Procedure Sec. 2.07. Ms. Anderson has too many ties to the attorneys and judges involved in this CPS billing scandal and her office should not investigate this matter.

Franklin has still not responded to my requests to provide her side of the story. I hear that her defense is not "clerical errors," but rather the simple fact that those impossible hours she billed include time actually billed by an associate attorney. The problem with that defense is that Franklin's invoices to the county are all solely in her name and do not disclose that the work was done by someone else. Also, as shown by the following article, a specific statute on billing by attorneys and guardian ad litem in CPS cases says the voucher submitted to the county for payment by the ad litem shall list, "...the fees charged and hours worked by **the guardian ad litem or attorney ad litem.**" Texas Family Code Section 107.015(d). The statute does not say the voucher can include hours charged or worked by, "the attorney ad litem or her associate or designated representative."

At some point, Franklin may assert the "rubber stamp defense." It does appear that Franklin had a signature stamp that was used on some documents. For example, look at the petition filed by Franklin in Cause No. 2014-34324. This original SAPCR suit was filed by Franklin on June 13, 2014 at 4:02 p.m. June 13 was the day Franklin was appointed judge by the Governor and sworn in. I do not know the precise time when the rushed and secret swearing-in ceremony was performed by Judge Lisa Millard on June 13, so perhaps this petition was filed before Franklin officially became a judge. However, she knew by 4:02 p.m. that she had been appointed, so why file the petition in her name? The "signature" on this petition is clearly a signature stamp. However, when Judge Lisa Millard signed the Temporary

Supreme Court Changes Rule on Business Record Affidavits

[Click here](#) to see the complete new Texas Rules of Evidence 902(10) and official comment from the Supreme Court. This new rule is effective September 1, 2014.

The Supreme Court has approved an amendment to Tex. R. Evid. 902(10) on business record affidavits. All attorneys need to know that now:

- Business records "proved up" by affidavits are NOT filed with the clerk.
- "Except for good cause shown," the affidavit and records must be served on opposing counsel and pro se parties "at least 14 days before the day on which evidence is first presented at the trial of the case."

The official comment to this new rule states:

The word "affidavit" in this rule includes an unsworn declaration made under penalty of perjury. TEX. CIV. PRAC. & REM. CODE §132.001. A record and affidavit may be served electronically, including by email. TEX. R. CIV. P. 21 a.

A Law Firm Policy on Fairly Billing Clients

Me and a lot of attorneys are looking at our own billing practices after my articles on the outrageous and apparently false billing in CPS cases by Alicia Franklin. One excellent family law attorney, with much more experience than me, sent this e-mail:

I just had 3 grueling non stop days in the office - totaled my hours for those 3 days - 18.5. I must be doing something wrong.

I know few attorneys who work harder than my own Christina Tillinger, and she averages about 7.25 hours billed per day unless there is a trial or long mediation. I usually bill fewer hours than that.

I have written ten simple rules for honest billing that I have now adopted as my law firm's policy. [Click here](#) to read all ten rules. Here are a few of these ten rules:

2. Bill actual time spent and round up only a little. If you spend 3 minutes on a phone call, bill 0.10 instead of 0.25. If you literally were on the phone for 30 seconds with the client, do not bill for the call at all.

...

7. Unless you are in trial or a mediation that goes to midnight, your total hours in a day cannot exceed **10.0** without a written explanation for the firm manager of how you were able to bill those many hours in one day.

...

Restraining Order in that case on June 18, Millard knew that Franklin was a judge. Franklin is still the attorney of record in this case, although a motion to substitute was filed on August 27 (over two months after Franklin became a judge).

[Click here](#) to see once more the proof that Franklin billed Harris County for work Franklin claimed she did as an attorney on a CPS case after Franklin was sworn in as a judge.

An Attorney Ad Litem is Not a Law Firm and Cannot Bill the County for Work Done By Others

Attorneys appointed to represent abused children and their parents in CPS cases as attorneys ad litem are routinely billing Harris County for work done by associate attorneys and non-lawyers who work for the person appointed ad litem. This is wrong and violates the law.

[Click here](#) to read the entire article. This is just a short summary of the full article.

A wise, ethical and experienced family judge explained to me how attorney ad litem in CPS cases are different than private attorneys:

As a judge, I pick a specific lawyer to appoint as ad litem and I expect that lawyer to meet the child and foster parents and teachers and doctors and biological parents and appear in court for that child. If I appoint Sally Green to be the attorney ad litem, I want Sally to do the work because I selected her based on her skills and experience and performance in past cases. I did not appoint Sally's associate attorney or some lawyer she knows or her paralegal to be the ad litem, I chose her! Only in rare, unusual situations would I permit someone other than the attorney I appointed to visit the child at home and I had better be told up front exactly why it happened. Scheduling conflicts may require that a substitute attorney be occasionally sent to court for the ad litem, but the fill-in attorney must be familiar with the case and there had better be a real good reason why the ad litem is not in court.

Good, ethical judges all think this way and they have all been universally amazed when I tell them what is happening in some courts that also hear CPS cases. In a few courts, judges are appointing attorneys to be ad litem but those attorneys are submitting pay vouchers for work done by other attorneys and even non-lawyers as if the ad litem himself had done the work.

In cases involving CPS, Texas Family Code Section 107.004(d)(1) says that in CPS cases, an attorney ad litem must meet with the child before each court hearing and then the statute says the ad litem shall:

(2) if the child or individual is not present at the court hearing, file a written statement with the court indicating that **the attorney ad litem** complied with Subdivision (1).

Texas Family Code Sec. 107.004(d-1) says that the meeting between the attorney ad litem and the child must take place:

(1) a sufficient time before the hearing to allow **the attorney ad litem** to prepare for the hearing in accordance with the child's expressed objectives of representation; and

(2) in a private setting that allows for confidential communications between **the attorney ad litem** and the child or individual with whom the child ordinarily resides, as applicable.

The use of "the" in Sec. 107.004(d) and (d-1) make it clear that the individual who was appointed by the judge to be "**the attorney ad litem**" must be the person who meets with the child. The statute does not say "the attorney ad litem or his/her associate or social worker" must meet with the child.

Texas Family Code Section 107.015(d) says the voucher submitted to the county for payment by the ad litem shall list, "...the fees charged and hours worked by **the** guardian ad litem or **attorney ad litem**." The statute does not say the voucher can include hours charged or worked by, "the attorney ad litem or her associate or designated representative."

[Click here](#) to read the entire story that includes all of the legal citations and arguments, including a rare exploration of the meaning of the indefinite articles "a"

9. False billing is wrong and unethical and will get you fired and reported to the State Bar by this law firm. We want to make money only by fairly billing our clients.

10. A staff member who sees something questionable about a lawyer's billing must bring it to the attention of the law firm's management.

[Click here](#) to read all of these rules on "Honest Billing" and you can count how many Ms. Franklin followed when she billed the county on CPS cases.



First Annual Mongoose Limerick Contest

I have received the first entry in the *Mongoose* limerick contest. First prize is a *Mongoose* t-shirt and coffee mug.

*There once was a lawyer named Pollard
Who had more money than tulips in Holland.
He made a fortune on endorsements
And even more from court appointments.
Sadly, Gary never dreamed The Mongoose
would come calling.*

*There was also once was a billing machine
named Franklin,
who knew less about her cases than she did
about banking.
The smart lady had time shifting powers
since she was able to bill super human hours.
Now, she just looks forward to her weekly
Mongoose spanking!*

Please write your limericks on crisp \$100 bills and mail them to me!

and "an."

The Alicia Franklin Billing Miracle - 32.25 Hours Billed Plus 5 Court Appearances All In One Day!

A future postulator writing a *positio* about Alicia Franklin will surely include as one of the two required miracles the amazing events of March 20, 2013, when Alicia Franklin billed Harris County, as well as the parents in a private amicus case, for the following all on one blessed day:

28.5 out-of-court hours in CPS cases
3.75 hours on a private amicus case
1 CPS trial appearance
4 non-trial CPS court appearances

The hours billed for this one day total 32.25 hours plus Franklin claims to have been in court on CPS cases for one trial appearance and four other non-trial appearances on that same day. There may well be other private cases that Franklin also billed for on that day.

In CPS cases, ad litem bill per hour for "out of court work," but they are paid a flat rate per court appearance for trial or non-trial hearings. Ad litem are paid a higher flat rate for trials than they are for non-trial court work.

[Click here](#) to see documentation of this truly amazing feat that should at least qualify Franklin for beatification. One friend of Franklin's suggested that perhaps her over billing was a "rookie mistake." Forgetting to verify a motion for continuance is a "rookie mistake." Billing like this is a "mistake" just like a wedding that results in divorce is a mistake - the "mistake" was originally done intentionally and joyfully but only regretted much later. A lot of folks in prison will now admit that their fraud and stealing was, in retrospect, a mistake. I have yet to hear from Judge Franklin, so I do not know if she considers her false billing on CPS cases to be a mistake or just something she wishes Greg Enos had not discovered and shared with the world.

Another wag suggested that perhaps Franklin's \$700 Christian Louboutin shoes (which no other ad litem scrounging for CPS work could possibly afford) have magical powers.



Billing like this on March 20, 2013 could explain how Franklin has been able to visit Europe so many times in the past year.

My last newsletter said that the hours I found Franklin had billed per day in CPS cases did not include any hours she had billed in her private cases. At the time, I thought I could never know what she had billed in her amicus cases. I assumed it would take a grand jury subpoena to get those records. However, since my last newsletter went out, I have heard from several parents who were honored to receive bills from Alicia Franklin when she served as the amicus attorney in their custody cases.

In one amicus case, I am told that Franklin billed a total of **\$118,000** to the two parents for a case that never actually went to trial. I have represented millionaires in contested jury trials and never had my bill total \$118,000 and I charge more per hour than Franklin does.

Here is what the current spouse of one of the parents in this custody case wrote me about Franklin's work as an amicus:



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.

Alicia was appointed as the amicus by Judge Pratt. Both families were billed over \$118,000 total by Alicia. As an investigator for the court and the two children involved, Alicia Franklin never contacted a single family member or friend of my husband's to confirm his relationship with his children. The only thing that was consistent were the outrageous bills that appeared each month with nothing more than "communication" listed as the explanation. **When my husband and I were sitting at a child visitation with one of Alicia's assistants, my husband asked how families were able to afford these types of cases, Alicia's assistant replied, "most of our cases are paid by the state", paused then stated, "but that's good because we can bill them millions of hours".** My husband and I couldn't believe what we were hearing. We felt like from the very beginning it was about the money. Alicia never seemed to know what we were referencing when we would ask her about faxes we sent and told us on more than one occasion "I'm sorry, I have another case that's very similar to yours and I have a hard time keeping them straight".



Attorney Greg Enos

The husband's attorney in this custody case challenged Franklin's billing before Judge Denise Pratt, who had appointed Franklin. [Click here](#) to read this rather extraordinary motion assailing Franklin's billing practices. Pratt conducted an evidentiary hearing on Franklin's fees and sided with Franklin in October 2013. I am trying to get a copy of the transcript of that hearing.

I have received Alicia Franklin's detailed billing on three of her private amicus cases, but I need more! If you have any of her bills or know clients who have them, please send them to me.





*The International Journal on the
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The Mongoose

Published by Greg Enos

Issue: No. 50

September 16, 2014

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Please forward this e-mail newsletter to everyone
who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.



Many new subscribers have started reading this newsletter in the last few weeks, so I am going to provide a little background for the newbies. Veteran readers of *The Mongoose* can skip immediately to the sordid stories below. I also provide some useful forms for family law attorneys and their staffs in this issue just to keep everything from being totally negative.

Commission on the Protection of Judicial Misconduct Slaps Pratt's Wrists

Here is one quick update: The worthless Texas Commission on Judicial Conduct issued a public reprimand to **former Judge Denise Pratt** based on complaints I filed against her. [Click here](#) to read the full Commission Sanction, which explains why I worked so hard to get her out of office. It does little good for the Commission to slap Pratt's wrists months after she was forced to resign and it just shows that bad judges have very little to fear from this gutless agency.

My Fight to Improve The Family Courts

The horrors of Judge Pratt taught us that local lawyers have to work together to take down bad judges through publicity, criminal indictments and appeals to voters, because the *Commission on the Protection of Judicial Misconduct* will do nothing.

I started this newsletter three years ago to promote reform and improvement of our family law courts because I was sick of a few judges who did not know or follow the law but who did let politics influence their decisions in divorce and child custody cases. At the time, most thought I was crazy to publicly criticize judges by name and provide details of their improper and illegal activities. After all, judges in the family law arena are all powerful and my law practice is limited solely to family law in Harris and Galveston counties.

This little newsletter has played a role in the resignation of a District Clerk and an Associate Judge, the indictment, temporary suspension, conviction and resignation of Judge Christopher Dupuy in Galveston County and the resignation of Judge Denise Pratt to avoid criminal charges in Harris County. Several brave attorneys stood up to Judge Dupuy in Galveston, but my specific criminal complaint is what he was convicted of (along with perjury about when he first read about my complaint in this very newsletter). The Harris County District

***"Together, attorneys can
improve our family courts!"***



[Click here](#) to be inspired by an amazing video of a mongoose taking the fight to a pride of lions. I have seen the same look of surprise that those lions showed on the faces of a few judges in the last few years.

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[A partial defense of Judge Lynn Bradshaw-Hull](#)

[The Sickening CPS Billing Scandal Gets Even Worse](#)

[Polland CPS Vouchers Reveal Amazing Billing](#)

[Mainstream Media Plays Catchup to The Mongoose](#)

["The Nail in the Coffin" for Attorneys Falsely Billing Harris County on CPS Cases](#)

[Is False Billing on CPS Cases a Crime?](#)

[You \(and Alicia Franklin\) Should Have Been At The Family Judge Candidate Forum!](#)

[The Defense Alicia Franklin Should Me Making](#)

[One More Time: The New Rule on Business Record Affidavits](#)

[A Useful Form To Close Out Files](#)

Attorney forced Judge Pratt to resign because of specific witnesses and facts she got from me thanks to tips I received from readers of this newsletter.

A large part of the family law legal community came together to stand up to Judge Pratt, which itself was an unprecedented development. The stories in this newsletter and my complaints against judges have been on the front page of the *Houston Chronicle* and featured on local television news. Candidates for judges have returned campaign contributions after I reported on them and recently, family court judges changed their procedures to protect the privacy of documents filed in CPS cases after I pointed out the problem to them.

[Click here](#) to read a story about my efforts to clean up the family courts from the *Houston Chronicle* in 2013.

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on Election 2014 HC Investigations Most-read Stories Special Sections Obituaries

Lawyer says his hobby is taking on bad judges

By Kiah Collier

October 26, 2013 | Updated: October 26, 2013 11:11pm

The photograph at the top of Greg Enos' monthly email newsletter is always the same. A pack of mongooses confronting a reared-up cobra.

The Webster family lawyer says the image is a symbol of a change he aims to kindle in the Houston-area legal community - at least in family courts.

"I do not expect to win every case," Enos writes at the end of most newsletters. "I just want an efficient system in which my client gets a fair hearing by a judge who works hard, knows the law and does not play favorites."

The newsletter Enos started nearly three years ago, titled the *International Journal on the Reform of Family Courts* or *The Mongoose* for short, has been one tool in his quest. Criminal complaints filed against judges have been another



[Click here](#) to access the archive of past issues of this newsletter to see what issues and judges I have taken on in the past.

The majority of our judges in the family courts are hardworking, honest and fair and they continue with their difficult work knowing they seldom will be mentioned in this newsletter. In fact, I get a lot of support and tips from the good judges because they take pride in their work and share my repulsion with judges who embarrass their profession.

I do not just lob bombs from the outside. I spend many hours working behind the scenes, mostly with the dedicated and capable Republican office holders in Harris and Galveston counties to improve our justice system in a variety of ways.

I may be a liberal Democrat myself, but I am comfortable having breakfast with a Republican County Judge and County Commissioner (as I did a few weeks ago) or hosting fundraising parties at my office for quality candidates who happen to be Republicans. Some day soon, I will be working with (and maybe criticizing) elected Democratic family court judges in Harris County, and I will hold them to the same high standards.

I try really hard to be accurate and fair in my writing in this newsletter and my criticisms of specific judges or policies have nothing to do with politics. I would be happy with a Republican or Libertarian or Socialist judge if she worked hard, knew the law and treated everyone fairly. I worked behind the scenes to discourage Democrats to run against our really good Republican family judges in Harris County (with some, but not total, success) and there are some Republican judges on this year's ballot I want to win. There is no more deserving candidate and no better public servant I know of than our Republican District Clerk, Chris Daniel, and he is just one of several Republicans I am actively supporting. So please, do not buy the argument that I write my newsletter for partisan political purposes. Currently, Judge Alicia Franklin's problems with me stem from my puritanical views of the law and ethics and not my political philosophy. I was, until these new facts came to light, one of Franklin's biggest supporters.



One More Time: The New Rule on Business Record Affidavits

[Click here](#) to download the form I have prepared in response to the amendment of Tex. R. Evid. 902(10) on business record affidavits. In my last edition, I attached a link to a draft version of the rule, rather than the official version of this new rule, which became effective on September 1, 2014. I thank Russ Burwell for pointing out that error and I direct you this time to [the correct, official, final order adopting this new rule approved August 19, 2014](#).

Please note, this new rule applies to cases filed on or after September 1, 2014, which means the prior rule requiring affidavits and records to be filed with the clerk, still applies to pending cases. Parties can and should agree in writing not to file the actual records in the pending cases.

Just to be sure, here is the full text of the final rule we now have to comply with:

RULE 902. SELF-AUTHENTICATION

The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity in order to be admitted:

(10) Business Records Accompanied by Affidavit.

The original or a copy of a record that meets the requirements of Rule 803(6) or (7), if the record is accompanied by an affidavit that complies with subparagraph (B) of this rule and any other requirements of law, and the record and affidavit are served in accordance with subparagraph (A). For good cause shown, the court may order that a business record be treated as presumptively authentic even if the proponent fails to comply with subparagraph (A).

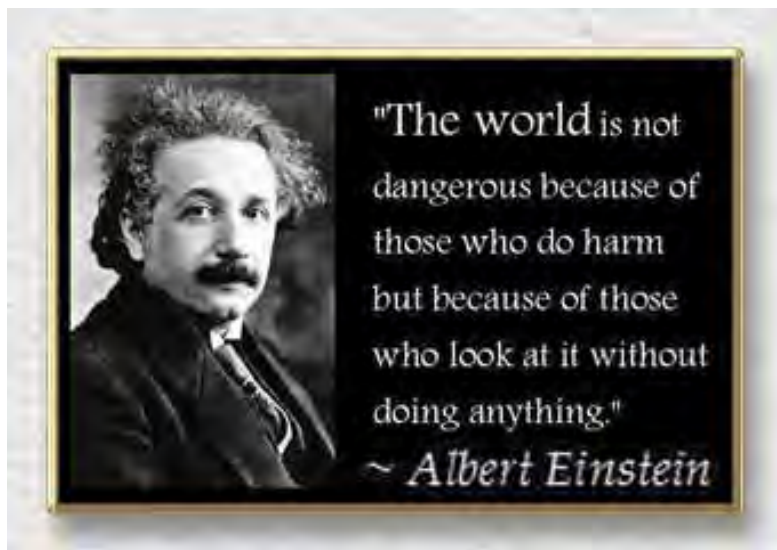
(A) Service Requirement. The proponent of a record must serve the record and the accompanying affidavit on each other party to the case at least 14 days before trial. The record and affidavit may be served by any method permitted by Rule of Civil Procedure 21a.

(B) Form of affidavit. An affidavit is sufficient if it includes the following language, but this form is not exclusive:

1. I am the custodian of records [or I am an employee or owner] of _____ and am familiar with the manner in which its records

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who bill honestly and zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm



The Sickening CPS Billing Scandal Gets Even Worse

What could be worse than ripping off tax payers at the expense of abused children?

In Harris County, a few judges are appointing lawyers in CPS cases to represent abused children or their parents and allowing those attorneys to make small fortunes off false billing. In recent issues, I have reported that former Republican County Party Chair and influential GOP primary endorser, Gary Polland, earned \$1.9 million from court appointments since 2010. [Click here](#) to read that earlier story.

I reported that Judge Alicia Franklin, when she was an attorney working on CPS cases, billed the county 32.25 hours in one day (plus she also got paid for five court appearances on that same day). Those total hours came from over a dozen different invoices submitted over a period of months. All of the vouchers submitted by Franklin made it look like she did all of the work and certainly do not note that any associate or staff member did the work. As noted below, the law seems clear that an attorney or guardian ad litem appointed to represent a child should not bill for work done by another attorney.

Franklin billed the county for "post office runs" and simply printing documents and other tasks that attorneys simply do not charge for. It appears that Franklin even billed for lawyer work done after she was sworn in as a judge. Franklin herself was paid **\$806,005** by Harris County since 2010. I filed a criminal complaint against Franklin with the Harris County District Attorney and suggested that D.A. Devon Anderson recuse herself. Click [here](#) and [here](#) to read my last two issues details about Ms. Franklin's impossible to believe billing.

Here are a few recent developments with this sordid scandal:

1. Polland CPS Vouchers Reveal Amazing Billing

I finally received the pay vouchers for just three months of billing by Gary Polland.

are created and maintained by virtue of my duties and responsibilities.

2. Attached are ____ pages of records. These are the original records or exact duplicates of the original records.

3. The records were made at or near the time of each act, event, condition, opinion, or diagnosis set forth. [or It is the regular practice of _____ to make this type of record at or near the time of each act, event, condition, opinion, or diagnosis set forth in the record.]

4. The records were made by, or from information transmitted by, persons with knowledge of the matters set forth. [or It is the regular practice of _____ for this type of record to be made by, or from information transmitted by, persons with knowledge of the matters set forth in them.]

5. The records were kept in the course of regularly conducted business activity. [or It is the regular practice of _____ to keep this type of record in the course of regularly conducted business activity.]

The official comment to this new rule states:

Comment to 2014 Change: **At the direction of the Legislature, the requirement that records be filed with the court before trial has been removed.** See Act of May 17, 2013, 83rd Leg., R.S., ch. 560, § 3, 2013 Tex. Gen. Laws 1509, 1510 (SB 679). **The word "affidavit" in this rule includes an unsworn declaration made under penalty of perjury.** TEX. CIV. PRAC. & REM. CODE § 132.001. The reference to "any other requirements of law" incorporates the requirements of Sections 18.001 and 18.002 of the Civil Practice and Remedies Code for affidavits offered as prima facie proof of the cost or necessity of services or medical expenses. The form medical expenses affidavit that was added to this rule in 2013 has been removed as unnecessary. It can now be found in Section 18.002(b-1) of the Civil Practice and Remedies Code.

You (and Alicia Franklin) Should Have Been At The Family Judge Candidate Forum!

Everyone (except Alicia Franklin) who is running in a contested election for a family court bench in Harris County appeared last Friday at an amazing CLE Event and Judicial Candidate Forum organized by the bi-partisan Family Lawyers for Good Judges PAC. Candidates debated and answered tough questions and then the lawyers in attendance voted in a judicial preference poll. There was also a panel discussion on "What Makes a Good Judge?"



Oh good, the auditor has finally delivered the vouchers I ordered on Gary Polland's CPS cases!

I am paying to have these vouchers analyzed (as I did with Alicia Franklin), but here is one startling finding I quickly made by looking through these vouchers: **Gary Polland billed Harris County for four home visits totaling 19 hours on one single day and the gullible or complicit judges approved his vouchers and the county apparently paid him.** In CPS cases, the law requires the attorney ad litem appointed to represent the child to personally visit the child at home before each court appearance. Polland, who almost always bills exactly 5.0 hours for "travel to and conduct home visit; draft report with pictures" billed the following for one day, **August 10, 2013:**

- Case No. 2013-04442J, 313th Juvenile District Court - 5.0 hours for a home visit (invoice submitted 8/15/13)(note the duplicate, "corrected" invoice also submitted).
- Case No. 2009-21265 - 311th Family District Court - 5.0 hours for home visit (invoice submitted 8/14/13)
- Case No. 2011-06808J - 315th Juvenile District Court - 4.0 hours for a home visit (invoice submitted 9/6/13)
- Case No. 2011-58664 - 308th Family District Court - 5.0 hours for home visit (invoice submitted 8/29/13).

Please [Click here](#) to see these invoices, which clearly make it look like Polland did all of this work and which certainly do not mention any associate or social worker conducting these home visits. It is clearly not possible for one attorney to conduct four or five home visits or to honestly bill 19 hours in one day. Did Polland visit a child at home at 3:00 a.m.?

It is also very odd that Polland almost always bills exactly 5.0 hours for these home visits, regardless of where the child lives. I have now seen hundreds of CPS pay vouchers, and most attorneys bill from 2.0 to 3.5 hours for home visits and the number of hours they claim always varies because, of course, the time they spend in travel and visiting the child varies every time.

In future issues, I will explore whether Polland is billing for home visits that he is not conducting himself. Almost everyone involved in CPS cases in Texas (outside of about five courts in Harris County) firmly believe that the law requires the specific person appointed ad litem to visit the child at home. It is not proper or legal to send a substitute attorney or a non-lawyer to conduct the home visit and it certainly is not right for the appointed attorney to bill the county as if he had done the work.



The winners of the judicial preference poll were from both parties:

John Schmude (R) - 247th
Charley Prine (R) - 246th
Barbara Stalder (D) - 280th
Jim Evans (D) - 308th
Sheri Dean (R) - 309th
Sherri Cothrun (D) - 311th

The organizers of this event and PAC put together a great event. Their idea, that lawyers will donate to a single PAC to pool money for the best candidates and will not donate to individual candidates, is brilliant (thanks Frank Hale!). The leaders of this PAC are Marcia Zimmerman, Maisie Barringer, Shari Goldsberry, Kimberly Levi, Bill De La Garza and Christina Tillinger. [Click here](#) to check out their website.



The Defense Alicia Franklin Should Be Making

The public relations flack Judge Franklin has hired (with either campaign funds or money she made on CPS cases), is not doing a very good job for her. It does not really help Franklin to tell her to lay low and say nothing while the PR firm tells the press that my 100% provable facts are just a "political smear." Here is what Franklin's spokesperson would be saying if I were Franklin's media and political advisor:

First of all, it is a shame you are not looking into the hard work Judge Franklin is doing every day in her courtroom to provide justice to families and children. She took on a court that was devastated by her predecessor's incompetence and she has already done a mountain of work to close out cases and correct errors Judge Pratt made. I suggest you sit for a few hours in Judge Franklin's courtroom and decide for yourself what her dedication to justice and the law is.

The issues Greg Enos has raised about the appointment and payment of attorneys in CPS cases do need to be looked into. Judge

2. Mainstream Media Plays Catchup to *The Mongoose*

It is not really fair to expect a small paper like *The Houston Chronicle* to dedicate the same kind of resources to true investigative journalism that an established, well funded outfit like *The Mongoose* can use to ferret out government malfeasance. My competition has at least noticed that there is a story out there. [Click here](#) for a PDF of the *Chronicle* story on my complaint about Judge Franklin. I am not sure why the sub-headline did not say, "Complaint alleges new judge charged for over **32.25** hours in one day."



There are three quotes from the *Chronicle* story that stand out:

- **Judge David Farr, the administrative judge of the county's nine family courts, said he believes the law is clear that only the lawyer appointed to a case may be paid.**
- **Jim McCormack, former general counsel and chief disciplinary counsel of the State Bar of Texas, said the complaint [filed by Greg Enos] "raises serious questions of fraud, theft and dishonest conduct." "Those allegations should be fully investigated by the appropriate prosecutor and the State Bar of Texas," he said. "Allegations of fraudulent payment requests by a lawyer to a government entity, as well as the alleged charging of unconscionable fees implicate both the criminal laws applicable to everyone and the disciplinary rules governing lawyers."**
- **Consultant Jim McGrath, whose public relations firm Franklin hired, was dismissive of Enos' complaint, calling it a "political smear job" by a "self-described 'liberal Democrat.' "**

Franklin is committed to honesty and transparency in government and she calls on County Judge Ed Emmett to establish a task force to study these problems.

Judge Franklin is using her own broad experience in representing children in CPS cases every day when she appoints attorneys and closely monitors their fees.

The specific allegations made by Greg Enos do not reflect anything wrong Judge Franklin has done. Law firms routinely bill for work done by their associate attorneys and paralegals and that is all Judge Franklin did. Her work as a lawyer was monitored by experienced, caring judges in the juvenile and family courts and those judges knew full well that Ms. Franklin was being paid, in part, for work done by her staff. The vouchers Franklin submitted did not say "Only I did this work" and there is no place on the forms to note that an associate did the work. Enos should be blaming the wording of the voucher form or perhaps the law, but not Judge Franklin.

Mr. Enos' complaints are really about an entire system that needs some reform and not about the 100% appropriate actions of Judge Franklin.

Judge Franklin is happy for any real journalist or investigator to carefully examine the billing she submitted to the county during the time she worked with such dedication and energy to protect abused children.

It is election time and we trust that the voters will not be confused by these allegations made by a Democrat who obtained his "evidence" from Judge Franklin's political opponent.



If you really want "fair and balanced" journalism, can I do anything more than stick to real facts I can prove AND write the defense for the person I am accusing of wrongdoing? I still stand by my offer to Judge Franklin to print verbatim any response she has to these facts I have presented. Mr. McGrath can call or e-mail me with his client's side of the story any time he wants.

Of course, I can refute everything I wrote above as Franklin's best possible defense. Most importantly:

- The law does NOT allow a guardian or



Franklin is not saying who her criminal defense lawyer will be, but she has hired a public relations firm to handle my allegations. I am not very impressed with the defense that is being mounted by this local PR dude (a ghost writer for second tier GOP minor celebs), so I have prepared a much better response that we all wish Franklin would say (see side bar).

Other mainstream media has become interested in the story as well. I would expect the Houston television and radio news outlets to start talking about this issue this week.



3. "The Nail in the Coffin" for Attorneys Falsely Billing Harris County on CPS Cases

This is perhaps the most important development in the CPS billing scandal reported in

attorney ad litem in CPS cases to ordinarily bill for work done by other attorneys (see the *Gamez* case I cite in this newsletter).

- If Franklin was billing for other attorneys' work, she should have said that on her vouchers, which clearly make it look like she did all of the work. **What would happen if a deputy sheriff turned in a voucher for 32.25 hours of overtime in one day and when confronted, claimed he was billing for work a few other deputies did too? That officer would be fired and then arrested.**
- The judges who approved Franklin's vouchers are clearly not reviewing or monitoring the billing of attorneys in CPS cases.

A Partial Defense of Judge Lynn Bradshaw-Hull

I may criticize judges in this newsletter, but it is for unfair policies or unethical or criminal acts. I almost never write to complain about how a judge has ruled in a specific case (with only rare exceptions, Charley!). It is almost impossible for anyone to second guess a judge unless you have listened to every minute of testimony and argument and seen all of the evidence (or read the transcript and handled the appeal).

I also appreciate the attitude of most experienced family court judges, that not every request for a protective order based on alleged domestic violence or threats of violence, should be granted. I believe that victims of domestic violence should be protected and nothing makes me angrier than a bully or an abuser. However, I know that people make false allegations or exaggerate true events or try to gain tactical advantages in divorce or custody cases by asking for protective orders.

A domestic violence protective order is a "nuclear weapon" that has huge impact on the civil rights of the respondent. Protective orders should be granted but only when the evidence truly establishes the violence has occurred and that there is good reason to believe it will happen in the future. It all depends on the facts and evidence of each specific case.

My way of looking at domestic violence protective orders made me disagree with the basic premise behind some recent articles in the *Houston Chronicle* about Harris County's dedicated domestic violence court, the 280th. [Click here](#) and [here](#) to read the articles that were critical of 280th Judge Lynn Bradshaw-Hull (a Republican) because some in the District Attorney's office and those in the "domestic violence industry" are upset that the judge does not grant protective orders as often as they would like.

[Click here](#) to read a report from the Harris County Domestic Violence Coordinating Council (HCDVCC), that paints a very unflattering picture of Judge Bradshaw-Hull. The report provides a few selected anecdotes from alleged victims of domestic violence whose applications were denied. I did not see

this newsletter because the false billers were claiming that there was nothing wrong with the appointed attorney billing for work done by another lawyer.

A wise probate judge in Austin who reads *The Mongoose* e-mailed me about an appellate case that holds exactly what I have been saying: **a lawyer appointed by a judge as an ad litem cannot and should not bill for work done by other attorneys** (except in unusual circumstances and then only after informing the court). Let's see these "CPS appointment law firms" and mega-billers explain this:

When a guardian ad litem is appointed, the trial court intends that appointed attorney to personally protect the minor's interests and to act as an officer of the court. Accordingly, it is generally not anticipated or reasonable for a guardian ad litem to delegate his ad litem responsibilities to other attorneys. We recognize, however, that extenuating circumstances may occasionally arise which justify another attorney's involvement. In those situations, prior approval from the trial court of the second attorney's involvement is preferable when time and circumstances permit; when prior approval is not possible or practical, a subsequent finding by the court that the additional attorney's services were reasonable and necessary will suffice. We hold that a guardian ad litem may not be compensated for time expended by other attorneys, unless the trial court has made a specific finding that the other attorney's services were reasonable and necessary under a particular extenuating circumstance.

Goodyear Dunlop Tires N. Am., Ltd. v. Gamez, 151 S.W.3d 574, 588 (Tex. App. - San Antonio 2004, no pet.)(citations omitted)(emphasis added).

Texas Family Code Section 107.015(d) says the voucher submitted to the county for payment by the ad litem on a CPS case shall list, "...the fees charged and hours worked by the guardian ad litem or attorney ad litem." The statute does not say the voucher can include hours charged or worked by, "the attorney ad litem or her associate or designated representative."

Remember what Judge David Farr told the Houston Chronicle last week:

Judge David Farr, the administrative judge of the county's nine family courts, said he believes the law is clear that only the lawyer appointed to a case may be paid.

I have rewritten my legal article that explains in detail why it is not proper for a person appointed attorney ad litem to bill for work done by other attorneys in light of the *Gamez* case. [Click here](#) to read my revised article.

4. Is False Billing on CPS Cases a Crime?

There is no doubt that in some instances, a lawyer who falsely bills the county for court appointed work can be convicted and sent to prison.

any such stories from people who won before Bradshaw-Hull in the way they wanted to. It really comes across as a few people with "sour grapes" being quoted in a report that criticizes the judge. I was not there and I have no idea whether "Angela" or "Stacy" really should have won, but I know that there are always people upset because they did not win in court. Cherry picking a few stories from sore losers does not prove a judge is doing anything bad. The judge is really not in a position to ethically respond on the substance of the cases or why she ruled the way she did, so such case specific criticisms are really not fair.

The D.A. in Harris County is very spoiled and used to almost getting her way with judges in criminal courts. Thus, it must be a shock to have to appear before a judge who expects cases to actually be proven. Here are the statistics used to criticize Judge Bradshaw-Hull:

2010

No. of P.O. Applications: 2,123
Orders Denied: 89 (4.2%)
Orders Dismissed: 948 (44.7%)
Orders Granted: 1,086 (51.2%)

2013

No. of P.O. Applications: 1,440 (drop of 32% from 2010)
Orders Denied: 114 (7.9%)
Orders Dismissed: 605 (42%)
Orders Granted: 721 (50.1%)

The judge should not be blamed if the D.A. or private parties apply for fewer Protective Orders. The judge also has little to do with cases that are dismissed because dismissals usually result from lack of service or a change of heart by the movant. In 2013, of the cases that were not dismissed, Judge Bradshaw-Hull granted protective orders in 86% of the total remaining cases.

The D.A. did provide statistics that make it look like the judge denied 55% of the protective order applications in 2013 decided in contested hearings. It appears that in 2013, 505 protective orders were granted based on agreement or default and 26 were granted after a contested hearing and 32 were denied after a contested hearing. That is like saying the District Attorney does not win DWI cases as often as it should at trial. The problem with that criticism is that the good, strong cases result in agreements because the defendant knows he or she will lose. The cases that go to trial are usually the weak cases and it is not surprising that the defendant often wins those cases.

I assume the real criticism of Judge Bradshaw-Hull is that she is so tough on protective orders that she is discouraging women or the D.A. from even filing and asking for such orders. If that is the case, then the D.A. is just not strong enough to stand up for victims of domestic violence if she is now reluctant to proceed on many cases because she might lose.

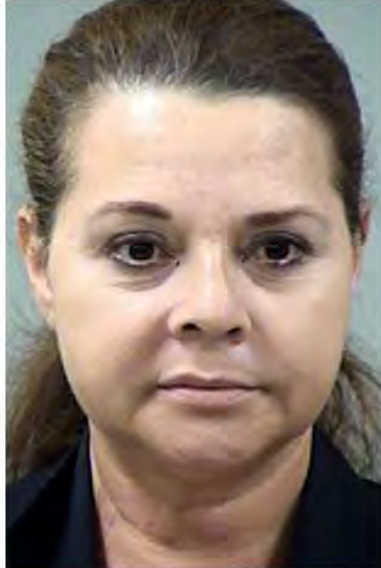
I just find it hard to accept these numbers as proof that the judge makes it too hard for victims of domestic violence to get protective orders. The hurt feelings of alleged victims of domestic violence or their supporters or the D.A. is just not evidence. No one can really fairly second guess Judge Bradshaw-Hull unless a neutral observer actually watched an

Defense attorney sentenced to prison for billing scheme

By Michelle Casady

April 21, 2016 | Updated: April 21, 2016 10:10pm

SAN ANTONIO — A former defense attorney who pleaded guilty last month to charges she defrauded the county — forging signatures of judges and double-billing for her indigent defense work — was sentenced Monday to the maximum allowable under a plea agreement.



Bexar County Sheriff's Department

Hilda Valadez was sentenced to 10 years, but the judge will keep jurisdiction of the case for 6 months.

Last week, I was in an outlying county discussing this CPS billing scandal with some very good criminal attorneys. They were all amazed by the huge fees that are awarded to CPS attorneys in Harris County and they all agreed that what Alicia Franklin had done when she was billing as a CPS attorney was clearly totally wrong. Their debate was on the odds that Franklin could be convicted of a crime. They noted that the CPS pay vouchers do not specifically say that the attorney submitting the voucher was stating "under penalty of perjury" that only she did the work billed for. They argued over whether it is a crime to submit a pay voucher that gives the false appearance that only one attorney did the work while not explicitly making that statement on the voucher. In fairness to Franklin, I certainly recognize that a truly independent prosecutor or grand jury or criminal jury may well conclude there is not enough evidence to indict or convict her of a crime. I am firmly convinced, however, that what Franklin and others have done in CPS billing, with the assistance of a few judges, is ethically and morally wrong.

I say again, as a former fan and supporter of Alicia Franklin and as someone who helped in so many ways to get her in the position she is in now, I am truly saddened and disappointed by what I have had to report about her. This smart lady should have known better and the people who care about her should have given her much better guidance and advice.

I am also pondering a thoughtful and heartfelt apology to Anthony Magdaleno, who ran his campaign seeking reform and refused to curry favor to the big slate endorsers in the GOP primary. I mistakenly reached the pragmatic and ignoble conclusion that Anthony could not beat Pratt in the primary without those endorsements.

entire hearing.

I concede that I have never presented an application for a protective order in the 280th and I am mostly ignorant of the true situation. I have heard disturbing stories of how Judge Bradshaw-Hull treats people and talks to attorneys and parties. The judge's apparent obsession with only using her particular forms does seem to put form over substance, especially when people's lives could be at stake. The judge does not always come across well in her public speaking and she seems to have made a lot of people very unhappy with her. However, I need a lot more data before I could say she is a bad judge in the way this HCDVCC report so clearly implies.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos

There is no
greater tyranny,
than that which is
perpetrated under
the shield of law
and in the name
of justice
- Montesquieu



A Useful Form To Close Out Files

[Click here](#) to download a useful form to help attorneys and their paralegals keep track of orders that need to be drafted and entered. There are often many forms that must be prepared along with a final or temporary order, such as a wage withholding order, BVS form, new child support account form, deeds, etc.

My law firm uses this form to stay organized on who is drafting, what needs to be drafted and when the documents need to be ready.

Please share your comments or your own forms.





Issue: No. 51

October 7, 2014

The Enos Law Firm

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**Please forward this e-mail newsletter to everyone
who cares about our family courts!**

[Click here](#) for an archive of past issues of *The Mongoose*.



***"Together, attorneys can
improve our family courts!"***



[Click here](#) to be inspired by an amazing video of a mongoose taking the fight to a pride of lions. I have seen the same look of surprise that those lions showed on the faces of a few judges in the last few years.

In this Issue:

[Judge Franklin Resorts to the "Everyone Is Doing It" Defense](#)

[How Gary Polland Earns Millions on CPS Appointments](#)

[Who Gets to Use the Courthouse for Private, Paid Mediations?](#)

[Petitions to Enter QDRO's](#)

[Judges and Commissioners Battle in Galveston County](#)

[Houston Press Investigates "Fathers for Equal Rights"](#)

[Proof that the Houston Chronicle Leans Democratic?](#)

[Proof that God \(or Mother Nature\) Leans Republican?](#)

A Texas Parole Commissioner was just indicted for tampering with a government record because she allegedly made false entries in five parole reports. [Click here](#) to read a news story about this indictment. If it can happen in Hunstville when prison inmates are the victims, it should happen in Harris County when all tax payers and the integrity of our justice system are the victims.

My efforts to reform the crooked system of CPS appointments in Harris County is paying off. Two family law courts and one juvenile court have adopted new policies that require random selection of ad litem and forbid billing for other attorneys except in unusual circumstances. [Click here](#) to see the policies of the 315th Juvenile Court (Judge Schneider) and [click here](#) for the policies of the 312th Family District Court (Judge Farr). Judge Hellums adopted basically the same policies as Judge Farr. Now, attorneys are required to sign this verification of their hours when they ask for fees in CPS cases in the courts of Judge Farr and Judge Hellums:

Cause No. : _____
Attorney Name: _____

In submitting this voucher I swear that I have billed only for time incurred by me personally, unless I have received prior court authorization to have an associate or support staff perform the task for which the billing is submitted.

*In addition, I swear that this case is a companion to the following cause numbers (if none, state none): _____
and I am not asking for these same hours to be paid under any of the other companion cases.*

Signature of Attorney: _____
Date of Submission: _____

The new rules from good judges who care about the integrity of our judicial system are further proof that it is simply not proper for a CPS ad litem to submit bills for other attorneys without informing the court and getting

permission.

All of the family courts are considering adopting rules along these same lines that will apply to all courts. I can't wait to hear how Judge Franklin votes on these new billing procedures and what position her mentor, Judge Millard, takes.

The two juvenile courts with the worst problems with CPS appointments (Judges Devlin and Phillips) are still "studying the situation" while their favorites continue to rake in fees.

The ongoing effort to limit access to CPS documents in Harris County family court cases continues. So far, five of the nine family court judges (Moore, Farr, Lombardino, Warne and Dean) have signed administrative orders restricting access to documents deemed confidential by TDFPS and the Family Code. However, CPS documents with details the public should not see are still not being kept away from the public's prying eyes. Meanwhile, behind the scenes, Harris County District Clerk Chris Daniel and his office have been diligently working to get these cases off-line. Unfortunately, it seems to be an uphill battle. There are just too many pleadings being filed by the County Attorney and ad litem which do not say, "NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA." The children whose information and safety we have a duty to protect deserve better. But, getting there is not as simple as I would like it to be.

A well known Houston family law attorney with decades of experience e-mailed me to say:

I am not sure I have ever taken the time to tell you how much I admire and appreciate what you do. It takes a lot of guts to buck the system and a lot of work to fix it. I don't know that we will ever, in our lifetimes, be able to remedy this awful situation but what you have done and continue to do is to get it out in the open, prevent it from being swept under the rug. Hopefully this next generation of lawyers will have more integrity and demand accountability rather than simply holding out their hands for some political payback.

I have analyzed three months of CPS billing from the ad litem super star, Gary Polland, and I found results unusual enough for me to file another criminal complaint with the Harris County District Attorney (see story below).

Gossip about imminent indictments aside, I do not expect District Attorney Devon Anderson to do anything until after the election. Anderson really should recuse her office and ask for the appointment of a prosecutor pro tem. Alternatively, she should give me 90 minutes to make a presentation to a grand jury and we can see what happens.

Finally, just when I was complaining that my old stomping grounds of Galveston County had gotten too boring, civil war breaks out between ALL of the elected judges and the county commissioners. My story below tries to explain the legal issues and political motivations involved.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who bill honestly and zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm



Advanced Family Law Wi-Fi Class Action Lawsuit vs. Marriott?

This past August, Wi-Fi signals were blocked on the third floor of the Marriott River Center in San Antonio where the seminar rooms and exhibitors were located for the Advanced Family Law Seminar. As an exhibitor, I could buy Wi-Fi access for hundreds of dollars per day. I was reminded of this situation when I read that Marriott has agreed to pay a \$600,000 fine after the Federal Communications Commission found the company blocked consumer Wi-Fi networks last year during an event at a hotel and conference center in Nashville while charging as much as \$1,000 per device for exhibitors to access the hotel's wireless network. [Click here](#) to read the details of this sordid story.

Petitions to Enter QDRO's

Neither Pro Doc nor the Texas Family Law Practice Manual provide a form for a Motion or Petition to Enter QDRO. [Click here](#) for my a firm's form for a "Petition to Enter QDRO." This form is needed when a divorce has divided a retirement plan but a former spouse will not agree to a Qualified Domestic Relations Order.

Texas Family Code Sec. 9.101(b) says that a petition to enter a QDRO is treated like any other original lawsuit. This means a petition is filed with a filing fee and the former spouse must be served with citation. Sec. 9.101(d) states, "The proceedings shall be conducted in the same manner as civil cases generally." Presumably, this means that 45 days notice of the "final trial" must also be given.

Subchapter B on Post-Decree QDRO's does not contain a provision for the award of attorney's fees. In contrast, Subchapter A on Enforcement, in Sec. 9.014 specifically provides for an award of attorney's fees under that subchapter. If a wife is awarded 55% of her husband's 401k but he obstinately refuses to sign a QDRO, it would seem only fair for the wife to be awarded attorney's fees, but it is not clear what authority the court would have to award fees to the wife. Of course, if the divorce decree specifically orders the husband to sign the QDRO as one of the closing documents and he refuses, then an enforcement action against the husband for violating the court order should result in an award of attorney's fees.

The real lesson is for attorneys to get QDRO's signed when the divorce decree is signed and



Franklin Resorts to the "Everyone Is Doing It" Defense

I filed a criminal complaint against Judge Alicia Franklin and she is not saying "I didn't do it." Instead, she defends herself by saying, "Everybody does it." A *Houston Chronicle* article of September 21 started this way:

*A prominent line of defense has emerged for a newly appointed family court judge accused this month of false billing when she was working as a court-appointed lawyer representing abused children: **Everybody does it.***

District Court Judge Alicia Franklin, the subject of a criminal complaint alleging she broke the law by billing for more than 24 hours of work in a single day as a court-appointed lawyer in Child Protective Services cases, has explained the high hours by saying she was billing for work done by associates and support staff.

[Click here](#) to read the entire article, which also includes these quotes:

"It [the statute on payment of CPS ad litem fees] sure does imply that it has to be hours worked by the actual ad litem and, I would think, especially for substantive work as opposed to more clerical things," said Austin family lawyer Jimmy Vaught, chair of the family law section of the State Bar of Texas.

Vaught said he itemizes bills for private clients so they know what they are being charged for and said he would expect the same, or higher, standards for taxpayer-funded work. His predecessor, Houston family lawyer Sherri Evans, the immediate past chair of the family law section, noted that the statute says "shall" rather than "may."

*Arlington-based family lawyer Toby Goodman, a former state representative who authored the 2003 bill that put that family code provision into place, said he has no problem with court-appointed lawyers billing for work done by associates or support staff but would expect it to be meticulously itemized and for the rates charged to be different for work done by the lawyers versus work done by their associates and staff, as it is in the private sector. **"If this particular judge is billing 24 hours out a day for her time and it's not broken out, that's inappropriate," he said.***

...

***"If the story is that this is what everybody does, that doesn't make it right,"** she [Sherri Evans] said. Evans, the immediate past chair of the family bar, said she believes the system as it exists now is being abused and needs to be fixed.*

not wait months or years later to deal with the QDRO.

Judges and Commissioners Battle in Galveston County

A battle has erupted between all of Galveston County's judges on one side and the County Commissioner's Court on the other side. The fight could well result in lawsuits and mandamus actions in the court of appeals if reason does not prevail. Both sides are all Republicans and all are elected officials committed to efficient use of tax payer dollars and a well run justice system. People are really angry and this dispute will have political ramifications far beyond the issue at hand if a compromise is not reached.

In July, the Galveston County Commissioners court unexpectedly terminated Bonnie Quiroga, the County's Director of Justice Administration. This position served all of the courts and also oversaw departments such as pretrial release and the law library. None of the judges were consulted prior to Quiroga's firing and almost all of them were very upset by the move. Commissioners posted the job opening and narrowed applicants down to three finalists. However, District Judge Lonnie Cox issued a sua sponte order that declared Quiroga's firing illegal and unconstitutional and ordered commissioners to stop the stop the interview process. [Click here](#) to read Judge Cox's order.

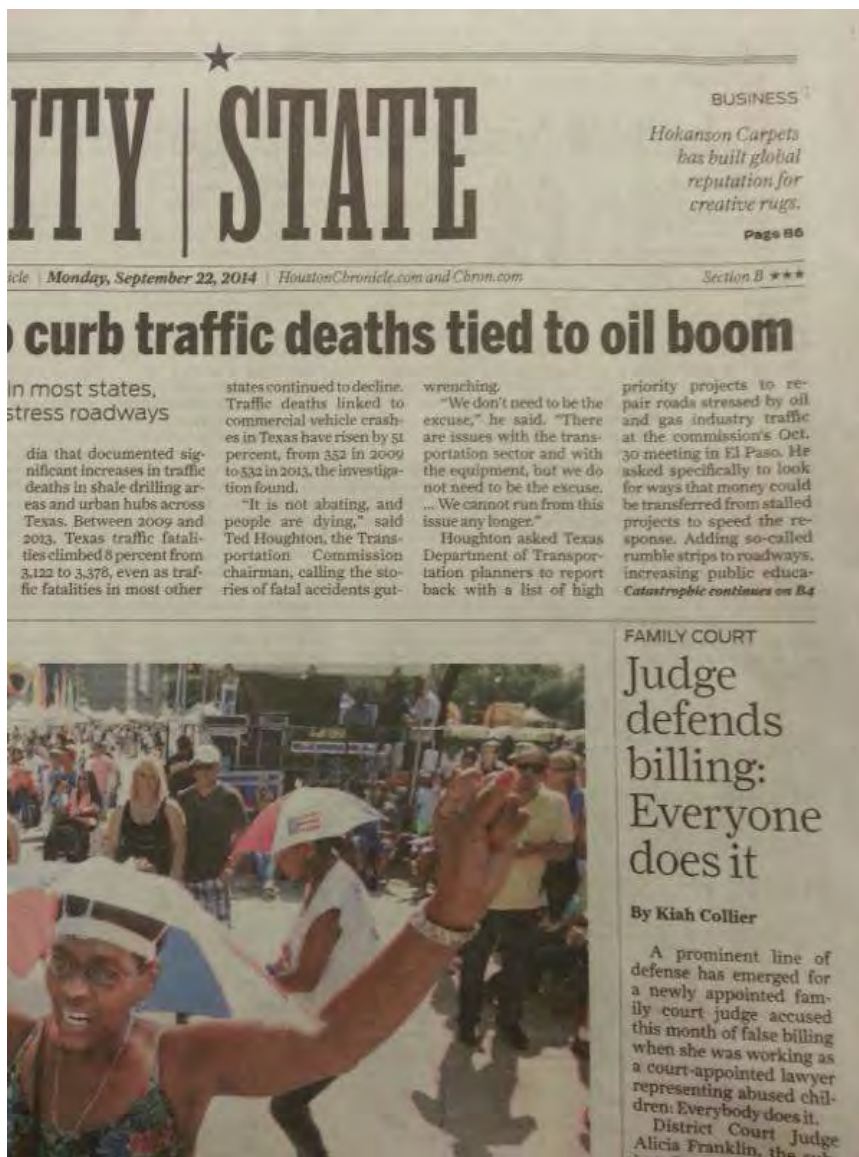
The State Office of Court Administration has stepped into the fray and requested an Attorney General's opinion and summarized the facts and law in a way that seems to support Judge Cox's position. [Click here](#) to read the request for an AG Opinion which provides "facts" that County Judge Mark Henry strongly disagrees with.

In the meantime, commissioners have hired an outside law firm and are prepared to file an application for writ of mandamus to declare Cox's order void. If that happens, then a lawsuit will probably be filed by either Ms. Quiroga or the judges to ask for a temporary restraining order that would likely result in an order enjoining the commissioner's court from hiring a new Director of Justice Administration.

All twelve judges just sent a conciliatory letter to the county commissioners suggesting that both sides meet to try to resolve the dispute. [Click here](#) to read the judges' letter.

Yesterday, the commissioners sent a letter back to the judges that makes it appear they are not very interested in compromise. [Click here](#) to see their letter.

I feel like the kid whose parents are getting divorce: the child just wants the grownups she loves to get along and stop arguing and make dinner! As an attorney, I want smoothly operating courts and judges who are not distracted by such controversies. As a tax payer, I want government funds not to be wasted on such squabbles.



If a teenager in my home gets caught plagiarizing others' work on a take-home history test from school, would I accept this defense?

Dad, everyone is doing the same thing I did! Plus, the teacher did not specifically tell me not to use what others had written and the test form did not have a specific place to note which work had been done by others and not me. Just because only my name appeared on the test papers and I signed them does not necessarily say that all of the work was by me!

I would expect even a 14 year old to know right from wrong and she would still be grounded at my house no matter who else was doing the same, unethical thing.

How Gary Polland Earns Million\$ on CPS Appointments

Gary Polland was able to earn over \$1.9 million in court appointments since 2010 using this simple strategy: get appointed a LOT and bill a LOT of hours every day. Polland's political clout in Republican primaries prompted Judges Devlin, Phillips, Schneider, Pratt, Millard and Lombardino to appoint Polland hundreds of times. Over 90% of Polland's appointments came from those judges.

Once Polland got the appointments, he often billed more hours than a mere mortal could possibly work in a day. The following chart summarizes Polland's work on October 1, 2013. The hours Polland billed for CPS home visits are shown in one column and all other "out of court" hours he billed for that day are in the next column. Appointed attorneys are paid flat rates for court appearances and, on this

All of the parties involved need to discuss the problem like adults and reach a solution. One possible solution would be to formally create the position of Court Administrator, who would be serve at the will of the judges, and move the administrative functions such as running the law library and pre-trial release to a county department that clear reports to the county commissioners.

Houston Press Investigates "Fathers for Equal Rights"

I run what is in theory a for-profit law practice and I charge \$150 for initial consultations with prospective clients. It seems odd for a volunteer provider of legal services to charge what is essentially a \$350 consultation fee that is not disclosed in any of its advertising.

The article in the September 20, 2014 *Houston Press* begins with these sentences:

We've been at it for a little while, and we still can't figure out what kind of business is being run out of suite 609 at 1314 Texas Street and what services their low-income clientele are getting for the hundreds they fork over. And we think that's the idea.

The office contains multitudes: Organizations operating there include "America Family Law Center," "Texas Volunteer Attorneys," "Fathers For Equal Rights," and "Children First Always." Ostensibly, they all offer access to family court attorneys and ill-defined "resources." But first, you must buy a membership, which isn't disclosed in any of the advertisements we've seen. And things just get weirder from there.

Documents provided to the Houston Press show how the businesses worked as of July 2013: Regardless of what organization's advertisement draws the person to the office, the client buys a membership with America Family Law Center. A contract we have shows the person paid \$350 for a three-month membership.

[Click here](#) to read the full article by Craig Malisow.



Proof That the Houston Chronicle Leans Democratic?

day, Polland only had one court appearance.

Gary Polland

CPS Charges Submitted to Courts - October 1, 2013 only

Submit Date	Billing Date	Cause #	Court	Home visit hours Visit Hours	Out of Court Hours	Court Appearances		Amount
						CPS	Juvenile	
10/01/13	10/01/13	11-04713J	313	5.00				\$ 200.00
10/01/13	10/01/13	13-04484J	314				1	\$ 125.00
10/01/13	10/01/13	13-00240J	313	5.00				\$ 200.00
10/02/13	10/01/13	12-0445J	315	5.00				\$ 375.00
10/02/13	10/01/13	12-06763J	313		2.00			\$ 100.00
10/03/13	10/01/13	13-54334	308		3.00			\$ 300.00
10/03/13	10/01/13	13-046330	313	5.00				\$ 250.00
10/09/13	10/01/13	12-05706J	313		2.50			\$ 125.00
11/14/13	10/01/13	05-54248	246		2.50			\$ 250.00
TOTALS				20.00	10.00		1	\$ 1,925.00

On this one day, Gary Polland billed for 30 hours of lawyer work and for one juvenile court appearance. [Click here](#) to see the actual invoices that Polland submitted for that day (children's names have been redacted).

I assume Polland will rely on the "Alicia Franklin" defenses that: (1) these hours billed include work done by an associate attorney or social worker, and (2) everyone is doing it. None of the invoices submitted by Polland say that any of the work was done by anyone other than Polland.

As noted in prior issues of this newsletter, it is clear that the law on billing by CPS appointees does not allow the attorney ad litem to bill for work done by others. [Click here](#) to read my article that provides the legal basis for this conclusion.

I am writing a letter to the District Attorney requesting that Gary Polland's billing in CPS cases be investigated and I am again asking Devon Anderson to recuse herself because of her political ties to Mr. Polland. I am not saying that Mr. Polland committed the crime of tampering with a government record by submitting false billing records on CPS cases. However, my criminal complaint sets forth the facts and law and asks for an investigation to determine if a crime has been committed.

Polland is the former Chair of the Harris County Republican Party and he has enormous political influence in Harris County Republican primaries, especially with judges, because he is one of the "Big Three" endorsers. It is virtually impossible to win a Harris County GOP judicial primary, even for an incumbent, without at least two of three endorsements from Hotze, Lowry or Polland. Unlike Hotze or Lowry, Polland is an attorney.

Every two years, Polland makes a lot of money from his business, Conservative Media Properties, LLC, doing business as the Texas Conservative Review, which endorses candidates in Republican primaries. Candidates give Polland money to pay for his mailers and local judicial candidates almost have to pay Polland because voters simply cannot know which of the dozens of judicial candidates are qualified. In election season, judges come to the attorneys asking for contributions, except for Polland. Unlike the rest of us, Polland is able to go to the judges and ask them for money. He is in a truly unique and powerful position (see story below).

I do not think our Republican District Attorney, Devon Anderson, who was endorsed by Polland and who appears at campaign functions with Judge Franklin, is going to seriously investigate either one. Anderson needs to recuse herself from the criminal complaints I have filed.

The *Houston Chronicle* has made endorsements for the six contested family law benches in Harris County. The *Chronicle* editorial board selected five Democrats and one Republican:

246th Family District Court: Sandra Peake, Democrat

247th Family District Court: Clinton "Chip" Wells, Democrat

280th Family District Court: Barbara Stalder, Democrat

308th Family District Court: Jim Evans, Democrat

309th Family District Court: Sheri Dean, Republican

311th Family District Court: Sherri Cothrun, Democrat

In sharp contrast to the *Chronicle*, the bipartisan Political Action Committee, **Family Lawyers for Good Judges**, conducted a judicial candidate forum and interview process and has endorsed the following candidates for family courts in Harris County:

Lynn Bradshaw-Hull (R), Charley Prine (R), John Schmude (R), James Lombardino (R), Sheri Y. Dean (R), and Sherri Cothrun (D).



Proof that God (or Mother Nature) Leans Republican?

The Democratic candidate for State Representative, former Galveston County District Judge Susan Criss, had a bad day two weeks ago. Was it simply a series of random occurrences or the acts of a higher power? First, Criss was caught in a sudden rain storm walking into the courthouse and her dress and hair were soaked. Fortunately, clerks and friends at the courthouse found a hair dryer and a jacket for Criss.

Then, Criss discovered that her week of being assigned the felony jail jail docket would thrust her in front of the media in a way most political candidates would prefer to avoid.

A fugitive from Virginia, suspected of kidnapping and killing a missing college coed, had been arrested in Galveston County and Criss got to provide him legal advice in a courtroom filled with news media - not the best exposure for a candidate trying to win a very



tight election contest.



[Click here](#) to read the story from the *Galveston Daily News* that addresses several conspiracy theories arising from Criss' exciting day.

Who Gets to Use the Courthouse for Paid Mediations?

It would not seem proper for a for-profit flea market to operate in the rotunda of the court of appeals building or a used car lot to be run at the top level of the county parking garage. How then could it possibly be right for an attorney to be allowed to use a courtroom for private, paid mediations? How much influence and stroke would a lawyer have to be able to openly schedule mediations in a courtroom?

Cause No. 2001-48545 was a child custody modification suit. The parties mediated temporary orders with Mary Ellen Hicks. Judge Lisa Millard appointed Gary Polland to be mediator without a request from either party or the amicus once the case was set for a jury trial. Polland eventually wrote the parties to schedule the mediation in a courtroom of the Juvenile Courthouse.

Re: Cause No. 2001-48545; *Kelli N. Gothard v. Chris A. Kruppa*; In the 310th District Court, Harris County, Texas

Dear Counsel:

This letter is to inform you that the mediation in the above matter will be set on **April 4, 2012 at 1:30p.m.** at the 7th floor alternate courtroom in the Juvenile Justice Center at 1200 Congress, Harris County, Texas.

Please confirm availability for this date and forward the mediation fee as well as any pleading filed with the court as soon as possible.

Thank you in advance for your cooperation.

Yours very truly,

Gary M. Polland

GMP:kle

Polland charged \$650 per party for the half day mediation. One party and attorney were put in the in the main courtroom and the other side was in a conference room across the hall from the courtroom. Polland did get the case settled.

I have these questions:

- How many times has Polland been allowed to conduct mediations in private cases in the courthouse?
- Can any attorney sign up to use the courthouse for mediations like this?
- Which judge authorized the use of county facilities for a private, for-profit business activity?
- Did Polland pay the county any rent for use of the courthouse?

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.







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The Mongoose

Published by Greg Enos

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**Please forward this e-mail newsletter to everyone
who cares about our family courts!**

[Click here](#) for an archive of past issues of *The Mongoose*.



***"Together, attorneys can
improve our family courts!"***



[Click here](#) to be inspired by an amazing video of a mongoose taking the fight to a pride of lions. I have seen the same look of surprise that those lions showed on the faces of a few judges in the last few years.

First, I have a correction to make. There is a Texas Family Law Practice Manual Form for a Motion to Enter QDRO, form 25-41.

Gary Pollard at least reads *The Mongoose*. Pollard once almost always billed 5.0 hours for every single home visit that someone in his office did. Now, after I reported that odd fact, Pollard has started billing in less round, less easy to question amounts. In Cause No. 2014-41117, Pollard submitted an invoice to Judge Lombardino claiming that Pollard spent 4.2 hours on August 29, 2014 for a home visit with the mother and to prepare a report. The attorney for the mother e-mailed me to say:

Pollard did visit with my client on August 29, 2014 (Friday) from about 4:45 to about 5:15 p.m. [30 minutes total] I have a tape recording of the home visit.... The drive according to MapQuest (59 to 45 south. Freeway miles) from Pollard's office to my client's home is 8.12 miles – about 11 minutes. Pollard billed 4.2 hours for 8/29/2014 –that is impossible. Gary's report [on the home visit] was about two pages long and he had about six pictures.

Unless traffic was really bad that day, it would appear Mr. Pollard still has record keeping problems with recording the accurate amount of time spent on CPS cases. At least Pollard attended that home visit himself instead of sending an associate or social worker.

The Board of Family Judges met and decided not to follow the example of Judges Farr and Hellums regarding CPS ad litem appointments and fees. The most the judges could agree to do was require ad litem to clearly state on their fee applications if any of the work was done by someone else. [Click here](#) to see the administrative order that will apply to all CPS cases in the nine family courts in Harris County. So, the politically connected favorites will still get a lot of appointments in some courts and they will be allowed to bill the county for work done by associates and social workers despite the fact it does not appear to be legal for them to do so.

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Reform and change will not always happen as fast as it should, but the fight goes on!

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who bill honestly and zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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When Is It Too Late To Enforce Temporary Orders?

Typically, a temporary order expires with the entry of a final judgment. *Coleman v. Texas State Dep't of Welfare*, 562 S.W.2d 554, 556 (Tex. Civ. App.—Tyler 1978, writ ref'd n.r.e.). However, the general rule is that the rendition of a divorce decree does not itself nullify any temporary order. *Pettus v. Pettus*, 237 S.W.3d 405, 416 (Tex. App. - Fort Worth 2007, pet. denied), *Ex parte Shaver*, 597 S.W.2d 498, 500 (Tex. Civ. App. - Dallas 1980, orig. proceeding); *Villarreal v. Villarreal*, No. 14-04-00071-CV (Tex. App. - Houston [14th Dist.] Nov. 23, 2005, no pet.)(mem. op.).

Temporary orders can be enforced after entry of the final decree of divorce unless the decree itself discharges the parties from obligations under the temporary orders. *Ex parte Shaver*, 597 S.W.2d 498, 500 (Tex. App. - Dallas 1980, no writ).

The Texas Family Law Practice Manual provides these two different options for a divorce decree regarding temporary orders:

IT IS ORDERED AND DECREED that all obligations and duties for temporary support [and/or other obligations; include specific nondischarged obligations] imposed by the temporary orders of this Court that are not yet discharged shall survive this judgment, and independent enforcement may be sought.

OR

IT IS ORDERED AND DECREED that Petitioner and Respondent are discharged from all further liabilities and obligations imposed by the temporary orders of this Court rendered on ____.

Tex. Family Code Sections 157.004 and 157.005 provide deadlines to file enforcement actions regarding possession and child support, but neither has any specific provision regarding enforcement of temporary orders. Section 6.506 states simply that violation of a temporary injunction is punishable as contempt, but provides no deadline to bring a contempt action.

Thus, temporary orders can be enforced after rendition or entry as long as the final order does not discharge the parties from their obligations under the temporary orders. Settlement agreements often do not resolve this issue.

There is usually a period of several weeks between rendition (when the judge rules) and entry of the final order. The case law makes it clear that the temporary orders remain in effect until the final order is signed. *Pettus v. Pettus*, 237 S.W.3d 405, 416 (Tex. App. - Fort Worth 2007, pet. denied). Some older cases suggest that temporary orders can continue after the final order if the final order does not change those temporary orders. See e.g., *Mathis v. Mathis*, No. 04-95-00386-CV, 1996 WL 668849, at *3 (Tex. App.-San Antonio Nov. 20, 1996, no writ) (not designated for publication) (holding that trial court had discretion to continue temporary orders, which stated that they would "continue in full force until the signing of the final decree or until further order" of the court, after entry of decree).

A Business Owner May Testify as to the Company's



Supreme Court Justice Suspended Because of Porn E- mail Scandal

[Click here](#) to read about the suspension of a Pennsylvania Supreme Court Justice over his participation in a state government pornographic email scandal that involved employees of the attorney general's office.

Voting Has Begun and Democrats in Harris County Have Hope!

Early voting for the Texas November 4, 2014 general election started on October 20 and runs through October 31. Harris County registered voters can (with proper photo ID) early vote at any of 41 early voting sites. [Click here](#) for a schedule of early voting and map showing all the different early voting locations.

There is actually hope for Democrats in Harris County according to a public opinion poll conducted for KHOU by the Survey Research Center, University of Houston Center for Public Policy & Rice University. The statewide survey was of 781 likely voters and the Harris County survey was of 325 likely voters. The Harris County margin of error is +/-5.4%. The survey conducted from September 22 - October 15, 2014 showed:

Governor

If the 2014 general election for Governor were held today, would you vote for?		
	Harris County	State
Democrat Wendy Davis	40%	32%
Republican Gregg Abbott	35%	47%

District Attorney

If the 2014 general election for Harris County District Attorney were held today, would you vote for?	
	Percent
Kim Ogg	22%
Devon Anderson	23%
Someone else	4%
Haven't thought about it enough to have an opinion	45%

Party Affiliation

Value as a Fact Witness

A business owner, including a shareholder of a closely held corporation, can testify as to the company's value and does not have to be designated as an expert witness.

Red Sea Gaming, Inc. v. Block Investments (Nevada) Co., 338 S.W.3d 562 (Tex. App. - El Paso 2010, pet. denied) is an opinion by Justice Anne McClure, which mostly quotes cases from the Houston 14th Court of Appeals and states in part:

A property owner is qualified to testify to the market value of his property. *Redman Homes, Inc. v. Ivy*, 920 S.W.2d 664, 669 (Tex.1996). The testimony must indicate that the owner's assessment is based on the market and not on the intrinsic value of the property to him. *Jabri v. Alsayyed*, 145 S.W.3d 660, 667 (Tex. App. - Houston [14th Dist.] 2004, no pet.). Most recently, the 14th Court of Appeals concluded that the property owner rule applies to corporate entities owning property and that a representative of the corporate owner who is familiar with the market value of the property in question may testify under this rule as to the market value of the property, without being designated as an expert witness. *Speedy Stop Food Stores, Ltd. v. Reid Road Municipal Utility District No. 2.*, 282 S.W.3d 652, 659 (Tex. App. - Houston [14th Dist.] 2009, pet. filed). That court has also held that the sole shareholder and president of a closely held corporation can testify as to the value of property of a corporation. *Bower v. Processor and Chemical Service, Inc.*, 672 S.W.2d 30, 32 (Tex.App.-Houston [14th Dist.] 1984, no writ).

....

Here, Papachado [a shareholder in the corporation] testified as a lay witness, not as an expert. His testimony was rationally based upon his perception of the partnership's market value and was helpful to a determination of a fact issue. See TEX.R.EVID. 701. We thus disagree with Block's reliance upon *Collins* [*v. Collins*, 904 S.W.2d 792 (Tex.App.- Houston [1st Dist.] 1995, writ denied)], in which the court focused on expert opinion testimony. Papachado was not required to be designated as an expert in order to give lay opinion testimony of value. We find no error in the admission of his opinions.

The "No Shame, No Consequences" Power Trip

Attorney Doug York is taking cases in the court where his fiancée, Judge Alicia Franklin, presides. If you want a case out of the 311th, York is the attorney to hire. Both York and Franklin should have enough sense and ethics to realize that York should simply not accept cases that are already pending in the 311th, especially those cases where Franklin has already heard something or where there is already a hearing set. Franklin should not automatically recuse herself in cases where York allows himself to be hired knowing the case is in his wife-to-be's court.

In Cause No. 2004-02532, *Sheikh v Sheikh*, a final divorce decree was entered in the 311th in March 2005. The ex-wife's attorney, Scott Boyd requested a writ of execution on July 18, 2014 to try to collect on the 2005 divorce judgment. In September 2014, a Fort Bend Constable seized a house belonging to the ex-husband worth about \$152,000. The ex-husband hired a lawyer to get a temporary restraining order to stop the writ execution because he claimed he had satisfied the nine year old divorce judgment. Judge Alicia Franklin on October 3, signed the ex-husband's proposed TRO and temporarily halted all collection efforts.

The ex-wife, who already had a lawyer, hired Judge Franklin's fiancée, Doug York, for this case that was obviously pending in the 311th, had been ruled on by Franklin and was set for a hearing on October 9. On October 7, York filed an Answer for the ex-wife and a motion to recuse Judge Franklin. [Click here](#) to see York's motion to recuse his betrothed. Without any notice to the other side and with no hearing, Franklin granted York's motion and recused herself on October 8. The ex-husband's frantic efforts to stop execution on the judgment were temporarily stopped because of York and Franklin's actions. The case was transferred to the 246th on October 14.

This is not the first time that York has allowed himself to be hired on a case pending in his sweetheart's court. In July 2014, just after Franklin took office, York allowed

VOTER AFFILIATION		
Generally speaking, would you say that you usually think of yourself as a ...		
	Harris County	State
Democrat	34%	29%
Republican	34%	40%
Independent	26%	24%
No answer/refused	6%	7%
Total	100%	100%

Plans to Vote Straight Ticket

In this November's election will you vote for all Democratic candidates, all Republican candidates or will you vote for some Democratic and some Republican candidates?		
	Harris County	State
All Democrats	26%	20%
All Republicans	21%	28%
Some Democrats and some Republicans	45%	46%

[Click here](#) to read about a recent survey of professional political pollsters who collectively say fewer people are responding to polls this year, compared to 2012. Most pollsters expect greater polling error this year - that is, the difference between what the latest pre-election polls show and actual vote margins. One big problem is too few home phone lines and no sure way to reach cell phone users (which under counts the young and poor). If you are just interested in politics and analysis of the 2014 and 2016 campaigns, you need to [click here](#) to go to Electoral-Vote.com, the best web site analyzing political trends I know of.

Lest we forget history, in 2010, the last off-year election, Bill White barely beat Rick Perry in Harris County 50% to 48%, yet the Republican judicial candidates all won. In 2010, straight ticket voting went 290,355 Republican and 240,479 Democratic. The early voting and mail-in ballot carried the day for the Republicans because the straight ticket voting was about even in ballots cast on election day. The Republican family court candidates in 2010 all won with about 55% of the vote.

It is not clear how to interpret this, but the number of voters showing up in person this year at Harris County's 41 early-vote locations was down by 25 percent for the first two days of early voting compared to 2010. However, the number of mail-in ballots received was up 66% over 2010. This could be significant because Republicans in Harris County have always won big in early voting and mail-in ballots and the Democrats did much better in votes cast on election day. This year, Battleground Texas made a concerted effort to get older Democrats to vote by mail to counter the traditional Republican advantage. We will not know for sure until votes are counted, but this could mean that fewer Republicans are voting early and the Democrats may have matched them in mail-in ballots.

I will send out an early morning Election

the husband in a divorce, Cause No. 2013-72353, to hire him the week before a hearing on temporary orders. [Click here](#) to read the Motion to Recuse York filed on July 18 just before the hearing set for July 22. Unfortunately for York, the wife was represented by Marcia Zimmerman and Ms. Zimmerman is a lawyer unwilling to be intimidated by anyone. Zimmerman called York's office, York e-mailed Zimmerman and she replied, York replied and then Zimmerman shared the exchange with dozens of attorneys (who then forwarded the e-mails to even more lawyers). Below are excerpts of the spirited exchange of very different views on ethics between York and Zimmerman. Ms. Zimmerman gave me permission to use these e-mails.

Monday, July 21, York to Zimmerman:

....First off, I will address your remarks on a professional level because I am hoping you have mis-spoke or that something has been lost in translation.

1) Are you angry because I actually made a business decision and took a case that happened to be in the 311th? (If this is so, would you be willing to pay me each and every retainer that you think I should pass up just because there is a case in the 311th? I will be happy to do such). (I am positive that you would not lose thousands upon thousands of dollars yourself so hopefully this is not what you're angry about). (If you actually want me to pass up EVERY case that is in the 311th, then that is illogical and I refuse to make such a bad business decision, and I'm sure people would never think that I should. If they do, then they too can contribute to giving me money for all retainers I pass up).

2) I do not know what you and Judge Franklin discussed previously, but I'm positive she would not indicate that any business lose money, including yours, when a case could be transferred while keeping all ethics in line and above board.

3) You may be unenlightened on the recusal process. The case goes to Judge Underwood, who then tells Judge Farr to assign it to another court. There, it is once again placed in a random delivery (just like a new filing) and assigned to a court WITHOUT any input from me, you, or Judge Franklin. I now want you to explain how this could be "forum shopping" when I haven't a clue on what court this will land in? Please tell me you did not make such a serious accusation against myself and Judge Franklin. I also want you to confirm that you have accused myself and Judge Franklin in being involved with a scheme to "forum shop." This is a very serious accusation that shall be dealt with immediately. Neither her or myself take these accusations lightly. My hope is that you were just uneducated about the process, and that you did not actually accuse us of intentionally "forum shopping."

4) Did you actually want this case to remain in the 311th knowing there is a conflict or something? Even if you wanted it to remain there, I would still have Judge Franklin recused because we do not want to be blamed for ANY appearance of impropriety.

5) IF (and I say a strong "IF" here hoping you actually did not say such things and it's just been translated wrong), you actually did say those things to my legal assistant, now would be a very good time to apologize.

6) I am away on vacation, and as such there is nothing more for me to respond to, or call you because you "demand an explanation." I will not disrupt any further vacation to address this in hopes you spoke out of merely not knowing how things work.

Thank you, and I will address any further issues upon my return,

-Doug York

Monday, July 21, Zimmerman to York:

....And yes, I think you should refuse to take cases in the 311th because it is forum shopping. Someone can hire you if they don't want to be in that court. There are eight other family courts and I'm sure you will make plenty of money if you refuse 311th cases. I guess we have a difference of philosophy. Good to know for the future.

Monday, July 21, York to Zimmerman:

This is a new filing. To possibly lose thousands upon thousands of dollars is so illogical I won't even address that. Are you accusing me of forum shopping in this case?

Results issue of the *Mongoose* on November 5 to let you know who won.

Bar Poll: Good Thing Lawyers Don't Elect Judges?

The Houston Bar Association Judicial Preference Poll results were good news for a few incumbents: Judges Bradshaw Hull, Dean and Devlin. Judges Phillips and Lombardino proved not too popular with attorneys, but Charley Prine was favored over his opponent. Judge Alicia Franklin and Republican nominee John Schmude were crushed by their opponents, Sherri Cothrun and Chip Wells.

Houston Bar Association Judicial Preference Poll Results - 2014

Court	Candidate	Party	Votes	%
Sup. Ct.	Nathan Hecht	R	965	70%
Chief	William Moody	D	291	21%
Justice	Tom Oxford	Lib	118	9%
246th	Sandra Peake	D	355	47%
	Charley Prine	R	393	53%
247th	John Schmude	R	254	38%
	Clinton "Chip" Wells	D	420	62%
280th	Lynn Bradshaw Hull	R	649	55%
	Barbara J. Stalder	D	539	45%
308th	Jim Evans	D	441	56%
	James Lombardino	R	342	44%
309th	Sheri Y. Dean	R	432	55%
	Kathy Vosler	D	354	45%
311th	Sherri L. Cothrun	D	476	62%
	Alicia Franklin	R	290	38%
313th	Glenn Devlin	R	423	55%
	Tracy D. Good	D	351	45%
314th	Natalia Oakes	D	400	53%
	John F. Phillips	R	348	47%

I will always remember a former Associate Judge, who explained in a "Father Guido Sarducci" voice that his boss, the elected judge, knew that attorneys do not elect judges, they just supply the money for the judges to run with. Fortunately for some candidates, judges are indeed elected by a vast pool of voters who cannot possibly know them or their qualifications. Straight ticket voting, turn out and the whims of the 10% of voters in the middle will determine which judicial candidates are elected in two weeks.

NEVER BE AFRAID TO
RAISE YOUR VOICE FOR
HONESTY AND TRUTH AND
COMPASSION AGAINST
INJUSTICE AND LYING AND
GREED. IF PEOPLE ALL OVER
THE WORLD WOULD DO
THIS, IT WOULD CHANGE
THE EARTH.

— WILLIAM FAULKNER

A Horrifying Book about

-Doug York

Monday, July 21, Zimmerman to York:

No, I'm not accusing you of anything other than taking a case that you knew was in your fiancée's court and I think you should have refused or referred it because it creates the appearance of impropriety. Regardless of your motives (which appear to be money), the result is that a party can get out of the 311th if they hire you.

Monday, July 21, York to Zimmerman:

My motives are to assist my clients in their time of need. Your position I disagree with wholeheartedly as it would restrain clients from THEIR choice of attorneys. They have that right. Since I cannot understand your position we'll leave it at that. Thank you for clearing up the fact that you have not accused me of impropriety and that I have done nothing ethically wrong.

-Doug

Wednesday, July 23, Marcia Zimmerman to many attorneys:

You are receiving this because you may be interested in the email exchange which took place while Mr. York was vacationing in Europe with Judge Franklin.

The case at issue is not a new filing but has been pending in the 311th Court since December 3, 2013.

Marcia Zimmerman

After I saw this e-mail exchange and talked to both Zimmerman and York (who returned my call from Europe), I wrote an article in the August 3 edition of *Mongoose* that provided advice to any lawyers whose relative was a family court judge. Here is part of what I wrote at the time, which I can only assume that York missed while on his three week European vacation with Judge Franklin:

So, here is my unsolicited advice to any lawyer whose spouse (or domestic partner or fiancé or parent or child or sibling) is a judge:

- If you file a new case and it lands in your spouse's court, you keep the case and the case is again randomly reassigned. No one can say you are taking advantage of the system in that situation.*
- If a client comes to you with a case that has been pending in your spouse's court for a while and hearings have been held, you do not take the case unless all of the opposing attorneys have no problem with the fact that the case will be removed. The best practice is simply to turn away such cases because some attorneys may feel uncomfortable telling you "no" in a case where your spouse is the judge*
- If a new case filed by someone else lands in your spouse's court, no hearing has been held and the respondent wants to hire you, I think that as long as the client knows the case will be moved and as long as you are not delaying an already set hearing and only if opposing counsel agrees, you can take the case and it will be transferred to another court. If a hearing is already set and the opposition does not want it reset or wants the case to be in your spouse's court, then you decline the case and send the prospective client to another lawyer.*

....

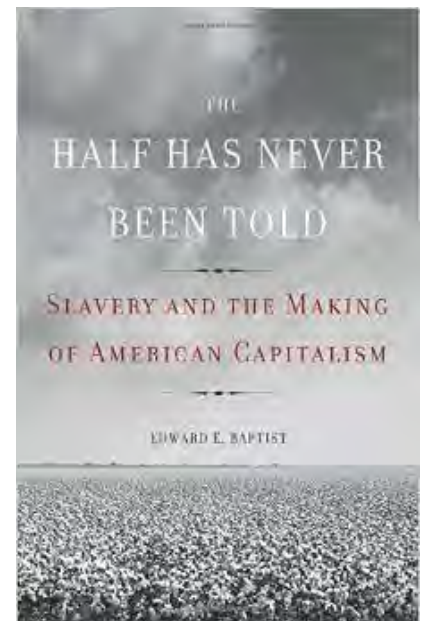
*Any lawyer married to a judge enjoys a lot of benefits, including socializing with other judges and access to information most attorneys can only guess at (unless they read this newsletter). A lawyer married to a judge probably gets business just because people assume he or she has special clout in the court. On the other hand, being married to a judge has some downsides, including all of the boring political events that must be attended. A judge's spouse cannot freely speak her mind on Facebook and certainly cannot appear to throw her weight around with other lawyers simply because she is married to a judge. **Most importantly, the spouse of a judge owes it to the judge not to take any cases that might potentially embarrass the judge or cause people to think there is something improper going on.***

A judge's spouse must err on the side of caution and turn away cases to avoid

American Capitalism and Slavery

American exceptionalism causes many to truly believe the United States is the best, most free nation that ever existed. It is possible to love our country but still acknowledge some aspects of the past that are shameful.

The Half Has Never Been Told: Slavery and the Making of American Capitalism by Edward Baptist is an amazing book that explores in surprising new detail how slavery and capitalism developed in the United States.



The organized horror and inhumanity of slavery that played such an important role in the growth of the entire country was as bad as anything Stalin did in the Soviet Union or Belgium did in the Congo and worse on a grander scale than what the British did to the Boers in South Africa (when the phrase "concentration camp" was invented).

It is shocking to read about mortgages and repossessions on human beings, fancy financial products that allowed investors all over the world to finance collateralized people, and the cruel methods used to increase productivity in the cotton fields. The reader is introduced to terms such as "the pushing system" or "fancy girl" and learns of the Financial Panic of 1837 (which should make the U.S. now cut a little slack for Latin American countries that default on their loans since that is what we did back then), and the forced migration of perhaps a million slaves to labor camps on what was then the frontier.

Some of the facts in this book will astound you. For example, in 1840, about 20% of the entire wealth of the United States was the total value of enslaved people. Extremely fair skinned people were held as slaves, because a person's status as a slave was determined by his or her mother's status. If a woman, who was a slave, was one-sixteenth black (great-great grandmother was black) and she was impregnated by a white owner, then her child was a slave even if he would have looked

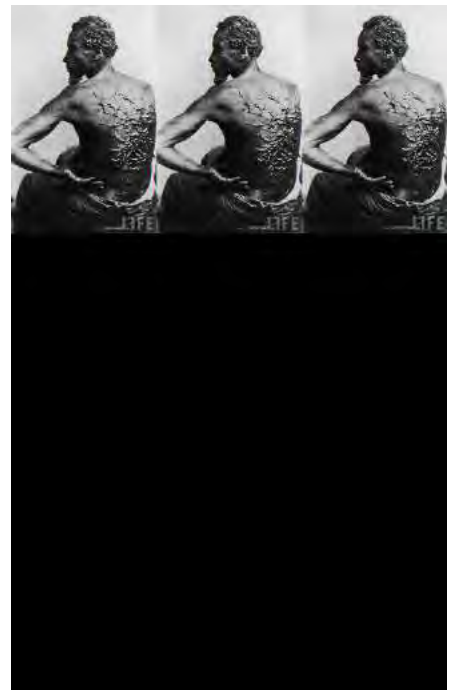
A black and white photograph of a large crowd of men in military uniforms, likely soldiers, standing in formation. The text "Be this guy" is overlaid in yellow on the left side. A red circle highlights a man in the crowd on the right side.

$\frac{1}{2} + \frac{1}{4} = \frac{2}{4} + \frac{1}{4} = \frac{3}{4}$ call this a (width) $\frac{3}{4}$ having life time $\frac{1}{4}$ of $\frac{1}{2}$ or of prime number
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One story in the book of a divorce of a slave slave owning couple in Louisiana should have particular resonance with family lawyers, since the men, women and children the spouses owned were treated like we would handle furniture in a divorce today.

This book provides a glimpse into our country's past that is harrowing but essential for all Americans to know. Our kids never get the full picture of slavery in history class or the shameful truth of how slavery fueled the growth of our young country.

There is a lot to be learned from history and Americans would do well to know more about our nation's past, including the events that are not so glorious and inspiring.



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos





Issue: No. 53

October 31, 2014

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Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.



*"Together, attorneys can
improve our family courts!"*

In this Issue...

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[A Party Can Testify About the Value of
Property, Part 2](#)



A Party Can Testify About the Value of Property, Part 2

In my prior issue, I wrote that the owner of a business may testify as to the value of the business and does not have to be designated as an expert witness. *Red Sea Gaming, Inc. v. Block Investments (Nevada) Co.*, 338 S.W.3d 562 (Tex. App. - El Paso 2010, pet. denied)

Galveston County has gone nuts (again). Republican judges are battling Republican County commissioners. The war of words has escalated to lawsuits and mandamus actions and has exposed a rift among our elected officials that is hard to see ever being healed or ignored. A few Republican elected officials are secretly rooting for an independent candidate with a loose grasp on reality to defeat our Republican County Judge while other Republicans are already lining up primary opponents for GOP judges for 2016.

It looks like the disagreement is over one particular personnel decision and some budget issues, but those disagreements are really a proxy for a much deeper political feud between just a few officials that has drawn their fellow officeholders into a truly embarrassing fracas. Much like our despised Congress, it appears that our local leaders are busy fighting each other instead of working together for the common good.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm

Probate Judge Kim Sullivan Sues Commissioners

Galveston County Probate Judge Kim Sullivan has filed a lawsuit against County Commissioners because they reduced her pay by \$5,000 per year. Even though Galveston County has only one probate judge, that judge is designated as the Administrative Statutory Probate Judge and she received an extra \$5,000 per year

from a dedicated fund created by filing fees in probate cases. The County Commissioners decided Judge Sullivan did not need to be paid to administer herself. So, they voted to eliminate that extra pay even though it is not paid from the county's general fund and even though they were reducing the pay of a well thought of, fellow Republican. This vigorous cost cutting by commissioners amounted to less than 0.0004% of the annual county budget, but it really angered Judge Sullivan.

[Click here](#) to read the lawsuit filed by Alton Todd for Judge Sullivan against County Judge Mark Henry and his fellow commissioners. FYI: I checked, and Mr. Todd does not currently have any cases pending before his new client, Judge Sullivan.

I am all for using tax dollars wisely but there is such a thing as being "penny wise and pound foolish." The obsession with cutting even small items from the budget may allow commissioner's court to brag about reducing overall spending, but is it wise? How much will the county now have to spend with outside counsel to fight this lawsuit? How much bad blood was created with this move? Four of five members of the commissioner's court are Republicans. Why would they do this to a well liked, fellow Republican?

Judge Henry would point out that the county obtained an Attorney General's opinion that said they were not required to pay the extra money to the probate judge. [Click here](#) to read that opinion. Henry also notes that all of the judges, including Judge Sullivan, recently received an \$18,000 per year raise.



Mandamus Response Reveals Sordid Details

All ten elected Galveston County judges (9 Republican, 1 Democrat) are really mad that Republican County Judge Mark Henry fired Bonnie Quiroga, who had been the Director of Justice Administration. The judges felt that Quiroga worked for them and all were surprised that Henry suddenly terminated her without even consulting or forewarning them. District Judge Lonnie Cox issued a sua sponte order that declared the firing illegal and ordered the commissioners to stop interviewing for a replacement. Commissioners hired an Austin law firm and filed a mandamus action against Cox, who is the "Godfather" of local GOP politics. Attorney Mark Stevens filed a lengthy response for Judge Cox.

[Click here](#) to see the entire mandamus response. [Click here](#) to read the interesting allegations contained in the long affidavit of Bonnie Quiroga and the shorter affidavit from Judge Cox.

Several readers wrote to remind me about limitations on that general rule, most notably the notion that the business owner must be able to explain the basis for her opinion as to value.

Natural Gas Pipeline Co. of America v. Justiss, 397 S.W.3d 150 (Tex. 2012), was a nuisance suit for damages, not a divorce. However, the rule articulated by the Texas Supreme Court should apply in divorce cases when a spouse testifies what the family business. In such a situation, the spouse must also explain what that opinion is based on.

The Supreme Court stated:

Because property owner testimony is the functional equivalent of expert testimony, it must be judged by the same standards. Thus, as with expert testimony, property valuations may not be based solely on a property owner's ipse dixit [bare assertion]. An owner may not simply echo the phrase "market value" and state a number to substantiate his diminished value claim; he must provide the factual basis on which his opinion rests. This burden is not onerous, particularly in light of the resources available today. Evidence of price paid, nearby sales, tax valuations, appraisals, online resources, and any other relevant factors may be offered to support the claim. But the valuation must be substantiated; a naked assertion of "market value" is not enough. Of course, the owner's testimony may be challenged on cross-examination or refuted with independent evidence. But even if unchallenged, the testimony must support a verdict, and conclusory or speculative statements do not.

Thus, the spouse who testifies his auto repair business is worth \$200,000 should be asked what that opinion is based on and he should say he checked with a business broker, his banker and owners of several other similar businesses. The spouse cannot simply just say his business is worth \$200,000 without an explanation.



Attorneys Cannot Bill Clients for Motions to Withdraw

A lawyer cannot bill her client for the time

One part of Quiroga's affidavit disparages the "Veteran's Court" run by Judge Henry, for which he is paid an extra **\$15,000** per year. The affidavit alleges that only four cases have been referred to the court in 2014. She says litigants are required to salute Judge Henry as he sits on the bench and the name plate on the bench says, "Maj. Mark A. Henry/USAF (Ret.)." I am sure that Judge Henry would point out that this is a new program and helping military veterans caught up in the criminal justice system is a worthwhile effort.

Quiroga also says in her affidavit that County Judge Henry, who is not a lawyer, is also paid another extra **\$15,000** per year by the county to serve as a magistrate and set bonds for those newly arrested. Quiroga's affidavit details the **\$10,000** spent by the county to set up a video system so that those newly arrested can appear before a magistrate via video link. She says that the county IT Department, at the direction of Judge Henry, "had installed motion activated audio/video equipment in the Galveston County Jail in a manner which would permit the County to monitor conversations between inmates and their attorneys in a room commonly used for consultation between inmates and attorneys, as well as Parole Board Hearings." It would appear that Ms. Quiroga is setting forth the basis for a "whistle blower" lawsuit, since she says she reported her concerns about these cameras to District Attorney Jack Roady the day before she was fired.

Quiroga's affidavit, which also describes a list of "Democrats" Commissioner Ken Clark allegedly gave Judge Henry to fire when he took office, definitely makes for interesting reading.

Unfairly, Judge Henry is not really in a position to respond in detail to the affidavit because of the pending litigation. Henry definitely feels he had ample reasons and the clear authority to fire Quiroga. I assume Henry would characterize most of Quiroga's allegations as the untrue statements of a disgruntled, fired employee. However, had Quiroga been allowed to retire with dignity after her many years of service in a way that did not ruffle the feathers of the judges, none of this dirty linen would have presumably been aired for all to read and the current Republican-on-Republican feuding and costly litigation could have been avoided.

I am writing here about a story that involves nothing but friends and it is perilous for me to say anything about this controversy, but I of course cannot help myself. I think the world of Bonnie Quiroga and yet I consider Mark Henry a friend. I respect Judge Cox, but, I know what a political animal he is and I can clearly see that so much of this arises from a feud between Cox and Henry that each says the other provoked. I can look back now and see the missteps and sources of this controversy and I can even suggest a compromise (if the two sides would even talk to each other).

Above all, I do know this: the county is now spending a lot of money and time on attorneys. The county will spend even more on attorneys if it wins the mandamus action (as I predict) but the judges or Quiroga immediately file a lawsuit. The position of Justice Administration is empty and all of the county's elected leaders are fighting each other. Our elected judges do not work for county commissioners and there are some things more important than saving a few dollars in the budget (or playing tricks and making it look like you reduced the budget). Mainstream Republican officials will never be popular with the Tea Party extremists and the typical suburban voter in League City and Friendswood does not care that much about small savings in the county budget. All voters do want our elected leaders, especially those of the same party, to get along and work together as a team.

The county should pay a modest settlement to Ms. Quiroga (a fraction of what it will spend on legal fees) and create an office of Court Administrator that clearly only works for the judges. The Director of Justice Administration can report to the County Judge. The duties of the two would be separated by negotiation between Henry and the judges. This would require one extra employee for a county with an annual budget of over \$123 million. Judges Cox and Henry should go on a long trek in the wilderness together to get to know, trust and like each other and Kim Sullivan should be paid her stinking \$5,000 extra a year. Commissioners should regularly spend time in court watching the judges in action and the judges should acknowledge that taxes and expenditures are the responsibilities of the commissioner's court. Above all, our leaders should replace egos and vendettas with common sense and resolve this mess and just get on with the business of government. This is not really about which side is right or wrong (or a little of both), it is about the effective and common sense operation of government.

spent preparing a motion to withdraw from the client's case. *Lee v. Daniels & Daniels*, 264 S.W.3d 273, 278 (Tex. App.-San Antonio 2008, pet. denied). In that case, the attorney's engagement letter said the client would, "pay for all time spent, costs and expenses incident to withdrawal as attorney of record to include, but not limited to, airfare, mileage, motel, and lodging."

The Court of Appeals held:

Daniels [the attorney] sought reimbursement for all time spent in his efforts to terminate his attorney-client relationship with Cummings [the client] including time spent adversarial to his own client. None of that time was spent engaged in "legal services" performed or rendered on behalf of Cummings, his client. Instead, Daniels spent that time engaged in services performed for his own benefit. No lawyer could form a reasonable belief that time spent adversarial to the client and in pursuit of the lawyer's own interests is the rendering of "legal services" for the client. Thus, no lawyer could form a reasonable belief that fees incident to such time spent were reasonable. Therefore, we hold the particular withdrawal provision at issue here, which because of its broad nature allows the recovery of such fees, is unconscionable and contravenes Texas public policy as a matter of law.

We recognize our holding may impose a burden on a withdrawing attorney with legitimate reasons to terminate the attorney-client relationship. Frankly, however, our ethical and fiduciary obligations require no less. It is simply one of the costs that must be borne by a professional who operates under the mantle of a fiduciary duty. As a professional, an attorney's relationship to his client is not to be guided by "the morals of the marketplace." Otherwise, we relegate our profession to an ordinary business relationship.

divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



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November 5, 2014

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"Together, attorneys can improve our family courts!"



[Click here](#) to be inspired by an amazing video of a mongoose taking the fight to a pride of lions. I have seen the same look of surprise that those lions showed on the faces of a few judges in the last few years.

In this Issue:

[Harris County Family Court Races](#)

[Harris County Judges Have Been Convicted of Tampering With a Government Record](#)

[Pratt's Protector Wins Harris County DA](#)

[Civil and Criminal Courts](#)

[Preliminary Analysis of Voting Trends](#)

[Clients Are Confused Over "First Friday" Versus "First Weekend"](#)

Congratulations to the winners and to those candidates who lost. Most folks do not realize what a huge sacrifice of time and money that running for judge requires. The cost of seeking election includes time away from family and the law practice, as well as all the hours spent at boring events. Now, we can all gossip on who the new Associate Judges will be and which of the newly elected judges will succumb to my siren call for reform and ethical behavior in the family courts.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who bill honestly and zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm

Harris County Family Court Races

[Click here](#) for the complete unofficial, final results from Harris County. Here is what happened in the family courts:

Court	Candidate	Party	Votes	%
246th	Sandra Peake	D	308,703	47%



Denise Pratt's Protector Wins District Attorney Race

	Charley Prine	R	347,559	53%
247th	John Schmude	R	349,715	53%
	Clinton "Chip" Wells	D	305,807	47%
280th	Lynn Bradshaw Hull	R	352,276	54%
	Barbara J. Stalder	D	304,076	46%
308th	Jim Evans	D	307,444	47%
	James Lombardino	R	348,272	53%
309th	Sheri Y. Dean	R	357,734	55%
	Kathy Vossler	D	298,067	45%
311th	Sherri L. Cothrun	D	304,786	46%
	Alicia Franklin	R	351,459	54%
313th	Glenn Devlin	R	354,835	54%
	Tracy D. Good	D	299,925	46%
314th	Natalia Oakes	D	309,097	47%
	John F. Phillips	R	346,467	53%

As a citizen and attorney, I am sublimely thrilled that Chris Daniel was re-elected as District Clerk. There is no better public servant in Harris County and we all benefit from his work.

As a family law attorney (not as a Democrat), I am generally happy with how the elections for family court judges went (with a few notable exceptions, especially two of the juvenile courts). I am sorry to see a quality candidate like Sherri Cothrun lose, but I tip my fedora to Doug York and Alicia Franklin for their success after 2+ years of relentless political work. Of course, they still have to put up with me and see how my criminal complaint plays out (see story below).

I am very happy for my former next-door neighbor Sheri Y. Dean, because I know how much work her family has put into her campaigns over the years.

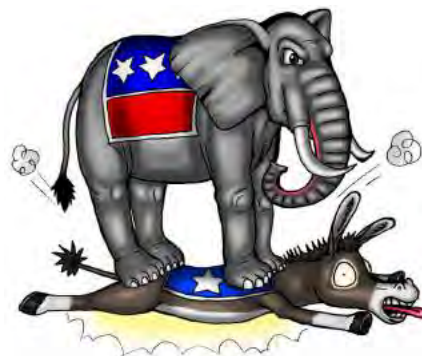


As proof that I have an open mind for a liberal Democrat, I am most particularly happy for John Schmude. I have come to really like and respect this guy and I can only hope his energy and ethics count for more than his brief legal experience as he assumes the bench. It appears that Judge Hellums has intentionally left Schmude a screwed up docket for the first few months of 2015, so we all need to be patient with him. Schmude certainly wins the prize for the cutest campaign photographs involving his children.

Devon Anderson has been elected District Attorney. This was an election to fill a vacancy and so the D.A. will be up for election again in 2016 for a full, four year term. A Democrat will have a very good chance of winning this position in a presidential election year with Hilary Clinton on the top of the ticket and Democrat Sheriff Adrian Garcia headlining the Harris County ballot.

Civil and Criminal Courts

Republicans swept the civil and criminal judicial races in Harris County.



A Preliminary Analysis of Voting Trends

Political scientists and consultants will compare voting results this year to 2010, the last time there was a Governor's election. Voting patterns are very different in years when the President is at the top of the ballot.

In 2010, voter turn out in Harris County was 41.7% and this 2014 election it was 37.93%.

In Harris County in 2010, the Democrats narrowly won the vote on Election Day but got killed in the mail-in and early voting. This year, the Democrats did about five percentage points better in the absentee voting and about two percentage points better in the early vote.

Absentee Voting

	2010		2014	
Straight R	24,231	67.64%	21,292	54.71%
Straight D	11,448	31.96%	17,500	44.97%
Governor R	31,101	56.94%	28,756	51.08%
Governor D	22,875	41.88%	26,967	47.90%
309th R	33,190	64.10%	29,497	54.33%
309th D	18,589	35.90%	24,794	45.67%

Early Voting

	2010		2014	
Straight R	153,005	57.56%	118,899	55.49%
Straight D	111,352	41.89%	94,197	43.93%
Governor R	199,628	51.56%	160,239	52.75%
Governor D	151,891	46.96%	140,063	46.11%
309th R	215,606	57.68%	163,235	55.19%
309th D	153,201	42.32%	132,538	44.81%



Clients Are Confused Over "First Friday" Versus "First Weekend"

Clients and former clients have already started calling about arguments over which parent has possession of the kids this coming weekend. Most people think last weekend was the first weekend of November and yet last weekend started with Friday, October 31. Our clients need to be reminded that weekend visitation is based on Fridays - 1st, 3rd and 5th. Expect a few emergency calls Friday and some enforcements to arise out of this coming weekend.

October							November						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4							1
5	6	7	8	9	10	11	2	3	4	5	6	7	8
12	13	14	15	16	17	18	9	10	11	12	13	14	15
19	20	21	22	23	24	25	16	17	18	19	20	21	22
26	27	28	29	30	31		23	24	25	26	27	28	29
							30						

In 2015, January, May, July and October have five Fridays. That means a parent with visitation under a standard possession order will have three weekends in those months and have two weekends in a row when the fifth Friday of one month is followed by the first Friday of the next month. Your clients will appreciate it if you forewarn them about these calendar anomalies. Next year, the parent with visitation rights, for example, should carefully consider that July gives him three weekends when designating his extended summer possession period - he may want to split up his 30 days of summer possession into June and August to maximize his time with the children.

Harris County Judges Have Been Convicted of Tampering With a Government Record

I have asked the Harris County District Attorney to investigate Judge Alicia Franklin to determine if she provided false CPS pay vouchers to the county when she was a lawyer. This week, I will finally mail off to the D.A. my letter about Gary Polland, who did the same thing as Franklin (just a lot more of it). Actually, I have asked D.A. Anderson to recuse herself and ask for the appointment of a prosecutor pro tem to investigate if the crime of tampering with a government record was committed.

In 2000, two Harris County Justices of the Peace were convicted of tampering with

On Election Day, the Republicans did a good bit better than in 2010. Battleground Texas did not get out the "D" vote yesterday.

Election Day				
	2010		2014	
Straight R	113,119	48.59%	108,566	53.18%
Straight D	117,679	50.55%	93,001	45.55%
Governor R	148,733	42.55%	153,266	50.41%
Governor D	191,185	55.21%	144,748	47.61%
309th R	168,562	50.96%	157,864	54.12%
309th D	163,226	49.04%	133,855	45.88%

The total vote for the 2014 election in Harris County went barely for Republican Greg Abbott for Governor whereas in 2010 Democrat Bill White barely won Harris County. The number of straight ticket votes declined for both parties but the percentages were about the same as in 2010.

Total Vote				
	2010		2014	
Straight R	290,355	54.33%	253,548	54.28%
Straight D	240,479	45.00%	209,449	44.84%
Governor R	379,516	48.15%	349,109	51.43%
Governor D	395,952	50.23%	319,454	47.06%
309th R	417,358	55.18%	357,734	54.55%
309th D	339,016	44.82%	298,057	45.45%

As in 2010, the Republican judicial candidates all did better than the Republican candidate for governor, suggesting that some voters just trust the "R" brand for judges more.

In the final analysis, this clearly was not a good year to run as a Democrat almost anywhere in the country, just as it was not good to run as a Republican toward the end of the last Bush administration. I was furious when Republicans called Wendy Davis "Abortion Barbie," but it turned out she never reached the public on any other issue and Greg Abbott ran a solid, mistake free campaign. Marginal or first time voters must be motivated and inspired to vote and there was nothing this year to do that for the majority of Harris County citizens who support Democratic positions but who simply do not vote.

Hotly contested local bond issues in Republican strongholds, such as Katy, probably helped GOP turnout.

Smart Republican politicians privately concede it is only a matter of time before the Democrats sweep Harris County because of the inexorable tide of demographics. The end of the Obama administration, with the President's popularity in the ditch and the public so unhappy with so many things, was simply not the time for that to happen -- but it will.

a government record. Republican J.P. Mark Fury plead no contest to several counts for submitting false pay records for his employees. Democrat J.P. Betty Brock Bell was found guilty by a jury for applying for a disabled parking placard when she was not disabled.

Neither of those offenses seem nearly as bad as falsely billing the county for legal work on CPS cases. To me, submitting an invoice in the name of one attorney that includes work the attorney did not do is false billing, as is inflating hours worked. Franklin and Polland contend they did nothing wrong and a grand jury may determine that no criminal act was committed. Acting sleazy is not always criminal and determining whether Franklin or Polland committed a crime is up to higher and more reputable authorities than me. However, there is ample precedent for applying the crime of tampering with a government record to the act of signing a false form and submitting it to the government. The narrow question for Franklin and Polland will be whether those CPS pay voucher forms were specific enough to make how they billed "knowingly making a false entry" since both were supposedly including time for work others had done, even though that was not disclosed on the form.

Polland and Franklin would argue that the pay voucher forms had no blanks or spaces to show who did the work that was being billed for. I contend that if I submit a pay voucher form for GREG ENOS and show time spent on a case, that I am saying I did that work unless I make some note that my associate or paralegal did the work and there was plenty of space on that form to make such notations. Given that it appears clear under the law that ad litem attorneys are not supposed to be paid for work done by others, judges would normally have no reason to ask if the ad litem's bill includes such work. Unfortunately, such illegal billing by ad litem for work done by others was obviously allowed in most courts and that may well be part of the defense for Polland and Franklin - the judges let us bill illegally and they knew we were doing it. [Click here](#) if you want to read my article explaining why ad litem and amicus attorneys are not supposed to be paid for work done by others.

I would frankly prefer that my complaints be investigated after the election, so no one can say it is just a partisan smear campaign (like Franklin's public relations guy said). Of course, Devon Anderson may face an opponent in the Republican primary in just two years and she will need Gary Polland's support more than ever, so politics will never be totally out of this conversation.

We will soon have four new associate judges in Harris County and I will closely research what they billed in CPS cases in recent years. The issue of bilking taxpayers in CPS cases and the big fees made in court appointments is not going away.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos





Issue: No. 55

November 14, 2014

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Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.

***"Together, attorneys can
improve our family courts!"***



[Click here](#) to be inspired by an amazing video of a mongoose taking the fight to a pride of lions. I have seen the same look of surprise that those lions showed on the faces of a few judges in the last few years.

The mystery about which Associate Judge applicant had sex on a picnic table at a county Christmas party arises from Galveston County. See my side bar story about embarrassing internal e-mails included in filings with the Court of Appeals in the battle between elected judges and county commissioners.

A far more reputable group of new Associate Judges for Harris County family courts is introduced in my story below.

The worthless **Commission on Ignoring Judicial Misconduct** finally got around to issuing a public reprimand of former Judge Christopher Dupuy over a year after he resigned and plead guilty to misuse of government property (the criminal charge I initially filed) and perjury involving me. [Click here](#) to read a *Galveston Daily News* story about this harsh public scolding which must mean so much to Dupuy now. The Commission did nothing to help us when Dupuy was in power attacking his fellow judges or trying to put lawyers like me or Lori Laird in jail for standing up to him. The Commission did hold a secret hearing a few months before he was indicted, but none of the lawyers opposing Dupuy were informed of the hearing or invited to give testimony. I am applying right now to Governor-Elect Abbott to appoint me to that commission so that I can make the commission actually care about unethical judges who do illegal things.

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**The Two Lost Family Courts Will
Be in the Civil Courthouse Soon!**

CONCLUSIONS

The Commission concludes from the evidence presented that Judge Dupuy failed to comply with the law and engaged in willful and persistent conduct that was clearly inconsistent with the proper performance of his judicial duties and cast public discredit upon the judiciary and the administration of justice when he used his position and authority to bully, retaliate against, and punish attorneys Lori Laird, Greg Enos, Greg Hughes, and Suzanne Radcliffe for filing motions to recuse, grievances, criminal complaints, and removal actions against him, and for their representation of the judge's ex-wife or involvement in litigation involving the judge's then-girlfriend. Judge Dupuy allowed his adverse relationship with these attorneys and his ex-wife, as well as his personal and intimate relationship with Tara Compton and others, to improperly influence his conduct and judgment.

As a result of those intimate and personal relationships, Judge Dupuy (a) engaged in the improper practice of law, (b) misused government resources, (c) injected himself into personal litigation involving other people's children, (d) failed to disclose the relationships or to recuse from cases involving those with whom he had a close, personal relationship, (e) lied under oath, (f) engaged in witness tampering, (g) harassed, bullied, and maligned County Officials, including Judge Henry, Bonnie Quiroga, and Judge Yarbrough, who he believed were thwarting his efforts to assist these individuals, (h) treated the attorneys and their clients without patience, dignity or courtesy when they appeared in court, (i) subjected attorneys and their clients to biased, unfair, discriminatory, and partial treatment through his rulings and procedures, (j) abused his discretion, and (k) failed to afford these attorneys or their clients with notice, the right to be heard, and other due process safeguards.

The Commission also concludes that Judge Dupuy engaged in criminal conduct in his treatment of Laird, as well as during his testimony at the protective order hearing, as evidenced by the judge's voluntary statements admitting criminal liability. Moreover, the Commission concludes based on the evidence before it that Judge Dupuy also testified falsely when he stated under oath at the protective order hearing that he had never purchased a silencer for his gun when, in fact, he had purchased a silencer on February 16, 2013, and when he stated that the Commission had dismissed all pending complaints against him when, in fact, the Commission had notified him twice through his lawyer that several complaints remained pending and that new complaints had been filed against him. There is no dispute that Judge Dupuy's conduct was egregious and detracted greatly from public confidence in the integrity of the judiciary. In fact, it is unlikely that anything could be more prejudicial to the administration of justice than testifying falsely under oath.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

**Greg Enos
The Enos Law Firm**

Why Abbott Destroyed Davis

Some excellent articles have been written about why Greg Abbott beat Wendy Davis so badly in the race to be Governor of Texas. Davis probably never had a chance to win because 2014 was another wave election when Democrats lost all over the U.S. Here are a few other reasons why Davis got cremated by Abbott:

[Click here](#) to read a *Texas Tribune* article reprinted in the *Washington Post* that says:

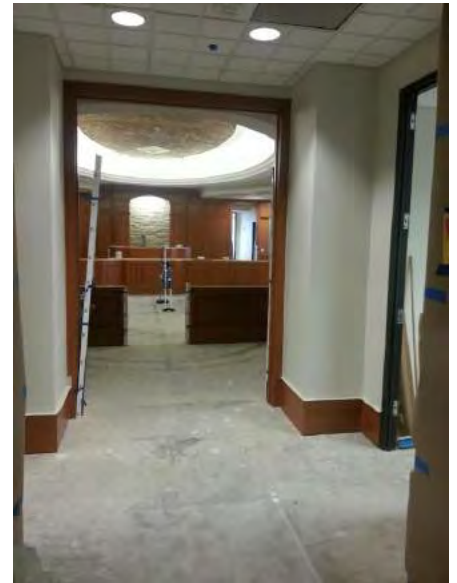
When the curtain came down on Team Davis, the campaign had not aired a single English-language TV ad focusing on the Fort Worth senator's up-from-the-trailer-park narrative once seen as her campaign's thematic foundation.

[Click here](#) to read a *Texas Tribune* article on the internal dysfunction in the Davis campaign. The article quotes a January 2014 memo from campaign consultants to Davis' campaign manager that warned:

... that the Davis campaign had "lurched to the left," was failing to communicate a positive message and offered virtually nothing to the swing voters the senator would need to win statewide. "There is not a model where a candidate who appears this liberal and culturally out of touch gets elected statewide anywhere in the south - much less in Texas - without some inoculation," the consultants said.

Lawrence Person's excellent [BattleSwarm Blog](#) offers this summary:

It is hard to tell from the current state of construction, but the courtrooms of Judges Lombardino and Franklin should be finished on the eighth floor of the Civil Courthouse by late December. My New Year's gift to the family bar will be a new courtroom chart with all of the new names and locations.



I went to the eighth floor this week, slipped on a hard hat, checked out the new courtrooms, helped hang a door, installed a few listening devices and wondered why they are still leaving so little room to walk behind the counsel tables.* It will certainly be nice when all of the family courts are in the same building!

Billion Dollar Divorce

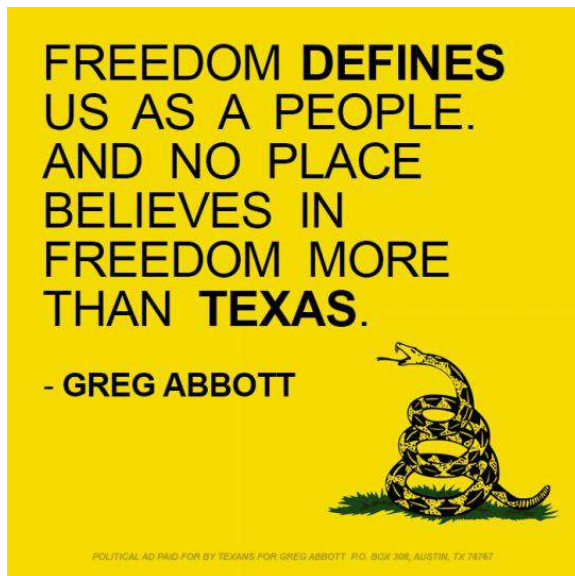
The wife of Oklahoma oil tycoon Harold Hamm was awarded almost a billion dollars in her divorce. She gets her first one-third installment of \$320 million before the end of 2014. [Click here](#) to read about a divorce case that would be a big one even for Bobby Newman.

It seems odd to us, but in Oklahoma, the money a spouse earns while married can be divided in a divorce if it is made through skill. If, on the other hand, the increase is attributable to "changing economic conditions, or circumstances beyond the parties' control," then that money is what we would call separate property. Mr. Hamm, who started as a wildcatter with almost nothing, had to show his brilliant success was not because of his brilliant skills and he apparently failed to do so.

The Hamm case is not a world record, however. [Click here](#) to read about the **\$4.5 billion** awarded the wife of a Russian oligarch by a Swiss court in May 2014.

Davis was the wrong candidate at the wrong time who ran the wrong campaign in the wrong state.

Here is the Greg Enos analysis: Abbott had a natural advantage to start in a Republican state, but his television advertisements emphasized his inspiring personal story and his plans for Texas. Davis never connected with the average voter, especially women voters. Abbott ran a mistake free campaign and was not shy about reminding us what a great state we live in, even though Texas ranks 50th in percentage of population graduated from high school but first in the number of people without health insurance coverage.



Three New Associate Judges

Harris County family court judges-elect have announced who their Associate Judges will be. So far Judge Dean and Judges-Elect Prine and Schmude have announced their picks.

John Schmude has selected **Paula Vlahakos** to be the next Associate Judge of the 247th District Court. Vlahakos got her J.D. from South Texas in 1998 and was licensed in 1999. She worked for Short Jenkins Kamin from 1999 until 2007 and for Short Carter Morris since 2007. This first major decision by Mr. Schmude should give us all even more confidence in his good judgment. Schmude is going to be assisted by a very experienced and smart attorney and not a political hack.



Prior to becoming an attorney, Vlahakos worked as the legislative coordinator for Service Corporation International and later as the community outreach coordinator for The Children's Assessment Center/Harris County Children's Protective Services. Paula has also taught at Houston Community College. Until accepting this appointment, Paula served as a member of the board of AVDA - Aid to Victims of Domestic Violence. Paula and her husband of 23 years, Frank, have three

My Letter to the District Attorney About Gary Polland

Now that the election is over, I have written District Attorney Devon Anderson's Public Integrity Unit about Gary Polland. Similar letters sent by me in the past led to the indictment of Judge Dupuy and the forced resignation of Judge Pratt.

The actions of Mr. Polland are particularly important because of his influence with judges as the former Republican Party Chair, one of the "Big Three Endorsers" who dominate local GOP primaries and as a Houston television personality (on Channel 8 at least).

This is what I wrote to the D.A.:

I attach documents relating to attorney Gary Polland and what I contend are false pay vouchers he submitted to the county for work he did as a lawyer appointed on CPS cases. I believe that the crime of tampering with a government record may have been committed.

I am providing you:

1. A legal article that establishes that a court appointed ad litem in a CPS case cannot bill the county for legal work done by someone else.

2. A spreadsheet that summarizes Polland's billing to the county for a three month period (August - October 2013).

3. By way of example, a spreadsheet and backup invoices for just one day, October 1, 2013, when Polland billed 20 hours for home visits, 10 hours for other "out of court" work and for one juvenile court appearance - all in one day.

4. By way of example, I provide invoices for August 10, 2013, when Polland billed for four home visits totaling 19 hours. In CPS cases, the law requires the attorney ad litem appointed to represent the child to personally visit the child at home before each court appearance. Polland almost always bills exactly 5.0 hours for "travel to and conduct home visit; draft report with pictures," which is itself highly suspicious. These invoices submitted by Polland clearly make it look like Polland did all of this work and certainly do not mention any associate or social worker conducting these home visits. It is clearly not possible for one attorney to conduct four or five home visits or to honestly bill 19 hours in one day. Did Polland visit a child at home at 3:00 a.m.?

It is also very odd that Polland almost always bills exactly 5.0 hours for these home visits, regardless of where the child lives. I have now seen hundreds of CPS pay vouchers, and most attorneys bill from 2.0 to 3.5 hours for home visits and the number of hours they claim always varies because, of course, the time they spend in travel and visiting the child varies every time.

5. An e-mail from an attorney casting doubt on the number of hours Polland billed for a home

daughters.

Judge-elect **Charley Prine** has selected **Chelsie Moerbe Ramos** to be the Associate Judge of the 246th Court. Ramos is also an associate attorney for Short * Carter * Morris, L.L.P. Mrs. Ramos graduated from South Texas College of Law in 2001. Ramos is a mom and an experienced family law attorney.



Chelsie Ramos is married to former Associate Judge Rick Ramos. I have checked and Rick Ramos will not be representing clients in the 246th. It should surprise no one that I think it improper and unethical for the spouse of a judge to practice law in his wife's court (whether the judge is elected or an appointed associate judge - more on this in detail in future issues!).

As long as flying on one lawyer's leased jet or riding on his yacht does not count for more than an open invitation to ride in my two person kayak, Mrs. Ramos should turn out to be an excellent selection.



[Note: The judge's robe and the name of the plane were added to this photograph].

In a related development, Short * Carter * Morris has sudden openings for associate attorneys with political ambitions. Please send resumes and detailed primary voting histories directly to Lindsey Short.

....

Judge **Sheri Y. Dean** will be replacing Charley Prine with **Beverly B. Malazzo** as Associate Judge of the 309th District Court. Malazzo got her J.D. from South Texas in 1992 and worked in the Harris County District Attorney's office through 2001. She was a prosecutor in Juvenile Judge Pat Shelton's court and then became a juvenile court referee.

visit on August 29, 2014 and the invoice Polland submitted for that day.

6. Copies of my newsletter for the period August - October 2014 which, in part, address this issue and even suggest what Polland's defense will be.

I strongly urge District Attorney Devon Anderson to recuse herself and ask for the appointment of a prosecutor pro tem because of her ties to Gary Polland and his influence in the local Republican primaries. Ms. Anderson will be running in Republican primary in just two years and we all know that she will be counting on Polland's support.

Sincerely,
Greg Enos

I have no doubt about the facts involving the CPS billing submitted by Gary Polland and Alicia Franklin. However, there are genuine legal issues that could make indictments difficult to obtain. The misleading and, to me, false pay vouchers they submitted may not be false enough to constitute a crime given the format of the forms and the fact that some judges permitted the improper billing.

Someone other than Devon Anderson and her crew who made such a sweet deal for Judge Denise Pratt should do the investigating of Anderson's fellow Republicans. If nothing else, Anderson can avoid another political attack when she faces a very tough re-election campaign in two years in a presidential election year.

** Note: Before D.A. Anderson indicts me for criminal trespass: Most, but not all, of what I wrote about my visit to the 8th floor courtrooms under construction is fiction.*

Galveston County Battle Gets Embarrassing

The fight between the elected judges in Galveston County and the County Commissioners has become down right embarrassing. The County filed a reply to the response filed for Judge Cox in the County's mandamus action to overturn Cox's order forbidding them from firing or replacing Bonnie Quiroga, the Director of Justice Administration.

The county's reply attaches a lot of e-mails between Quiroga and County Judge Mark Henry. Those selected e-mails certainly make it look like Quiroga thought she worked for Henry. Some of the e-mails were apparently selected to show Quiroga was not too loyal to the judges who are now fighting for her. A few e-mails reveal uncomfortably embarrassing and negative comments from Quiroga to Henry about the judges Quiroga now says were her real bosses.

Here are some examples:

"Ain't that some shit! I am so tired of these lazy people [referring to a judge] sucking off the taxpayer! I guess I am old school, where being a public servant was something you did proudly."

[Click here](#) to read a 2002 *Houston Press* article about Malazzo's minor role as a referee in appointing the same attorneys (including some guy named Clevenger) over and over for juvenile defendants (basically the same appointment racket I have been writing about in CPS cases a decade later). Let's hope that what Malazzo learned from Judge Shelton in the dank, ethically-challenged jungle of patronage that is the juvenile courts does not guide how she selects and appoints attorneys in Judge Dean's court.

If you "Google" Ms. Malazzo, one of the first things you find is the **2006 Reprimand of Ms. Malazzo by the Texas Ethics Commission**. [Click here](#) to read the full reprimand which in the end did not involve a very serious offense (but did slap her with a whopping \$100 fine). The reprimand found that Malazzo used the Texas State Seal in campaign advertising even though the Election Code only allows elected officials to use the Seal in their advertising. We all may expect judicial candidates to know the law, but that rule seems unconstitutional to me and I personally would have challenged it instead of paying the \$100 fine. The Ethics Commission found that Malazzo was only a little misleading in how she used the term "judge" in her advertising and concluded it was a "de minimis" violation.

Houston Chronicle columnist Rick Casey addressed this issue when Malazzo was running for judge and concluded she really had done nothing wrong. [Click here](#) to read his column. **Casey pointed out that Malazzo received very high positive reviews from attorneys in the Harris County Bar Poll**, which should encourage us all.

Ms. Malazzo may, however, still be unclear when it is proper to use the term "Judge." Judge Dean's announcement of her selection of Ms. Malazzo says, "Currently, Beverly is in private practice." I could find no indication Malazzo is working as a judge or was ever elected judge. I could only confirm she once served as a juvenile court referee and she once ran for judge but lost. Yet, this is her current listing with the State Bar of Texas. Unless "Judge" is part of her given name, I do not think she should be calling herself that (at least, before January 1).

 **FIND A LAWYER**

[ch Results](#)

CONTACT AND MAP

Judge Beverly Brademan 'Beverly' Malazzo

Bar Card Number: 00784514

Work Address: P.O. Box 802442
Houston, TX 77280

Work Phone Number: 832-452-1327

Primary Practice Location: HOUSTON, Texas

I checked on the State Bar listings of our current Associate Judges, and none use "judge" as part of their names, even though they really are judges. Our elected judges do not do that either. We all know as attorneys that the information displayed in these State Bar listings is supplied and verified by the attorney herself.

Malazzo also calls herself "Judge" in her listing on the Texas Board of Legal Specialization website and on www.lawyer.com.

[Apparently referring to someone who had applied to be appointed an associate judge] **"What I didn't say at the interviews is that I don't recommend appointing anyone who was having sex on a picnic table at one of the County Christmas parties."**

"Someone needs to file an anonymous complaint on [Judge Bret] Griffin. He held a hearing and made a ruling in one of the cases that [Toni] Buzbee has in his court. He is supposed to avoid even the appearance of impropriety. His wife not only works for Buzbee, but she is a business partner in that Dunn Brothers coffee Shop in Friendswood (and since it is marital property - that makes it Bret's property, too). He has two other cases with Buzbee coming up for trial. He should have requested those be transferred from his court. It does not require a motion from either party. He also has not completed the required Open Meetings training."

[Click here](#) to read all of the e-mails submitted to the Court of Appeals.

Support from other judges for Judge Cox's fight with commissioners was waning even before these e-mails were revealed. I still implore both sides to consider a compromise to resolve this dispute.

New Appellate Case on Intentional Under Employment

Some judge named "Pratt" was just reversed in *Reddick v. Reddick*, No. 01-12-00576-CV (Tex. App. - Houston [1st Dist.] 10/23/2014). This case is an excellent reminder that not every parent who could in theory earn more should be found to be intentionally underemployed.

[Click here](#) to read the entire case, which provides this summary of the law:

A parent who is qualified to obtain gainful employment cannot evade his or her child support obligation by voluntarily remaining unemployed or underemployed. Concurrently, the court must consider a parent's right to pursue his or her own happiness with a parent's duty to support and provide for his or her child. The court must engage in a case-by-case determination to decide whether child support should be set based on earning potential as opposed to actual earnings. Once the obligor has offered proof of his or her current wages, the obligee bears the burden of demonstrating that the obligor is intentionally unemployed or underemployed. The burden then shifts to the obligor, if necessary, to offer evidence in rebuttal.

Trial courts should be cautious of setting child support based on earning potential in every case in which an obligor makes less money than he or she has in the past. Although some financial resources are indispensable to raising and providing for a child, the financial analysis will often not be the end of the court's consideration.



I was unable to reach Ms. Malazzo to get her explanation for her use of the label "judge." I know I would expect a lawyer with intelligence, ethics and good judgment to be careful and respectful about using that term correctly so as to not mislead the public or even get in trouble for it. This nitpicking issue I am raising will at least be moot after January 1, 2015.

A 2005 *Houston Press* article further explored Ms. Malazzo's approach to ethics and campaigning:

Beverly Malazzo is an associate judge [referee!] in Harris County's juvenile courts, but she has set her sights higher.

She wants to run for the judgeship of the 315th District Court, one of the county's three juvenile courts. To do that, she needs to get 500 signatures on a petition. The way she's going about it is causing some grumbling among local criminal attorneys.

Malazzo sent out an e-mail announcing that she'd be holding a petition drive outside the Family Law Building. The attorneys on the e-mail list, one lawyer noted, are the same attorneys who are eligible to be appointed to represent juveniles in the courts.

If Malazzo wins, she'll be the one making those appointments; if she wins, it probably wouldn't be a bad thing for an attorney to have his name on her petition.

That's not all that unusual -- in the gray-ethics world of the courthouse, judges get almost all their campaign cash from people who practice in front of them. Campaign contributions make absolutely no difference in how an attorney gets treated by a judge, rest assured. (We know this because judges tell us this every time we write about campaign contributions.)

Alerting potential appointees to their need to sign a petition is one thing. It's where they were supposed to sign it that further raised eyebrows.

Malazzo supporters set up a table on the plaza outside the Family Law Building. The Texas Election Code states that potential candidates can't collect signatures "on the grounds of a county courthouse or courthouse annex."

Malazzo says she interprets "the grounds" to mean the Family Law Building itself. The supporters collecting signatures promised to provide a statute backing up that contention, but they never did.

A spokesman for the Secretary of State's office said he could not find any opinion by the agency defining what "the grounds" means. You'd think the grounds would be everything but the building, but then again we're no lawyers.

That year, Malazzo got enough petition signatures to get on the ballot but she lost in the Republican primary.

Malazzo is a long time friend of Judge Dean's, but she is not well known to family law attorneys. I could not even find a photograph of her. Few family lawyers knew Charley Prine before he was selected by Judge Dean and he turned out to be a really good judge (with one "Flowery" exception). The family bar should have confidence in Judge Dean's good judgment by now.

We all (including me) need to have an open mind and see how Ms. Malazzo does. I am reporting a few facts from her past that may raise question marks but the real

A court properly considers the obligor's proffered rebuttal evidence of the reasons for an obligor's intentional unemployment or underemployment. This includes such laudable intentions by obligors who alter their employment situations to spend more time with their children, to live closer to their children in order to attend their events and be more involved in their lives, or to provide their children with better health benefits.

Other objectives are also factors, such as whether an obligor alters his or her employment situation to start a new business, to gain further education, to become a public servant, or to address health needs. An active but unfruitful pursuit of employment may also be relevant to the court's child support determination, as well as economic conditions that legitimately preclude full employment.

But, we are mindful that such explanations are not always sincere, and the judge as fact finder has latitude to consider the testimony and evidence to make the necessary determinations. Such discretion must be exercised within the limits set by the Texas Family Code, particularly Chapter 154 including the child support guidelines, and should always focus on the best interest of the child.

To facilitate appellate review and to encourage consistency in the exercise of this discretion across the state, the trial court must make a finding of intentional unemployment or underemployment and its decision to base child support on earnings potential rather than actual earnings must be supported by the record.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to

test is how she does in office. I did reach out to Ms. Malazzo through an e-mail to Judge Dean to get the former referee's side of the story on the issues described above, but I did not hear from her. I will be sure to call her "Judge Malazzo" when I appear in front of her early next year. One can only guess what she will be calling me.

All of the new judges deserve our support and respect until they do something to lose it.

I just hope all of the new judges focus on efficiently and fairly resolving cases and not on political patronage.



help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos





Issue: No. 56

December 9, 2014

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**Please forward this e-mail newsletter to everyone
who cares about our family courts!**

[Click here](#) for an archive of past issues of *The Mongoose*.



[Click here](#) to download a preliminary chart of the Harris County Family Courts as of January 1 with all of the new judges and courtroom locations. The county still has not assigned new phone numbers to the 308th and 311th courts, which are moving next week to the 8th floor of the Civil Courthouse. I will provide an updated chart with those phone numbers and the court coordinators before my BIG day on December 19 (55th birthday and).

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improve our family courts!"***



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Lawyer work this time of year takes a back seat to preparing for and enjoying Christmas or Festivus (making our lists of grievances and practicing feats of strength) or the Winter Solstice or Hanukkah.

It is a time of miracles, as evidenced by me speaking to the Cypress Tea Party. My talk on reforming family courts was well received by that super conservative group, which invited me to speak despite the "I'm Ready for Hillary" sticker on my eco-friendly car.

This issue focuses on good news in the spirit of the holidays. We all should consider major upgrades in security around the courthouse complex as good news. [Click here](#) to read the story in yesterday's *Chronicle* about new security measures and read quotes from your's truly on the subject.

Here is some great news: the disgusting, unfair, politically tainted case which inspired me to start writing this newsletter finally ended after three years. Things went from terrible to pretty darn good for my sweet client who suffered so much at the hands of attorneys with connections and judicial decisions driven by who the lawyers were instead of fairness or the law. I may soon be able to write about this case once my client and her kids have resided for six months in another county.

Good news worth sharing is that influential Republicans agree with me on the "Polland Problem." [Click here](#) to read Ed Hubbard's blog in "Big Jolly Politics" that says in part:

Whether [Polland's] conduct rises to the level of being criminal, as at least one local attorney believes, is really beside the point: there was a time when we would have cared enough to say it was wrong, and to call on him to respect us and the judges he professes to support-enough to stop it; to call on those judges who have enabled Polland's behavior to follow Judge Farr's lead and change their appointment practices to end this appearance of impropriety; and to call on ourselves to stop enabling Polland by stopping the underwriting and use of his for-profit slate mailer during our primaries. If his desire for more and more money is so strong that he won't respect us enough to avoid this appearance of impropriety, and its potential impact on our party and its elected officials and candidates, why should any of us continue to respect his conduct and endorsements?

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Really Good News: Meca Walker to be Judge Franklin's A.J.

Judge Alicia Franklin gave the Family Bar an early Christmas present by announcing she has selected Meca Walker to replace Bob Newey as Associate Judge in the 311th. Franklin is generally getting really good reviews for her work as a judge and her selection of M.L. Walker is a brilliant choice.



Judge Walker has served as Associate Judge for Judges Rynd, Dean and Hellums. It is great news that her experience and superb judicial demeanor will continue to serve the families of Harris County.

I have given Franklin grief over her outrageous billing as a CPS attorney before she was appointed judge, but I will give her credit for making a really great selection as A.J. to replace Bob Newey. I know Commissioner Cagle is thrilled, but this decision smells more like a "what is good for the court and the families and attorneys we serve" sort of pick instead of the purely political selection some were dreading. Way to go Alicia!



Good News: Most Heavy Drinkers Are Not Alcoholics!

[Click here](#) to read more about a U.S. Centers for Disease Control and Prevention study which found that 90% of heavy drinkers fell short of the criteria for alcoholism. Women who have eight or more drinks per week and men

January 1 when she is sworn in as Sheri Y. Dean's Associate Judge. I can't wait to meet her in person!

I do need to make one important correction to a story in the prior issue of this newsletter. Bobby Newman e-mailed me to demand this correction: he **OWNS** his jet and does not lease it, as I falsely reported. I apologize for that error and any damage I have done to Mr. Newman's reputation.

Several readers who are judges were unhappy with my article about the civil war in Galveston County between the judges and commissioner's court and specifically my quote from an e-mail about a judicial applicant who allegedly had sex on a picnic table at a county Christmas party. My article never mentioned any name in connection to the alleged picnic table incident. However, the *Houston Press* picked up my story and got a former judge (who I never believed was involved any way) to provide a very interesting denial. [Click here](#) to read the *Press* story and then ponder if a denial about activity on a park bench means one did not get funky on a picnic table.

In my prior issue, I discussed the recent *Reddick* case from the Houston First Court of Appeals on intentional under-employment. [Click here](#) to read the opinion. I failed to give a brilliant attorney, **Matt Waldrop**, credit for winning that appeal and reversing some judge named Pratt. [Click here](#) to read Matt's persuasive brief.

I hope all of my readers take some time off work to enjoy the holidays. I plan to enjoy my grandson's first Christmas, get to know the horse my family just bought (after I find an XXL size 10 gallon cowboy hat) and finish a short article for *The Baker Street Journal* pointing out that Jefferson Hope could not possibly have become a London cabbie so quickly in *A Study in Scarlet*. Even in 1881, it took well over a year to study for and pass "the Knowledge," the hideously difficult test of every road, route and landmark in London that was required to get a license to operate a cab.

The *Mongoose* will return in January with a vengeance! Does anyone recall me griping about spouses practicing in the courts where their loved ones are the judge? My next issue will be an eye opener!



I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm

who have 15 or more are considered heavy drinkers. Signs of alcoholism include an inability to stop or reduce drinking, continuing to drink even after it causes problems with family or work, and excessive time spent drinking each day. Judges need to realize that heavy drinkers are not necessarily alcoholics.



Only a third of those who admitted binge drinking 10 or more times in the previous month were alcoholics, the study found. The CDC defines binge drinking as consuming four drinks for women and five drinks for men in a single occasion. This study should be sobering news for those "alcohol addiction specialists" who consider almost every regular drinker an alcoholic. I can imagine a great cross-examination of someone like Vicki Longwell based on this government sponsored study.



Should We Celebrate "Black Friday" in August?

Anyone who has attended seminary school and truly studied the Bible has had their faith tested by archeology, history, the contradictions between the gospels and the various translations of the Good Book. [Click here](#) to read an eye-opening 2010 study on Christian pastors who are non-believers even as they are still working in churches. This study describes the role that seminary placed in their skepticism. Nothing tests faith like facts.

Thank You Judge Yarbrough

We say "good bye" to many fine judges who are retiring and leaving the bench on December 31. We will all miss the friendly and hard working Judge Jim York, even as he passes his mantle of the most pro-mother judge in custody cases on the planet to Galveston County Associate Judge Steve Baker.

Bonnie Hellums was an amazing breath of fresh air and reform when she was first elected in the 1994 Republican sweep that knocked off all of the Democratic incumbent judges. It was revolutionary then to think that a family court judge would rule based on the law and the facts and what was best for children instead of who the lawyers were. Now, thanks to judges like Bonnie Hellums, that is the least we expect in our family courts.

Harris County is also losing some amazing associate judges: Robert Newey and Michael Hay.

The family judge that has meant the most to my life and professional career has been Galveston County Family District Judge Jan Yarbrough, who is retiring after twelve years as a district judge and eight years before that as an associate judge. Judge Yarbrough never had an opponent in a primary or general election, even as Galveston County became 100% Republican. That is an amazing tribute to how universally respected Judge Yarbrough has always been.

Yarbrough heard cases involving my children back when it was still fairly unusual for a young father like me to win and keep custody. My very first family law case where I represented someone other than myself was before Judge Yarbrough. We have worked together on politics, seminars, local rules and forms and we have occasionally disagreed. However, no child and no parent could ever ask for a more fair, smart and caring judge than Judge Jan. Unlike some, Judge Yarbrough always lived up to her campaign slogan, "Put Kids First."



Sculptors leave behind marble statues and architects are outlived by the buildings they design, but the legacies of family judges are found in the children whose lives they profoundly changed and the thousands of rulings they made, big and small, which meant so much to the families who came to them seeking justice and resolution of their disputes. Jan Yarbrough leaves a legacy of caring, intelligence, efficiency, common sense and 100% honesty. Almost every day I get to see a daughter whose life was immeasurably changed by this wonderful judge. As much as I occasionally irritated Judge Yarbrough, she may not miss me, but I am going to miss her like crazy.

Every lawyer who has practiced in the 306th in the last decade will also miss Coordinator Danna Henderson and Court Reporter, Ron Vella. Those two were major contributors to Judge Yarbrough's success and they were always pleasant, professional folks to deal. It is just not going to be the same without them.



Most seminary students at some point learn about the widely held suspicion that the birth of Christ (which was not even celebrated until about 400 years after his death), probably took place in early Fall, rather than on December 25. The 25th of December was the date of the Roman holiday of *Dies Natalis Solis Invicti* (Birth of the Unconquered Sun). The extremely popular, and much older, Roman holiday of *Saturnalia* ended usually about December 23. Both Roman holidays were replaced by Christmas.



Few modern Christians know that in the Middle East, Shepherds would not be "abiding in the field, keeping watch over their flock by night" in late December. The shepherds always brought their flocks from the mountainsides and fields and corralled them by mid-October, to protect them from the cold, rainy season that followed that date (see Song of Solomon 2:11, and Ezra 10:9, and 13). Shepherds in the Middle East send out their sheep to the fields and deserts about the time of Passover (early Spring) and bring them home at the time of the first rain in October.



[Click here](#) to read an article that says all of the above is wrong and December 25 really was Christ's birthday. [Click here](#) to read an article that suggests the Romans invented Christmas. **You will learn some history and stretch your mind if you read both articles!**



Illegal Electronic Evidence and Family Law Part 1: Attorney Beware!

Lawyers can be sued, arrested and sent to prison and disbarred for mishandling illegal electronic evidence, such as recordings, e-mails and text messages. This article is the first in a series on what makes electronic evidence illegal, the many ways that electronic evidence is being obtained illegally these days, how law firms and clients can safeguard their computers and phones and what can happen to clients and lawyers who break the law. **This first article focuses on what attorneys should never do with illegally obtained evidence.**

An attorney can face personal, criminal and civil liability for using or disclosing an illegal recording or illegally intercepted electronic communication (e-mail or text message) provided to the attorney by a client. For example, the following can be separate and independent federal and state wiretap act violations: (1) a client's disclosure to an attorney of an illegally obtained e-mail, (2) the attorney's disclosure to his staff, co-counsel or expert of the e-mail or its contents, (3) an attorney's use of information obtained from the illegal evidence in pleadings, (4) an attorney's use of the illegal evidence as attachments to pleadings and affidavits, (5) a lawyer's use of information obtained from the illegal evidence when questioning a witness, (6) a lawyer's use of the illegally obtained recording or communication as evidence in court or a deposition.

Each separate illegal use or disclosure of intercepted communication can be a federal or state felony and can result in a \$10,000 civil penalty (plus actual damages and attorney's fees).

Consider this example from criminal defense attorney Mark Bennett's excellent blog ([click here](#) to read his entire post):

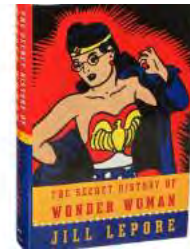
Just before Duke's first unsupervised visit, Dianna bought a small digital recorder online. Dianna unstitched a bit of her daughter's favorite teddy bear-known as "Little Bear"-and stuck the recorder inside, stitching the animal back up afterwards. The recorder never left the bear's guts after this, except when the animal was washed. With no voice activation feature, the gadget simply recorded everything that happened in its presence, and Dianna periodically unstitched the bear just enough to insert a USB cable and download the audio recordings to her computer.

All of this material was then turned over to Dianna's lawyers, who submitted it to the state court and waited for a ruling on its legality. In the summer of 2008, the state judge decided that the recordings were not admissible as evidence in the custody trial, since they violated the Nebraska Telecommunications Consumer



Book Review: The Secret History of Wonder Woman

Any woman lawyer at the end of 2014 might have a hard time imagining a time in America when women could not vote, when the few women with college degrees seldom could find jobs and people were sent to prison for selling contraceptives. The struggle of women to be treated as equal citizens is just one of the many stories told in "The Secret History of Wonder Woman" by Jill Lepore.



This book is a biography of William Moulton Marston, Wonder Woman's creator, but it is also the tale of the struggle for women's rights in the early 20th Century. Beginning in his undergraduate years at Harvard, Marston was influenced by early suffragists and feminists, which is why they play such a prominent role in the book.

Marston was a lawyer, pioneer psychologist, Hollywood screenwriter and inventor of the polygraph machine. The seminal 1923 U.S. Supreme Court case of *Frye v. U.S.*, which held that expert testimony must be based on scientific methods that are sufficiently established and accepted, involved a polygraph test administered by Marston and his testimony, which the trial judge excluded.

Family lawyers, with our prurient interests, will be fascinated to learn that in the 1920s, Marston and his wife, Sadie Elizabeth Holloway, brought into their home Olive Byrne, Marston's young lover and the niece of Margaret Sanger, one of the most influential feminists of the twentieth century. Young Olive fell in love with Marston when he was her professor and she lived with the Marstons for decades in a shared relationship that yielded four children.

Privacy Protection Act and were therefore obtained illegally.

Then, in a federal civil lawsuit by the people whose oral communications had been illegally recorded, the clients got dinged for \$60,000 each plus attorney's fees for violating the Federal Wiretap Act, 18 USC Section 2511.

The court found that their lawyer had violated the Act by revealing the recordings to other lawyers in the case, but did not enter a judgment against him:

The court has carefully considered Mr. Bianco's role in this matter and finds that damages should not be awarded against Mr. Bianco. Bianco did not solicit or advise the Divingnzzos to intercept the plaintiffs' oral communications. While he disclosed the illegally-obtained materials to advance his client's position in the Custody Case, the court did not consider the materials. The other recipients returned the materials unread or maintained the confidentiality of the communications.

The lawyer, who could easily have been ordered to pay \$60,000 as well, got lucky in part because "the other recipients...maintained the confidentiality of the communications"-something entirely out of his control (and not, strictly speaking, a legal defense).

Moreover, both the lawyer and his clients got majorly lucky in another way: by not getting indicted. If the Divingnzzos or Bianco had popped up on the radar of the U.S. Attorney for the District of Nebraska, they could easily have been facing zero-to-five-year felony wiretap charges.

The Federal Wiretap Act (which applies to interception of phone, voice and electronic communications) can make a lawyer a criminal if she:

(c) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;

(d) intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;

18 U.S.C. § 2511(1)(c), (d).

The Texas Wiretap Act is basically the same as the federal law except a lawyer can commit a crime if she is **reckless** in using an illegal recording or communication (which is a much broader standard of liability than "knows or has reason to know the information was obtained through [an illegal] interception..."). Under the Texas law, a person commits a crime if she...

(2) intentionally discloses or endeavors to disclose to another person the contents of a wire, oral, or electronic communication if the person knows or has reason to know the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;

(3) intentionally uses or endeavors to use the contents of a wire, oral, or electronic communication if the person knows or is **reckless** about whether the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;

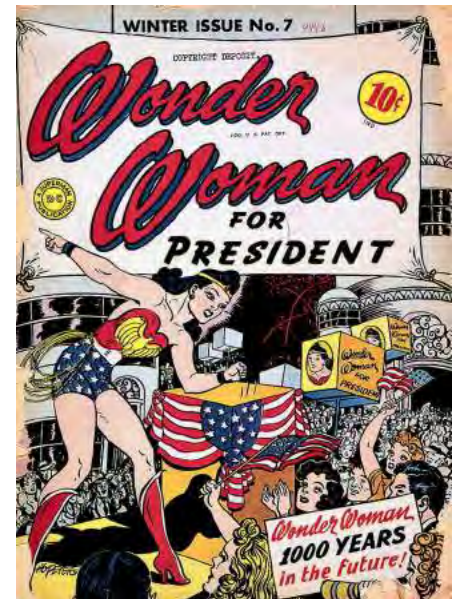
Tex. Penal Code § 16.02(b).

The Austin law firm Noelke English Maples St. Leger Blair, LLP has provided excellent guidance for attorneys that we all should follow:

DO: Advise your clients that they cannot delete, destroy, remove, or otherwise edit electronic data.

DON'T: Take possession of illegally obtained material. If you have it in your possession, read it or listen to it, you may be committing a crime by using it in the preparation of your case.

Marston's wife, Sadie, was college educated, and she agreed for her husband's young lover to live in her house only on the condition that she would be the nanny to the Marston children so that Sadie could continue her career in publishing. The two women wrote a regular column for *Family Circle* magazine celebrating conventional family life, even as they secretly enjoyed a most unconventional lifestyle sharing Mr. Marston.



Marston invented the cartoon character, Wonder Woman, and he cleverly worked his feminist beliefs into the pages of the Wonder Woman comic books.

This is a fun book to read and a fascinating history of American life a century ago that most know nothing about. I highly recommend this book!



DO: Advise your clients on the law of intercepting email and other forms of communication. The best policy is to advise your clients NOT to access their spouse's email accounts at all, even if they think they have consent to do so.

DON'T: Represent a person who has illegally obtained electronic material. Period. It is not worth the risk.

DO: Advise your clients to change all of their passwords. And if you suspect that spyware has been installed, have the computer or phone inspected by an expert.

DON'T: If you have illegally obtained discovery in your possession, don't produce it in discovery without the advice of a criminal defense attorney.

DON'T: Turn over your client's cell phone or computer for copying without a written agreement in place as to how it will be searched. There may be privileged or non-discoverable data on these devices that does not need to be produced.

The next article in this series will describe the most common methods of illegally intercepting or obtaining electronic evidence and what laws are being violated. For example, is it a crime for a husband to guess his wife's g-mail password and printout her e-mails with her boyfriend? Can the lawyer go to jail if she uses or shares those emails? **This is stuff we all need to know and we need to educate our staffs and our clients about these laws, so we all can stay out of trouble.**

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Be this guy





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The word "Judge" was suddenly deleted from the various attorney listings for Beverly Malazzo right after the last *Mongoose* was issued. The good news is that Ms. Malazzo will finally be able to ethically call herself "Judge" as of January 1 when she is sworn in as Sheri Y. Dean's Associate Judge. I can't wait to meet her in person!

I do need to make one important correction to a story in the prior issue of this newsletter. Bobby Newman e-mailed me to demand this correction: he OWNS his jet and does not lease it, as I falsely reported. I apologize for that error and any damage I have done to Mr. Newman's reputation.

Several readers who are judges were unhappy with my article about the civil war in Galveston County between the judges and commissioner's court and specifically my quote from an e-mail about a judicial applicant who allegedly had sex on a picnic table at a county Christmas party. My article never mentioned any name in connection to the alleged picnic table incident. However, the *Houston Press* picked up my story and got a former judge (who I never believed was involved any way) to provide a very interesting denial. [Click here](#) to read the *Press* story and then ponder if a denial about activity on a park bench means one did not get funky on a picnic table.

In my prior issue, I discussed the recent *Reddick* case from the Houston First Court of Appeals on intentional under-employment. [Click here](#) to read the opinion. I failed to give a brilliant attorney, **Matt Waldrop**, credit for winning that appeal and reversing some judge named Pratt. [Click here](#) to read Matt's persuasive brief.

I hope all of my readers take some time off work to enjoy the holidays. I plan to enjoy my grandson's first Christmas, get to know the horse my family just bought (after I find an XXL size 10 gallon cowboy hat) and finish a short article for *The Baker Street Journal* pointing out that Jefferson Hope could not possibly have become a London cabbie so quickly in *A Study in Scarlet*. Even in 1881, it took well over a year to study for and pass "the Knowledge," the hideously difficult test of every road, route and landmark in London that was required to get a license to operate a cab.

The *Mongoose* will return in January with a vengeance! Does anyone recall me griping about spouses practicing in the courts where their loved ones are the judge? My next issue will be an eye opener!

Really Good News: Meca Walker to be Judge Franklin's A.J.

Judge Alicia Franklin gave the Family Bar an early Christmas present by announcing she has selected Meca Walker to replace Bob Newey as Associate Judge in the 311th. Franklin is generally getting really good reviews for her work as a judge and her selection of M.L. Walker is a brilliant choice.



Judge Walker has served as Associate Judge for Judges Rynd, Dean and Hellums. It is great news that her experience and superb judicial demeanor will continue to serve the families of Harris County.

I have given Franklin grief over her outrageous billing as a CPS attorney before she was appointed judge, but I will give her credit for making a really great selection as A.J. to replace Bob Newey. I know Commissioner Cagle is thrilled, but this decision smells more like a "what is good for the court and the families and attorneys we serve" sort of pick instead of the purely political selection some were dreading. Way to go Alicia!



Good News: Most Heavy Drinkers Are Not Alcoholics!

[Click here](#) to read more about a U.S. Centers for Disease Control and Prevention study which found that 90% of heavy drinkers fell short of the criteria for alcoholism. Women who have eight or more drinks per week and men who have 15 or more are considered heavy drinkers. Signs of alcoholism include an inability to stop or reduce drinking, continuing to drink even after it causes problems with family or work, and excessive time spent drinking each day. Judges need to realize that heavy drinkers are not necessarily alcoholics.



Only a third of those who admitted binge drinking 10 or more times in the previous month were alcoholics, the study found. The CDC defines binge drinking as consuming four drinks for women and five drinks for men in a single occasion. This study should be sobering news for those "alcohol addiction specialists" who consider almost every regular drinker an alcoholic. I can imagine a great cross-examination of someone like Vicki Longwell based on this government sponsored study.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

**Greg Enos
The Enos Law Firm**



Thank You Judge Yarbrough

We say "good bye" to many fine judges who are retiring and leaving the bench on December 31. We will all miss the friendly and hard working Judge Jim York, even as he passes his mantle of the most pro-mother judge in custody cases on the planet to Galveston County Associate Judge Steve Baker.

Bonnie Hellums was an amazing breath of fresh air and reform when she was first elected in the 1994 Republican sweep that knocked off all of the Democratic incumbent judges. It was revolutionary then to think that a family court judge would rule based on the law and the facts and what was best for children instead of who the lawyers were. Now, thanks to judges like Bonnie Hellums, that is the least we expect in our family courts.

Harris County is also losing some amazing associate judges: Robert Newey and Michael Hay.

The family judge that has meant the most to my life and professional career has been Galveston County Family District Judge Jan Yarbrough, who is retiring after twelve years as a district judge and eight years before that as an associate judge. Judge Yarbrough never had an opponent in a primary or general election, even as Galveston County became 100% Republican. That is an amazing tribute to how universally respected Judge Yarbrough has always been.

Yarbrough heard cases involving my children back when it was still fairly unusual for a young father like me to win and keep custody. My very first family law case where I represented someone other than myself was before Judge Yarbrough. We have worked together on politics, seminars, local rules and forms and we have occasionally disagreed. However, no child and no parent could ever ask for a more fair, smart and caring judge than Judge Jan. Unlike some, Judge Yarbrough always lived up to her campaign slogan, "Put Kids First."

Should We Celebrate "Black Friday" in August?

Anyone who has attended seminary school and truly studied the Bible has had their faith tested by archeology, history, the contradictions between the gospels and the various translations of the Good Book. [Click here](#) to read an eye-opening 2010 study on Christian pastors who are non-believers even as they are still working in churches. This study describes the role that seminary placed in their skepticism. Nothing tests faith like facts.



Most seminary students at some point learn about the widely held suspicion that the birth of Christ (which was not even celebrated until about 400 years after his death), probably took place in early Fall, rather than on December 25. The 25th of December was the date of the Roman holiday of *Dies Natalis Solis Invicti* (Birth of the Unconquered Sun). The extremely popular, and much older, Roman holiday of *Saturnalia* ended usually about December 23.



Sculptors leave behind marble statues and architects are outlived by the buildings they design, but the legacies of family judges are found in the children whose lives they profoundly changed and the thousands of rulings they made, big and small, which meant so much to the families who came to them seeking justice and resolution of their disputes. Jan Yarbrough leaves a legacy of caring, intelligence, efficiency, common sense and 100% honesty. Almost every day I get to see a daughter whose life was immeasurably changed by this wonderful judge. As much as I occasionally irritated Judge Yarbrough, she may not miss me, but I am going to miss her like crazy.

Every lawyer who has practiced in the 306th in the last decade will also miss Coordinator Danna Henderson and Court Reporter, Ron Vella. Those two were major contributors to Judge Yarbrough's success and they were always pleasant, professional folks to deal. It is just not going to be the same without them.



Illegal Electronic Evidence and Family Law Part 1: Attorney Beware!

Lawyers can be sued, arrested and sent to prison and disbarred for mishandling illegal electronic evidence, such as recordings, e-mails and text messages. This article is the first in a series on what makes electronic evidence illegal, the many ways that electronic evidence is being obtained illegally these days, how law firms and clients can safeguard their computers and phones and what can happen to clients and lawyers who break the law. **This first article focuses on what attorneys should never do with illegally obtained evidence.**

An attorney can face personal, criminal and civil liability for using or disclosing an illegal recording or illegally intercepted electronic communication (e-mail or text message) provided to the attorney by a client. For example, the following can be separate and independent federal and state wiretap act violations: (1) a client's disclosure to an attorney of an illegally obtained e-mail, (2) the attorney's disclosure to his staff, co-counsel or expert of the e-mail or its contents, (3) an attorney's use of information obtained from the illegal evidence in pleadings, (4) an attorney's use of the illegal evidence as attachments to pleadings and affidavits, (5) a lawyer's use of information obtained from the illegal evidence when questioning a witness, (6) a lawyer's use of the illegally obtained recording or communication as evidence in

Both Roman holidays were replaced by Christmas.



Few modern Christians know that in the Middle East, Shepherds would not be "abiding in the field, keeping watch over their flock by night" in late December. The shepherds always brought their flocks from the mountainsides and fields and corralled them by mid-October, to protect them from the cold, rainy season that followed that date (see Song of Solomon 2:11, and Ezra 10:9, and 13). Shepherds in the Middle East send out their sheep to the fields and deserts about the time of Passover (early Spring) and bring them home at the time of the first rain in October.



[Click here](#) to read an article that says all of the above is wrong and December 25 really was Christ's birthday. [Click here](#) to read an article that suggests the Romans invented Christmas. **You will learn some history and stretch your mind if you read both articles!**



Book Review: The Secret History of Wonder Woman

Any woman lawyer at the end of 2014 might have a hard time imagining a time in America when women could not vote, when the few women with college degrees seldom could find jobs and people were sent to prison for selling contraceptives. The struggle of women to be treated as equal citizens is just one of the many stories told in "The Secret History of Wonder Woman" by Jill Lepore.

court or a deposition.

Each separate illegal use or disclosure of intercepted communication can be a federal or state felony and can result in a \$10,000 civil penalty (plus actual damages and attorney's fees).

Consider this example from criminal defense attorney Mark Bennett's excellent blog ([click here](#) to read his entire post):

Just before Duke's first unsupervised visit, Dianna bought a small digital recorder online. Dianna unstitched a bit of her daughter's favorite teddy bear-known as "Little Bear"-and stuck the recorder inside, stitching the animal back up afterwards. The recorder never left the bear's guts after this, except when the animal was washed. With no voice activation feature, the gadget simply recorded everything that happened in its presence, and Dianna periodically unstitched the bear just enough to insert a USB cable and download the audio recordings to her computer.

.....
All of this material was then turned over to Dianna's lawyers, who submitted it to the state court and waited for a ruling on its legality. In the summer of 2008, the state judge decided that the recordings were not admissible as evidence in the custody trial, since they violated the Nebraska Telecommunications Consumer Privacy Protection Act and were therefore obtained illegally.

Then, in a federal civil lawsuit by the people whose oral communications had been illegally recorded, the clients got dinged for \$60,000 each plus attorney's fees for violating the Federal Wiretap Act, 18 USC Section 2511.

The court found that their lawyer had violated the Act by revealing the recordings to other lawyers in the case, but did not enter a judgment against him:

The court has carefully considered Mr. Bianco's role in this matter and finds that damages should not be awarded against Mr. Bianco. Bianco did not solicit or advise the Divingnzzos to intercept the plaintiffs' oral communications. While he disclosed the illegally-obtained materials to advance his client's position in the Custody Case, the court did not consider the materials. The other recipients returned the materials unread or maintained the confidentiality of the communications.

The lawyer, who could easily have been ordered to pay \$60,000 as well, got lucky in part because "the other recipients...maintained the confidentiality of the communications"-something entirely out of his control (and not, strictly speaking, a legal defense).

Moreover, both the lawyer and his clients got majorly lucky in another way: by not getting indicted. If the Divingnzzos or Bianco had popped up on the radar of the U.S. Attorney for the District of Nebraska, they could easily have been facing zero-to-five-year felony wiretap charges.

The Federal Wiretap Act (which applies to interception of phone, voice and electronic communications) can make a lawyer a criminal if she:

(c) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;

(d) intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;

18 U.S.C. ♦ 2511(1)(c), (d).

The Texas Wiretap Act is basically the same as the federal law except a lawyer can commit a crime if she is **reckless** in using an illegal recording or communication (which is a much broader standard of liability than "knows or has reason to know



This book is a biography of William Moulton Marston, Wonder Woman's creator, but it is also the tale of the struggle for women's rights in the early 20th Century. Beginning in his undergraduate years at Harvard, Marston was influenced by early suffragists and feminists, which is why they play such a prominent role in the book.

Marston was a lawyer, pioneer psychologist, Hollywood screenwriter and inventor of the polygraph machine. The seminal 1923 U.S. Supreme Court case of *Frye v. U.S.*, which held that expert testimony must be based on scientific methods that are sufficiently established and accepted, involved a polygraph test administered by Marston and his testimony, which the trial judge excluded.

Family lawyers, with our prurient interests, will be fascinated to learn that in the 1920s, Marston and his wife, Sadie Elizabeth Holloway, brought into their home Olive Byrne, Marston's young lover and the niece of Margaret Sanger, one of the most influential feminists of the twentieth century. Young Olive fell in love with Marston when he was her professor and she lived with the Marstons for decades in a shared relationship that yielded four children.

Marston's wife, Sadie, was college educated, and she agreed for her husband's young lover to live in her house only on the condition that she would be the nanny to the Marston children so that Sadie could continue her career in publishing. The two women wrote a regular column for *Family Circle* magazine celebrating conventional family life, even as they secretly enjoyed a most unconventional lifestyle sharing Mr. Marston.



Marston invented the cartoon character, Wonder Woman, and he cleverly worked his feminist beliefs into the pages of the Wonder Woman comic books.

This is a fun book to read and a fascinating history of American life a century ago that most know nothing about. I highly recommend this book!

the information was obtained through [an illegal] interception..."). Under the Texas law, a person commits a crime if she...

(2) intentionally discloses or endeavors to disclose to another person the contents of a wire, oral, or electronic communication if the person knows or has reason to know the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;

(3) intentionally uses or endeavors to use the contents of a wire, oral, or electronic communication if the person knows or is **reckless** about whether the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;

Tex. Penal Code ♦ 16.02(b).

The Austin law firm Noelke English Maples St. Leger Blair, LLP has provided excellent guidance for attorneys that we all should follow:

DO: Advise your clients that they cannot delete, destroy, remove, or otherwise edit electronic data.

DON'T: Take possession of illegally obtained material. If you have it in your possession, read it or listen to it, you may be committing a crime by using it in the preparation of your case.

DO: Advise your clients on the law of intercepting email and other forms of communication. The best policy is to advise your clients NOT to access their spouse's email accounts at all, even if they think they have consent to do so.

DON'T: Represent a person who has illegally obtained electronic material. Period. It is not worth the risk.

DO: Advise your clients to change all of their passwords. And if you suspect that spyware has been installed, have the computer or phone inspected by an expert.

DON'T: If you have illegally obtained discovery in your possession, don't produce it in discovery without the advice of a criminal defense attorney.

DON'T: Turn over your client's cell phone or computer for copying without a written agreement in place as to how it will be searched. There may be privileged or non-discoverable data on these devices that does not need to be produced.

The next article in this series will describe the most common methods of illegally intercepting or obtaining electronic evidence and what laws are being violated. For example, is it a crime for a husband to guess his wife's g-mail password and printout her e-mails with her boyfriend? Can the lawyer go to jail if she uses or shares those emails? **This is stuff we all need to know and we need to educate our staffs and our clients about these laws, so we all can stay out of trouble.**



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.



Attorney Greg Enos





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Please allow your e-mail program to download or view photographs in order to appreciate this special edition.

[Click here](#) for an archive of past issues of *The Mongoose*.



[Click here](#) to download the completely updated and verified **2015 Harris County Court Chart**. I have included a list of family courts with their new personnel and locations, a 2015 court calendar and a map to the Harris County court complex.

Effective January 1, 2015. All phone numbers are (281) area code.

HARRIS COUNTY FAMILY COURTS - 2015					
Court	Judge	Floor	Phone	Associate Judge	Coordinator
245th	Roy L. Moore	15th	368-5909	James "Jim" Cooper	Renee Diaz 368-5900
246th	Charley Price	16th	274-4500	Chelsie Ramos	Yolanda Hays 274-4505
247th	John Schmutte	15th	368-6578	Paula Vlahos	Fancia Hual 368-6570
257th	Judy Warner	16th	274-4568	Deborah Patterson	Melissa Fichter 274-4564
280th	Lynn Bradshaw-Hall	15th	368-4428	No A.J.	Susan Lindemann 368-8425
308th	James Lombardino	8th	274-4600	Alyssa Lankul	Nancy Ouellet 274-4600
309th	Shari Y. Duan	16th	274-4520	Beverly Malazzo	Madeleine Russell 274-4520
310th	Lisa Millard	15th	368-6558	Conrad Moran	Molly Nguyen 368-6555
311th	Alicia Franklin	8th	274-4588	Marc Walker	Victor Alonzo 274-4583
312th	David Farr	16th	274-4548	Eileen Gaffney	Pat Platten 274-4540

All family courts are in the Civil Courthouse, 201 Caroline, Houston, TX

[Click here](#) to download all of the articles on legal topics printed in The Mongoose in 2014.

This newsletter tells the tale of this amazing year in Houston family law using photographs and art from the 26 issues of *The Mongoose* published in 2014. All year, I tried to write about family law and the need for reform in a way that was accurate, fair and occasionally humorous. I often worried about how my writing would effect people but I usually really enjoyed myself and had a lot of fun.

This year was a great year for me personally in ways far more important

I WOULD LIKE TO
APOLOGIZE TO ANY ONE
I HAVE **NOT** OFFENDEED.
PLEASE BE PATIENT.
I WILL GET TO YOU
SHORTLY.

"Together, attorneys can improve our family courts!"

In this Issue....

[2015 Harris County Court Chart](#)

[Legal Articles Published in The Mongoose in 2014](#)

[2014 in Review As Told by Photographs and Art Work in The Mongoose - Part 1](#)



Part 2 - More 2014 in Review As Told by Photographs and Art Work in The Mongoose

I received support and tips from lawyers and judges all year. More and more attorneys were willing to speak out against improper and unethical behavior.



than my efforts to reform the family courts. In January, my grandson was born. I am so very proud of my daughter Catherine, who is now my firm office manager (which allows us to see little Colton almost every day). My son-in-law is a police officer and his perspective is what kept me from going to Ferguson, Missouri to join the protests (oh, and I really wanted to!).



In December, I married my amazing Toni, who supports and/or tolerates my many time consuming interests, including this newsletter. We live and work together and we share many mutual interests and a busy family of boys and dogs. Toni is the #1 reason I am always smiling!



I spent most of my time in 2014 helping to raise boys, dogs and reptiles and occasionally I practiced law.



The Mongoose doesn't just print stories of scandal and sordid ethical lapses. I printed 26 legal articles in 2014 on topics ranging from "Splitting Custody of Siblings" to "Are Pleadings Even Needed in Family Court?" Each article was carefully researched and edited. [Click here](#) to download an index with hyperlinks to all of my 2014 legal articles and forms.

My reporting convinced one associate judge running for judge to return \$20,000 in illegal campaign contributions and persuaded another lawyer to stop calling herself "judge" in her on-line listings, even though she will now be an associate judge starting January 1.

2014 was a year when attorneys, courts and the clerks all mastered the art of electronic filing. "Going digital" was a rough transition, but we made it and it mostly works now. We all owe a huge debt of gratitude to our awesome District Clerks, Chris Daniel and John Kinard. My entire family helped campaign for Mr. Daniel.



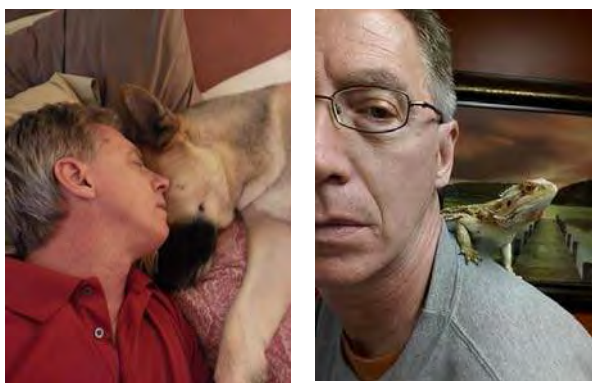
In fact, throughout the year, I did my best to help steer the Republican party in the right direction.



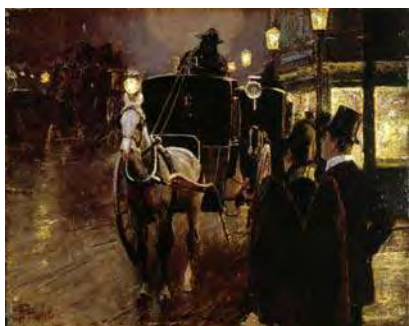
In April, I went "all in" and mailed a special print edition of *The Mongoose* to all Galveston County Republican primary voters to make sure they were educated about the primary run-off election. To my delight, the voters selected the best candidates.



Bill Morris was awarded the David Gibson Award for Professionalism by the Gulf Coast Family Law Specialists. The annual award honors family law attorneys who exemplify excellence in family law, and Morris certainly does that!



I spent many hours writing this newsletter but probably dedicated just as much time to politics, reading many books on history and religion and researching a book I am writing set in London in 1881 (Hint: It was really 11B Robert Adams Street, not 221B Baker Street, where two unlikely flat mates first joined forces, as arranged by older brother "Mycroft" with the help of a former prostitute who changed her name from "Turner" to "Hudson" and became a respectable landlady).



My magnus opus on grandparents' rights and custody cases in Texas is still a work in progress.

I enjoyed 2014 in part because I am so blessed to work with an amazing attorney, mother and friend, **Christina Tillinger**. When our firm does a "good cop, bad cop" routine, Chris always gets to be the "good cop" because everyone likes her so much.



My law firm staff is like a family and they allow me to do what I do, especially **Anna Doyle**, who usually edits this newsletter and greatly tones down my outrage and silliness. At the end of the year, I rented a party bus and took the staff and spouses to dinner and to see the Transiberian Orchestra on the same day they all attended my wedding. We will miss our wonderful paralegal, **Jaclyn Chavez-Cobb**, who is leaving to be the Court Coordinator for the 306th Family District Court in Galveston.

I hope you enjoy this review of what happened in 2014 in the local family courts as told in this newsletter.



Houston family attorneys said "adios" to one of the legends of our profession, Iris Robinson.



I got invited to a fancy, invitation only fundraiser for Alicia Franklin. Rob Clark and I were presented the "Golden Broom" for sweeping Pratt out and clearing the way for Franklin to be appointed judge.



Back when I was a big Alicia Franklin supporter, I did my best to help her campaign (after helping to convince her to switch and run for the 311th). This story and ad ran in my March 24 newsletter.

Alicia Franklin Fundraiser Thursday!

If you really want to see Judge Pratt off the bench, then you should attend Alicia Franklin's Fundraiser this Thursday at the Cadillac Bar and you must make the largest political donation of your life. Franklin is winning endorsements from more Republican Precinct Chairs each day which is a strong indication of how her support is growing. We all should also send an e-mail blast to all of our clients and our entire contact list explaining to them how important it is to vote for Alicia Franklin, who drew the first position on the runoff ballot. Remember, anyone can vote in the Republican runoff as long as they get registered before the end of April and did not vote in the Democratic primary.



I had come to know and truly respect John Schmude well before most attorneys were surprised by his primary election success. Now, he has no shortage of admirers. These are Schmude's original campaign supporters.

Greg Enos
The Enos Law Firm

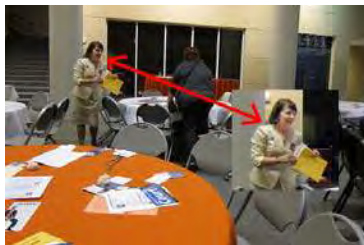
2014 in Review as Told by Photographs and Artwork in *The Mongoose* - Part 1



On December 31, 2013, Judge Denise Pratt shocked the legal world with her "New Year's Eve Massacre" by dismissing hundreds of cases without notice or hearing.



Pratt started to feel the political heat during the Republican primary campaign and was even caught taking flyers exposing her wrong-doing off tables at a Republican event.



Meanwhile, a few attorneys who had made a good living off Pratt contributed to a video extolling Pratt's virtues.



In August, I spoke at the Advanced Family Law Seminar and operated a booth with the help of the world famous Mongoose Girls.



Also in August, I began my campaign against abuse of court appointments in CPS cases and the enormous fees paid to Gary Polland, among others.



To my surprise and sorrow, my research into CPS appointments showed that Alicia Franklin, before she was appointed Judge, had billed impossible hours, billed for lawyer work after she became a judge and improperly asked to be "re-elected." I wrote about these problems and Judge Franklin promptly changed her campaign literature but refused to admit any wrongdoing regarding her ad litem billing.



My investigative journalism helped explain some of Pratt's worst actions, including altering an order after the attorneys had approved it and taking away a mother's visitation without notice or hearing:

When asked why Judge Pratt would then scratch out all of the mother's agreed periods of visitation in that order on two different pages of the order, [Pratt's criminal defense attorney, Terry] Yates had an easy answer. "George Clevenger and Ronnie Harrison were in the judge's chambers as they often are," said Yates. "Those hard working, dedicated attorneys were counting and rubber banding stacks of cash and got a little silly and started singing the 'Oompa Loompa' song from Charlie and the Chocolate Factory and that distracted the judge, who then accidentally scratched out several pages of visitation rights for this mother. Judge Pratt went ahead and initialed those accidental changes because she assumed the mother probably did not deserve to see her child any way - she is an unmarried woman working outside the home after all." Yates explained that the wording of the body of the order, which took away the mother's visitation without hearing or evidence or even a request from the father, would control over the inadvertent change of "temporary" to "final" in the title of the order. [Note: In case you did not figure it out, the above was satirical fiction].



This newsletter sparked an unprecedented revolt against an incumbent judge.



In March, I organized a very fun protest at the Republican County convention



All year, the *Houston Chronicle* reported about my work and I in return reported on what the *Chronicle* was saying.



Franklin's defense boiled down to "everyone does it." Teenagers everywhere rejoiced with hope that thinking adults might possibly accept that excuse.



(I am the handsome fellow in the Lincoln costume).



In April, I published my 18th annual *Enos Legal Directory* for Galveston County and Clear Lake. You can find a copy on the desks of all of the court coordinators and judges in Galveston County.



Finally, at the end of March, Judge Pratt resigned rather than face indictment on a criminal charge that resulted from witnesses I provided the District Attorney after they found me via *The Mongoose*. District Attorney Devon Anderson at first fibbed, then admitted she had made Pratt a sweet-heart deal no regular citizen would ever have received: resign and face no criminal charges.



My criminal complaints against Franklin and Pollard are apparently being ignored by their pal, D.A. Devon Anderson, who would recuse herself if she had a shred of integrity. At least, the amount spent by Harris County on CPS appointments decreased sharply after I started my reporting. Three ethical judges adopted new rules to make sure such abuse could not happen in their courts. Other judges decided to let their special pets continue to feed at the taxpayer trough.



After the November General Election, I reported on the appointment of new Associate Judges. I praised Charley Prine's selection of Chelsie Ramos as his A.J. and I invited her for a ride in my kayak in a desperate bid to make her forget about riding in Bobby Newman's owned jet.



In December, the horribly unfair and politically tainted case which caused me to start this newsletter in April 2012 finally ended with a really good result for my sweet client. I stuck with her despite the lack of pay and the dreadful subjugation of facts to political connections until finally a fair result was achieved. I never wrote about this case and in the last two years I became friends with all of the scoundrels involved - opposing counsel, amicus and judge. Everyone has a good side and is capable of doing the right thing if given a chance and the proper motivation. At the end of this case, justice was achieved because new evidence was discovered and because a different, fair judge presided over the trial and

In the battle with Pratt, I never lost faith that the power of words and the truth could make our justice system better.



In April, I organized the first ever political fundraising CLE event and funded a PAC that had real influence in Galveston County (every candidate this PAC endorsed won - in Harris County as well). Over 200 lawyers attended my "Ultimate Property Division" seminar and no one took me up on my offer to refund the seminar fee if they did not think it was one of the most useful, practical seminars they had ever attended. I wrote all of the articles for this seminar, which you can download by [clicking here](#).



This PAC has since gone rogue, changed its name, cut all ties with me and is steering a very independent course.

In May, I wrote about the horribly nasty race for the 212th District Court in Galveston County. I explained how Governor Perry appointed Bret Griffin judge over the objection of State Senator Larry Taylor and how a staggering amount of money was being funneled into the race by plaintiff's attorneys, including Tony Buzbee, and by business groups who claim to fight "lawsuit abuse." Griffin ended up in the primary runoff against Patricia Grady. Mrs. Grady won this race despite a series of horribly false mailers sent by a mystery PAC from Georgia and even though Mr. Buzbee bused his mass tort clients to the polls to vote in the Republican primary.

post-judgment motions; and because of a reborn amicus attorney who eventually did everything a child's advocate could do and more (unlike the first 18 months of his service on the case).

At the end of the year, the Houston Family Bar said "good bye" to retiring Judges Jim York, Bonnie Hellums, Michael Hay and Bob Newey.



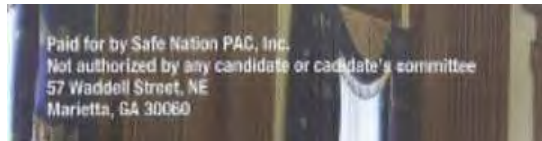
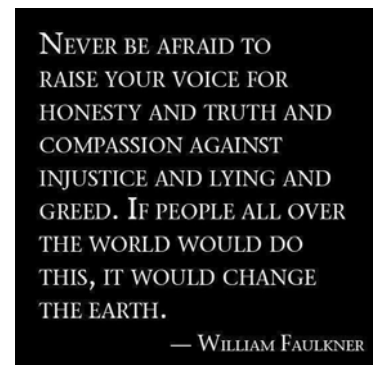
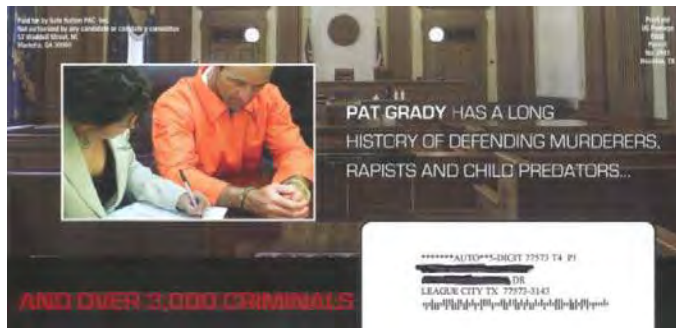
In Galveston County, we bid farewell to Judges Kerri Foley and Jan Yarbrough.



In my last *Mongoose* in December, I promised to return in January with a vengeance. I plan to start by discussing attorneys who are allowed to practice law in courts where their spouses are a judge. Stay tuned because I have a lot more to say and do in 2015!



I hear from attorneys, litigants and court personnel all the time with story ideas. Please e-mail me at greg@enoslaw.com if you have a suggestion for an article or information on unethical or illegal activity in the family courts. I do not name or quote my sources.



In June, I thanked the many attorneys who stood up to Pratt:

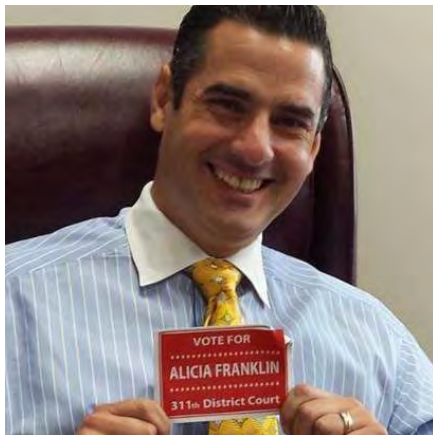
Attorneys who filed motions to recuse Pratt include David Brown, Matt Waldrop, Rob Clark, Anna Stool, Donn Fullendweider. Sharon Hemphill, Maisie Barringer, and Steve Schweitzer. Marcia Zimmerman filed an important, early mandamus. Steve Lindamood also filed a mandamus against Pratt.

The Republican candidates who ran against Pratt and kept the political pressure up were important: Phil Placzek, Anthony Magdaleno, Donna Detamore and Alicia Franklin. District Clerk Chris Daniel was an early, vocal critic of Pratt, when few other elected officials would speak out. Doug York did a lot behind the scenes to organize and encourage opposition to Pratt, as did Patsy Wicoff and Lynn Kamin.

Attorneys who went to Pratt political events or who helped me with my protest at the Republican County Convention included Mary Ramos, Matt Waldrop, Dawn Archer, Amy Harris, Rob Clark, Amy Carlin, Judith Blanchard, Maisie Barringer, and Christina Tillinger.

Sallee Smyth played a big part in standing up to Pratt in appellate courts and in providing me information and early encouragement.

I also provided a "List of Shame" of the attorneys who supported Pratt and gave her money up to the bitter end. This list included George Clevenger, Bobby Newman, Earle Lilly, David Wukoson, and Ricardo "I'm on it" Ramos. Ramos later boarded the Franklin freight train and supported her fully after she was appointed. I can tease Rick, but I really like him and respect him as an attorney and I share his pride in his wife, Chelsie, becoming Charley Prine's Associate Judge.



Attorney Greg Enos

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.

I was accused of being anti-semitic by Judge Pratt supporters because of the photograph I include in every newsletter showing a German shipyard worker refusing to join in the Nazi salute. I told the poignant tale of brave August Landmesser and his love for a Jewish woman that ended in their deaths in my February 17, 2014 newsletter.





Issue: No. 58

January 15, 2015

The Enos Law Firm

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Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.



[Click here](#) to participate in the first ever **Mongoose Survey on Judicial Ethics**. This survey seeks your opinion on Judges' spouses and whether they should practice or sign up cases pending in their beloveds' courts.

I have prepared new charts for Harris and Galveston County courts. Click below to download these charts:

[Harris County Family Courts](#)

[Galveston County Courts](#)

[Click here](#) to learn more about the first legal seminar sponsored by this newsletter. **The Ultimate Discovery Seminar** on March 12 will explain in three hours how to send and respond to discovery in an efficient, correct and high tech way. The \$90 fee for 3.0 CLE hours is 100% refundable if you think the seminar is boring or is not practical, useful, or fast paced. There will be two bonus presentations on "The State of Same-Sex Marriage and Divorce" and "Using an iPad in Court for Exhibits and Videos."

I attended the swearing-in ceremony for new judges in Galveston on January 1. It was moving and inspiring to see people who had worked so hard achieve an important goal with their family and friends present to share the moment.

New judges are already making good impressions. Judge Jack Ewing greets his misdemeanor docket by leaving the bench and speaking from between the counsel tables with compassion and humor as he explains the procedures. I saw Judge John Schmude call his docket to start his first full week and he did it with confidence and efficiency as if he had been at it for years.

We all need to be patient with, and assist, our new judges as they learn their very difficult jobs. They may be rookies now but hopefully they are all future judicial superstars.

"Together, attorneys can improve our family courts!"



In this Issue.....

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[A Special Thanks to Judges Kerri Foley and Jim Voltz](#)

[What to Do When Illegally Obtained Electronic Evidence is Discovered](#)

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[Beware of the New Year: A Mistake in the Year Might Not Be Fixable](#)

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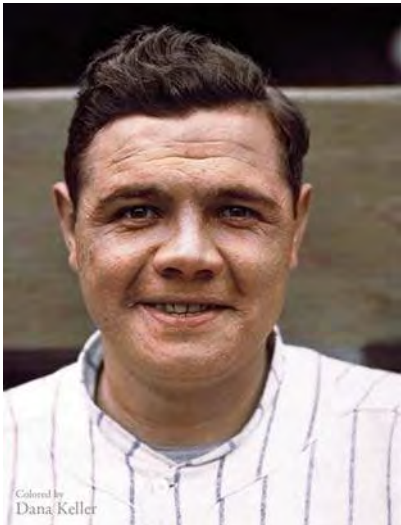
[Galveston County Vacation Request Form](#)

[Harris County Family Court Chart](#)

[Galveston County Court Chart](#)

Interesting Appellate Cases Just Decided

Robert Hoffman and other lawyers were sued by their former client, Rachel Brown, the former wife of deceased hand surgeon Michael Brown. The judge ordered Hoffman to disclose his net worth information because punitive damages are requested. Hoffman requested a



A recently colorized photo of a rookie named George Herman "Babe" Ruth, Jr. just before his major league debut in 1914.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos
The Enos Law Firm

A Special Thanks to Judges Kerri Foley and Jim Woltz

Two judges who served Galveston County admirably deserve a special "thanks." Judge Kerri Foley reluctantly gave up her jobs as Juvenile Associate Judge and League City Municipal Judge to accept the appointment as Judge of County Court No. 3 after Chris Dupuy was indicted, removed and then resigned. Foley focused on fixing a court that was in shambles rather than campaigning and Republican voters selected someone else in the primaries. Foley was disappointed by the election outcome but she continued to work hard and decide cases fairly until the very end. Most importantly, Foley restored confidence and ethics to this court and she should be proud of what she did.

write of mandamus, which was denied.

[Petition for Mandamus](#)
[Order Denying Mandamus](#)



"Justice will not be served until those who are unaffected are as outraged as those who are."

- Benjamin Franklin

Upcoming Mongoose Seminars

Every *Mongoose Seminar* is guaranteed to be practical, useful, fast paced and never boring. 100% of the seminar fee will be refunded if you do not agree. Part of the seminar proceeds will be used to buy bullet-proof vests for Houston area police officers.

Ultimate Discovery Seminar: Answering and Responding to Discovery the Correct, Efficient and High-Tech Way

[Click here](#) for details and registration information. We limit attendance, so register early! The price is \$90 if you register in advance and \$120 at the door.

When: March 12, 2015

Where: Harris County Jury Assembly Auditorium

Cost: \$90

CLE Hours: 3.0

Bonus Topics: "The State of Same-Sex Marriage and Divorce" and "Using an iPad in Court for Exhibits and Videos."

What To Do When Illegal Electronic Evidence is Discovered

A thoughtful 2005 Florida case describes what counsel and the trial court should do when faced with illegally obtained electronic evidence. [Click here](#) to read about *O'Brien v. O'Brien*, 899 So.2d 1133 (Fla. 5th DCA 2005).

In summary, here is what should happen if one spouse is caught with illegally obtained e-mails, text messages or other electronic evidence:

1. Obtain a TRO and temporary injunction to forbid the disclosure and use of the evidence.
2. Conduct discovery on how the electronic evidence was obtained, who was involved and whether the evidence has already been disclosed or used.
3. Obtain a ruling that the illegally obtained electronic evidence may not be used in evidence and consider if any other evidence that is "the fruit of the poisonous tree" (obtained by use of the illegal evidence) should be excluded. Ethical opposing counsel may agree that the illegal evidence should be excluded. Remember what the Houston First Court of Appeals in *Collins v. Collins*, 904 S.W.2d 792, 799 (Tex. App. - Houston [1st Dist.] 1995, writ



Friendswood Justice of the Peace Jim Woltz served Galveston County for 29 years with fairness, humor and common sense. We all wish Jim well and we will miss him.



Nepotism in the Courtroom?

Is it ever proper for the spouse of a District Judge or an Associate Judge to practice in his or her spouse's court? Should reverse venue shopping be allowed if a judge's spouse can accept a case and get it transferred from his spouse's court? [Click here](#) to read my analysis.

[Click here](#) to participate in the first ever **Mongoose Ethics Survey** and let us know what you think about this issue. It takes about 40 seconds to answer seven questions and your answers are confidential. I will tabulate all of the responses and let you know what the family bar thinks about judges and their spouses working in the same court.

More Galveston County Judicial Civil War Mayhem

Bonnie Quiroga, the former Director of Justice Administration, has sued Galveston County alleging she was a victim of age and sex discrimination and was retaliated against for being a whistle blower. [Click here](#) to read Ms. Quiroga's lawsuit, which was filed by attorney Mark Stevens, who also represents Judge Lonnie Cox in his battle with County Commissioners over Quiroga's firing. In December, Judge Bret

denied) said about illegal phone recordings:

To permit such evidence to be introduced at trial when it is illegal to disseminate it would make the court a partner to the illegal conduct the statute seeks to proscribe.

4. File a separate lawsuit or join to the divorce or custody case tort claims against those who illegally intercepted, used or disclosed the electronic evidence. The tort case may have to be severed from the custody or divorce case and potentially tried first if there is still a dispute over the legality of the evidence.

Vacation Letter Time

Attorneys need to check their 2015 calendars and remember to timely file vacation letters.

In Harris County, the deadline to file a vacation letter for non-summer months is February 1 and for summer months the deadline is May 15.

In Galveston County, Local Rule 11 says vacation letters must be filed with the District Clerk, the County Clerk and each court in which counsel practices 30 days in advance. However, in reality, a form filed with the District Clerk will be honored as long as the vacation is requested before notice is received that a trial or hearing is set.

[Click here](#) for a Harris County vacation letter request form.

[Click here](#) for a Galveston County vacation letter request form.

Beware of the New Year: A Mistake in the Year Might Not Be Fixable

Every new year results in mistakes because we are so used to writing or typing "2014" instead of "2015." *Rawlins v. Rawlins*, 324 S.W.3d 852, 855 (Tex. App.-Houston [14th Dist.] 2010, no pet.) is an example of how a mistake in the year used in an order can screw a client and not be fixable later. This case also includes a sublime ass chewing of an attorney for being a sleaze bag. I highly recommend you [click here](#) to read about this case and then check all your orders to make sure they have the correct year.



Griffin recused himself from Quiroga's lawsuit and a new judge has apparently not been appointed by Olen Underwood.

A decision is expected soon in the mandamus action filed by Galveston County against Judge Cox asking that Cox's sua sponte order regarding Quiroga's firing be voided. Andy Mytelka, a partner at Galveston's Greer, Herz & Adams filed an amicus curiae brief bravely supporting Judge Cox. [Click here](#) to read Mytelka's brief, which says in part:

Mr. Mytelka heads GHA's litigation department. His interest in this mandamus proceeding lies in his practice before Galveston courts, and in ensuring those courts are able to provide efficient, seamless structure and support to the parties and attorneys who appear before them. Interference with the administration of Galveston courts-including the system that provides juries and that manages caseloads-is of paramount concern for local practitioners at GHA, and GHA's clients. If the court's administrative system, including its Director of Justice Administration, may be altered as part of county business, Galveston courts are subject to disruption.

The county filed a very long and detailed answer to the lawsuit filed by Probate Judge Kim Sullivan complaining that she was robbed of the extra \$5,000 a year she had been paid to be Probate Administrative Judge even though she is the county's only probate judge. The county's answer quotes from a 2011 Attorney General Opinion which seems to say the county can do what it did. As a taxpayer, I question the wisdom of spending tens of thousands of dollars in legal fees to fight a fellow Republican elected official over paying her an extra \$5,000 a year. I also wonder how Judge Sullivan justifies the extra pay to administer herself.

Je Suis Ahmed

The horrible massacre at the offices of the French magazine *Charlie Hebdo* really upset me on many levels. Brutally making fun of religion is a French tradition, but it is bothersome to Americans who believe in freedom of expression *and* a tolerance of all beliefs, no matter how weird they seem to non-believers. Killing people for expressing unpopular opinions about religion was once the norm, but it is hard for modern Americans of any faith to comprehend today and such barbarity is rejected by the vast majority of Muslims worldwide. The unity of the French people in the face of the terrorism was inspiring, but very sad.



The cover of this week's edition of *Charlie Hebdo* shows a Muslim man holding a sign that says, "I am Charlie" under the caption "All is forgiven." It is not clear why one should assume the cartoon character is supposed to depict the Prophet.

I am currently reading *In the Shadow of the Sword: The Birth of Islam and the Rise of the Global Arab Empire* by Tom Holland and such writing is a much more serious threat to the beliefs of Islam than cartoons belittling the Prophet ever could be. This book explains how very little is known about the first 200 years after Mohammed's death and how many modern researchers now question the ancient tenants of Muslim scholarship that supposedly supported the authenticity of the



Attorney Greg Enos

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Hadiths, which are writings and analysis based on reports of the teachings, deeds and sayings of the Prophet. To question the authenticity of the Koran, presumably compiled within 20 years after Mohammed's death, would be the same as questioning whether a man named Jesus ever even lived. This book digs deep into what is known and provable about the origins of Islam and is also a very interesting tale about how the Arabs rose and the Romans fell.

I have a special place in my heart for police officers, so I wrote this to honor a special hero of the tragedy at the offices of *Charlie Hebdo*:



I am not Charlie, I am Ahmed Merabet, the dead Paris police officer. *Charlie Hebdo* ridiculed my faith and culture and I died defending his right to do so. The gunmen shot me in the groin as they left the offices where they had murdered the writers and cartoonists. One of the attackers asked, "Do you want to kill us?" I held up my hand and answered, "No, it's okay friend." One of the gunmen then casually shot me in the head. I was killed by my fellow Muslims for just doing what police officers all over the world do every day - putting my life on the line to protect and defend my fellow citizens. I died because I ran toward danger to help others.

[Click here](#) to read a translation of the short and moving eulogy given by Officer Merabet's brother.





Issue: No. 59

February 23, 2015

The Enos Law Firm

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Web site: www.divorcereality.com

Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.



Scant little scandal provides minimal incentive to put out this newsletter when there is actual lawyer work to be done, a seminar to plan, a new website dedicated to Senator Ted Cruz to develop ([click here](#) to behold TedCruzTalk.com), articles to write, a grandchild to spoil and a "new" old house to renovate. Also, as you will read below, this issue required a lot of data analysis and number crunching. I apologize to my loyal readers for the many weeks between issues.

It is cruelly ironic to litigate against attorneys who actually read my legal articles in this newsletter and then throw them back in my firm's face. The smart and oh-so-witty David Thornton sent this letter in an argument on calculating child support when one child lives primarily with one parent while the other parent has custody of a sibling:

"Together, attorneys can improve our family courts!"



In this Issue.....

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[Gary Polland Hits \\$2 Million Mark in Payments From Harris County](#)

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[Valuable Attorney General Contact Information](#)

[A Final Round of Judicial Shake Downs \(Judicial Fundraisers\)](#)

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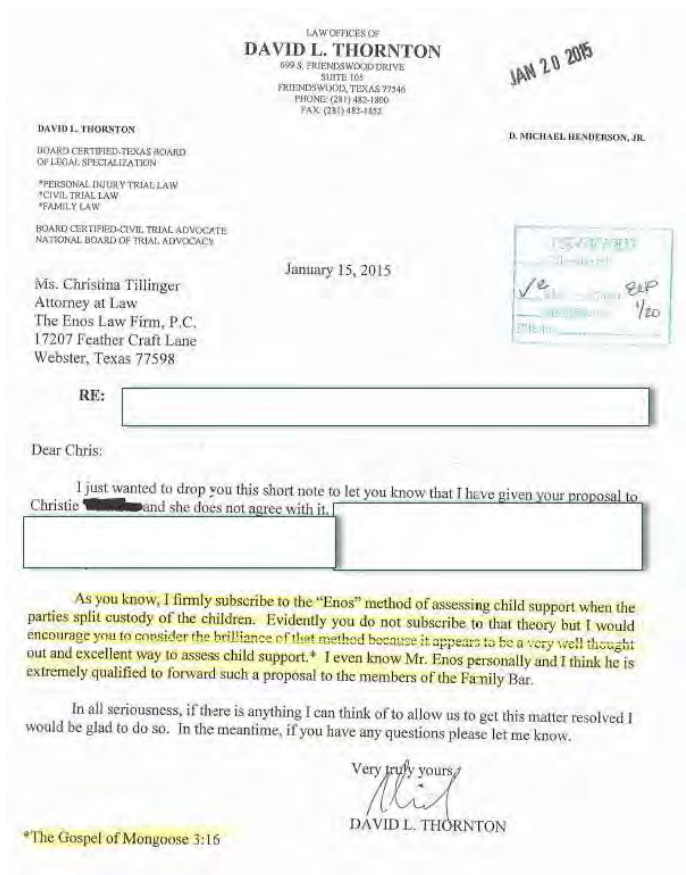
[Galveston County Judges Are Still Battling County Commissioners](#)

[A New Family Court for Harris County?](#)



My most recent side project is the world's most comprehensive web site dedicated to Texas Senator Ted Cruz. My blog at TedCruzTalk.com (and a related Facebook site) provides Cruz news around the clock as well as praise, criticism and political analysis regarding our controversial senator who is clearly running for President.

My scary prediction is that the 2016 Republican



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Greg Enos
The Enos Law Firm

Has the CPS Appointment Battle for Ethics and Propriety Already Been Won?

It is possible I may have won my battle to clean up the appointment of attorneys in CPS cases and no none bothered to tell me. At least in all the family courts, it appears that appointments in CPS cases are now being spread out evenly with no one attorney with special political pull getting a lot more appointments than anyone else. My sources in the County Auditor's office also suggest that the total amount that appointees in CPS cases are billing the county is down significantly since I started my lonely campaign to clean up this little noticed area of the law.

I submitted a Freedom of Information request to the District Clerk and asked for data on appointments of attorneys in CPS cases in the family courts and in the juvenile courts. I only asked for appointments for September through December 2014 for the family courts, which would show appointments after I exposed the CPS ad litem billing scandal in August. The data provided by the District Clerk shows that there were 157 appointments of attorneys in CPS cases in the family courts during the last four months of 2014. Gary Polland only had four appointments (3 from the 311th, one from the 308th). The most appointments any one attorney had during that period was seven (Brad Medland and Claudia Canales each got

nomination battle will boil down to Jeb Bush vs. Ted Cruz and no one should count Cruz out (just ask David Dewhurst who also had the name, money and establishment backing). Ted Cruz as the GOP nominee would thrill Hillary Clinton but scare the crap out of the pro-business fat cats who really run the Republican Party and who so desperately want to win the White House.

My website is very fair to Senator Cruz and is mostly news about his exploits with very little liberal commentary.

Useful Lawyer Links

[Harris County Vacation Request Form](#)

[Galveston County Vacation Request Form](#)

[Harris County Family Court Chart](#)

[Galveston County Court Chart](#)

[Attorney General Contact Info](#)

Valuable Attorney General Contact Information

Kathy Vossler was kind enough to share a very useful listing of contact information for the Texas Attorney General Child Support Division in the Houston area. [Click here](#) to download AG Contact information.

Vossler explained to me that the entire agency has been revamped and most contact information has changed. The outlying offices that serve Brazoria, Fort Bend, Galveston and Montgomery Counties are still being run as they have been. It is the Harris County AG's offices that have undergone huge changes.

To reach any Houston-area attorney at the Attorney General's office by fax, use (713)780-2986.

NOTE- the old fax numbers listed on old pleadings still ring, and from your end, it will seem like you sent a fax. But, those numbers are not monitored. You will not get a response.

To reach a particular Assistant Attorney General (AAG) via e-mail use this e-mail address:

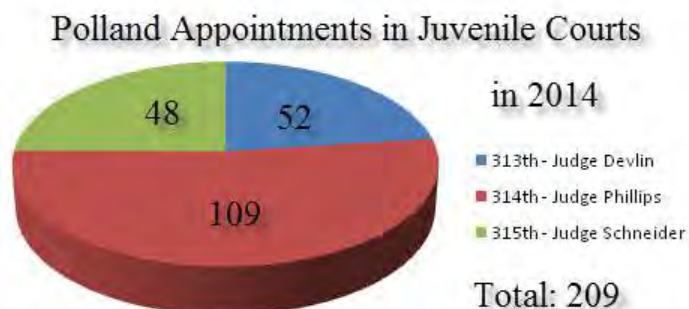
FirstName.LastName@
TexasAttorneyGeneral.gov

If you do not know which AAG you will be working with, or if you are sending pleadings, correspondence & etc., you should use their "legal" e-mail, which is: csd-legal-615@TexasAttorneyGeneral.gov.

seven), or just five percent of the total. [Click here](#) for the list of the attorneys with the most CPS appointments in the family courts for that four month period.

My request for data on attorneys appointed in CPS cases in the juvenile courts for the last two years ran into a surprising obstacle. It turns out that the clerks in the juvenile courts do not enter the names and roles of attorneys into the District Clerk database like they do in family, civil or criminal courts. I can look at a family case on the District Clerk website and see who the attorneys are and what their role in the case is (Amicus Attorney or represents Respondent, for example). Amazingly, that information is not even entered into the computer in the juvenile courts in most cases.

The vast majority of the CPS appointments and the dirty money being paid in those cases come out of the juvenile courts. I was finally able to obtain a spreadsheet from the District Clerk that shows for 2014 each time a lawyer was awarded an appointment fee in cases in juvenile court. I sorted the spreadsheet by bar number, extracted Gary Polland's cases, eliminated duplicates (since sometimes fees are awarded more than once on the same case) and then counted the number of cases. It appears that Gary Polland was appointed on 209 different cases in the juvenile courts in 2014 (which should include both CPS and juvenile criminal cases). Over half of those appointments were made by Judge Phillips.



Gary Polland Hits the \$2 Million Mark In Payments from Harris County!

I asked the County Auditor for an updated report on what Harris County has paid Gary Polland as well as the total paid to all attorneys for court appointments. For the five years from 2010 through 2014, **Gary Polland was paid a total of \$2,091,190.19 by Harris County.** This figure includes pay for such things as the mental health docket in the probate courts that is for some reason is not included in the report on fees paid appointed attorneys. Put another way, Polland has been paid more by Harris County in the last five years than the combined pay of the three juvenile district judges during that same period.

The County Auditor provided another report which totals the fees paid appointed attorneys during the same 2010 - 2014 period. Again, this report does not capture some fees paid by the county, only fees coded as being paid to appointed attorneys. Gary Polland was number one on this list. [Click here](#) to see the entire list of those paid over \$500,000 in those five years. Here are a few names you might recognize:

Rank	Name	Amount
1	Gary Polland	\$1,825,498
3	National Screening Center	\$1,769,550
11	George Clevenger	\$1,079,912
14	Angela Phea	\$1,068,984
22	Claudia Canales	\$906,004
28	Alicia Franklin	\$822,854
33	Ronnie Harrison	\$783,454

"Do Nothing" Devon Anderson Still Protecting Her Republican Cronies

I have yet to hear from the District Attorney about any investigation into Alicia Franklin or Gary Polland for their CPS billing practices. On Gary Polland, I provided the DA with a mountain of information, including information on a mother who recorded Polland's home visit on a CPS case. Her recording and testimony would seem to prove he did not spend the hours he billed the county for on that case, which (if true) would be a crime. That lady has



Interesting Appellate Cases Just Decided

Hancock v. Hancock, No. 01-14-00089-CV (Tex. App. - Houston [1st Dist.] 2/3/2015), is a prime example of how a trial court's award of post-divorce spousal maintenance (what the Yankees up north call "alimony") is almost impossible to reverse on appeal. This is a case I tried in Galveston and my 59 year old client got \$3,300 a month in support for three years despite being awarded a house and \$760,000 in retirement benefits. One lesson from this case is that a spouse does not have to live off all assets awarded her in order to get spousal maintenance. Also, these factors make an award of "alimony" much more likely in every case:

- The longer the marriage and the older the spouse, the more likely a judge will award spousal support.
- A spouse who makes a lot and who did his wife dirty is more likely to be hit with an order to pay "alimony."
- Expert testimony and even medical records are not required to prove a spouse's medical problems.
- A wife's testimony that she has applied many places for work is very hard to controvert.

[Click here](#) to read this case that carefully lays out the law applicable to spousal maintenance and the evidence I presented to win this award.



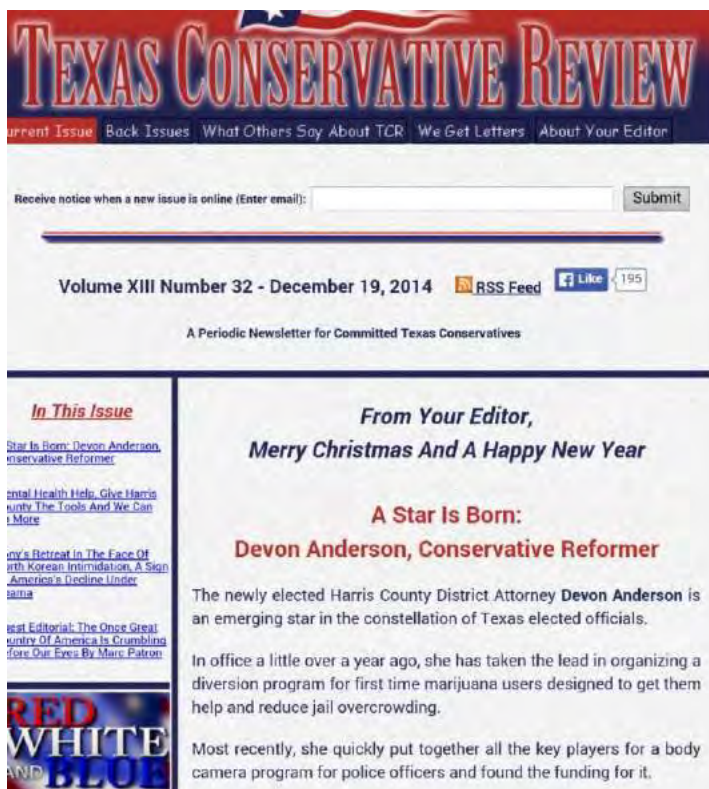
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Ultimate Discovery Seminar: Answering and Responding to Discovery the

not been contacted by the DA in the three months since I filed my criminal complaint against Polland, according to her attorney. Perhaps the woman is mistaken or lying, but she should at least be interviewed if any sort of real investigation is underway.

Someone needs to investigate why Devon Anderson is not doing her job in regards to Judge Franklin and especially Gary Polland. I know that Devon Anderson is going to count on Polland to endorse her next year when Anderson will likely face an opponent in the Republican primary. Polland, while supposedly under investigation by Anderson's office, has already started singing Ms. Anderson's praises in his newsletter, something the DA will need to fend off a primary challenger. It appears to be a situation of "Gary helps Devon and Devon keeps Gary safe from liberal rascals like Greg Enos."



I also know that Anderson's campaign does business with Polland because her campaign finance reports show payments to Polland's *Texas Conservative Review* for "advertising" in Polland's mailers.

Correct, Efficient and High-Tech Way

[Click here](#) for details and registration information. We limit attendance, so register early! The price is \$90 if you register in advance and \$120 at the door.

When: March 12, 2015

Where: Harris County Jury Assembly Auditorium

Cost: \$90

CLE Hours: 3.0

Bonus Topics: "The State of Same-Sex Marriage and Divorce" and "Using an iPad in Court for Exhibits and Videos."

Results of the Mongoose Judicial Ethics Survey

Here are the results of my first ever on-line *Mongoose* survey, which focused on judges and their spouses. 191 attorneys provided anonymous responses to my questions and 61 provided written comments as well. All judges married to lawyers and their spouses (and fiances) would do well to carefully read these results. **My next issue will explore whether Dan Lemkuil will continue to practice in the 308th District Court where his wife serves as Associate Judge.**

Should a lawyer who is the spouse of a District Judge accept a new client whose case is already pending in his/her spouse's court with the expectation that the case will be transferred to another court because of the conflict?

No 74.7%

Yes 13.1%

Yes, but only if opposing counsel agrees 12.0%

Should a lawyer who is the spouse of a District Judge automatically decline a new case if it is already pending in his/her spouse's court?

Yes 88.0%

No 10.8%

If a lawyer who is the spouse of a District Judge or an Associate Judge files a new divorce or SAPCR case that is randomly assigned to his/her spouse's court, do you agree that the case should be randomly re-assigned to another court and the lawyer may still represent the client?

Yes 96.7%

No 2.1%

Should a lawyer who is the spouse of an Associate Judge accept a new client whose case is already pending in the court where his/her spouse is the AJ?

No 72.8%

Yes - as long as opposing counsel/parties agree and the AJ/Spouse will never hear or rule on the case 10.8%

Yes - as long as the presiding judge is recused or the case goes to another court 15.2%

Should a lawyer who is the spouse of an Associate Judge always decline a new client whose case is already pending in the court where his/her spouse is the AJ?

Yes 82.6%

No 14.1%

No Response 3.2%

Should a District Judge ever appoint the spouse of his/her Associate Judge to be an amicus, ad litem, mediator or receiver on a case pending in that judge's court?

Never 82.6%

1 PAGE# Schedule: 13/15	Report: 51/53	2 FILER NAME Friends of Devon Anderson	3 ACCO 0200
4 Date 04/01/2014	5 Payee name Rapid Delivery Service		
6 Amount (\$) \$12.50	7 Payee address PO Box 79673 Houston, TX 77279	City; State; Zip Code	
8 PURPOSE OF EXPENDITURE	(a) Category (See Categories listed at the top of this schedule) Office Overhead/Rental Expense	(b) Description (If travel outside of Texas, do) Courier & Delivery Charges	
9 Complete ONLY if direct expenditure to benefit C/OH	Candidate / Officeholder name	Office sought: Offi	
Date 06/17/2014	Payee name Rapid Delivery Service		
Amount (\$) \$11.33	Payee address PO Box 79673 Houston, TX 77279	City; State; Zip Code	
PURPOSE OF EXPENDITURE	Category (See Categories listed at the top of this schedule) Office Overhead/Rental Expense	Description (If travel outside of Texas, do) Courier & Delivery Charges	
Complete ONLY if direct expenditure to benefit C/OH	Candidate / Officeholder name	Office sought: Offi	
Date 02/06/2014	Payee name Texas Conservative Review		
Amount (\$) \$5,000.00	Payee address 2411 Richmond Avenue Ste 770 Houston, TX 77046	City; State; Zip Code	
PURPOSE OF EXPENDITURE	Category (See Categories listed at the top of this schedule) Advertising Expense	Description (If travel outside of Texas, do) Print Advertising Placement	
Complete ONLY if	Candidate / Officeholder name	Office sought: Offi	

Does DA Anderson not recuse herself in cases where she personally knows and does business with the potential criminal defendant? How stinky does this look?

A Final Round of Lawyer Shake Downs (Judicial Fundraisers)

I understand that our fine, hard working family court judges have to get elected and we are all stuck with our current system that forces judges to raise campaign money from attorneys. However, enough is enough. The not-so-good news is that most of our newly elected family court judges have scheduled one more round of parties to shake down lawyers for money one last time. The really good news is that judges elected in 2014 cannot accept campaign contributions after March 4, 2015, so the season of asking lawyers for donation after donation is almost over.

"Pants on Fire" Parties For Franklin and Prine?

Judges Franklin and Prine called their parties "retire the debt" events even though their most recent campaign finance reports show they owe no debts for their campaigns. **Canon 5 of the Judicial Canon of Ethics says, "(1) A judge or judicial candidate shall not: ... (ii) knowingly or recklessly misrepresent the ... qualifications, ... or other fact concerning the candidate..."** As shown below, Franklin had \$16,736 in the bank after her successful 2014 campaign and Prine had \$27,500 in his campaign coffers. Neither Franklin or Prine listed any outstanding loans for their campaigns as of December 31, 2014 (as shown in reports filed January 15, 2015).

Yes, but only if all parties/counsel on the case agree to the judge's selection 1.0%

Yes, but only if the parties/counsel agree and request the appointment (rather than the judge selecting the AJ's spouse) 15.2%

My survey received many written comments, which included:

This is a no brainer. This is about the "appearance of impropriety". It is about "pillow talk" and it is about greed. Any idea that it is ok for a spouse of a sitting judge or a sitting AJ to ever take a case or appointment in that court is just WRONG. Shame on the AJ, shame on the Judge and shame on the Spouse.

It is the APPEARANCE of impropriety against which we must fight to preserve the integrity of our profession. The fact that a lawyer can ask for a "fix" to overcome what already looks "crooked", "fixed", "stacked against the other party" should not be our focus. Our goal must be to avoid going down the path which will require a "fix."

The Mongoose has provided more investigative journalism than the Chronicle, the Daily News, and the Houston Press on judicial ethics this past year. Fight on!!

Love your newsletter and I appreciate all the time it must take from you, your spouse and staff to get it right.

Keep up the good work! Wished you'd asked about the spouse serving as substitute AJ. Another time ...

There are plenty of courts for the spouse to practice in without practicing in the court where his/her spouse is judge. There is a very good chance the non-judge spouse would be hired for that reason alone. The client would think he/she was to get a better deal, who wouldn't? Avoid even an appearance of impropriety, IS THE RULE!

Spouses of judges should never sit as visiting AJ's. Spouses shouldn't both be judges in the same county

I can't believe this is even up for discussion. Why would anyone think this is okay ?

Love the Mongoose. And you still owe me lunch

A New Family Court for Harris County?

A bill has been introduced into the Texas Legislature that would create the new 507th Family District Court in Harris County. HR 1167 has been introduced by Rep. Senfronia Thompson and has the backing of Harris County Commissioners. If the bill becomes law as currently worded, the Governor would appoint a judge for the court to start work in September 2015 and the new judge would be in the ballot in November 2016 and possibly again in 2018.

I am sure that the behind-the-scenes politicking has already begun by those who will seek that appointment. **The family attorneys in Harris County should start a petition asking the Governor to appoint one of our fine, experienced Associate Judges to this post.** We could sign that petition without taking sides or endorsing a particular applicant.

I am moving back to Galveston County this Spring, so Governor Abbott does not have to agonize about whether to appoint me to this bench.

**"CELEBRATE HER ELECTION
AND RETIRE HER DEBT"**

FUNDRAISER FOR JUDGE ALICIA FRANKLIN

**You are invited to a celebration and fundraiser to help
Judge Alicia Franklin
RETIRE THE DEBT**

When: February 18, 2015 @ 5:30 pm
Where: China Garden
1602 Leeland Street
RSVP to Thao Tran at 832-878-1425 or email tran.thao.thu@gmail.com

Please make checks payable to the Judge Alicia Franklin Campaign
3355 West Alabama Street, Houston, TX 77098
\$1,000.00 Suggested Minimum Contribution

I will keep you informed on the progress of this bill and what you can do to motivate our Representatives and Senators to vote for it when the time comes. Usually, these bills to create new courts (if supported back home in the county involved) are enacted with little controversy.

Galveston County Judges Are Still Battling County Commissioners

The Court of Appeals with a one sentence ruling refused to grant a writ of mandamus to make Judge Lonnie Cox rescind his *sua sponte* order that said Galveston County Commissioners could not fire or replace the Director of Justice Administration Bonnie Quiroga. Quiroga is still fired, however, and now that her tacky e-mails about the judges she supposedly worked for have been leaked, many judges do not want her back. Quiroga is suing the County for wrongful termination.

The County Commissioners are considering an idea to abolish the office of Justice Administration and create a department that mostly does the same thing but reports only to Commissioners. A bill may be introduced to allow Galveston County to create an office of Court Administration, funded by the county but reporting to the judges. These two ideas together were basically the compromise I suggested in December to resolve this impasse.

The judges now fall into one or two of three camps, even if they will not admit it to each other (but will to me):

- Lonnie Cox and his followers who want a fight and will not compromise.
- Several judges who now regret following Cox into this box canyon but cannot see a way out.
- Judges who like my idea of a compromise where the county has a department running some court related functions and the judges hire and supervise their own administrator based on a definite statute that creates the position.

Texas Ethics Commission P-11 Nov 1-2010 Austin, Texas 78711-2070 (512)463-6880 TDD (800)735-2088													
JUDICIAL CANDIDATE / OFFICEHOLDER REPORT: SUPPORT & TOTALS													
FORM JC/OH COVER SHEET PG 2													
13 C/OH NAME: Franklin, Alicia (HON.)	14 ACCOUNT #: (Enter Commission File) 00069120												
15 NOTICE FROM POLITICAL COMMITTEE(S) ☐ additional pages	This box is for notice of political expenditures by political committees to support the candidate / officeholder. These expenditures may have been made without the candidate's or officeholder's knowledge or consent. Candidates and officeholders are required to report this information only if they receive notice of such expenditures. <table border="1"> <tr> <td> COMMITTEE TYPE ☐ GENERAL ☐ SPECIFIC </td> <td> COMMITTEE NAME COMMITTEE ADDRESS COMMITTEE CAMPAIGN TREASURER NAME COMMITTEE CAMPAIGN TREASURER ADDRESS </td> </tr> </table>	COMMITTEE TYPE ☐ GENERAL ☐ SPECIFIC	COMMITTEE NAME COMMITTEE ADDRESS COMMITTEE CAMPAIGN TREASURER NAME COMMITTEE CAMPAIGN TREASURER ADDRESS										
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16 CONTRIBUTION TOTALS	<table border="1"> <tr> <td>1. TOTAL POLITICAL CONTRIBUTIONS OF \$50.00 OR LESS (OTHER THAN REDEMPTIONS, LOANS, OR GUARANTEES OF LOANS), UNLESS ITEMIZED</td> <td>\$ 25.00</td> </tr> <tr> <td>2. TOTAL POLITICAL CONTRIBUTIONS (OTHER THAN REDEMPTIONS, LOANS, OR GUARANTEES OF LOANS)</td> <td>\$ 1,475.00</td> </tr> <tr> <td>3. TOTAL POLITICAL EXPENDITURES OF \$100 OR LESS, UNLESS ITEMIZED</td> <td>\$ 266.08</td> </tr> <tr> <td>4. TOTAL POLITICAL EXPENDITURES</td> <td>\$ 21,455.20</td> </tr> <tr> <td>5. TOTAL POLITICAL CONTRIBUTIONS MAINTAINED AS OF THE LAST DAY OF THE REPORTING PERIOD</td> <td>\$ 16,735.99</td> </tr> <tr> <td>6. TOTAL PRINCIPAL AMOUNT OF ALL OUTSTANDING LOANS AS OF THE LAST DAY OF THE REPORTING PERIOD</td> <td>\$ 0.00</td> </tr> </table>	1. TOTAL POLITICAL CONTRIBUTIONS OF \$50.00 OR LESS (OTHER THAN REDEMPTIONS, LOANS, OR GUARANTEES OF LOANS), UNLESS ITEMIZED	\$ 25.00	2. TOTAL POLITICAL CONTRIBUTIONS (OTHER THAN REDEMPTIONS, LOANS, OR GUARANTEES OF LOANS)	\$ 1,475.00	3. TOTAL POLITICAL EXPENDITURES OF \$100 OR LESS, UNLESS ITEMIZED	\$ 266.08	4. TOTAL POLITICAL EXPENDITURES	\$ 21,455.20	5. TOTAL POLITICAL CONTRIBUTIONS MAINTAINED AS OF THE LAST DAY OF THE REPORTING PERIOD	\$ 16,735.99	6. TOTAL PRINCIPAL AMOUNT OF ALL OUTSTANDING LOANS AS OF THE LAST DAY OF THE REPORTING PERIOD	\$ 0.00
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6. TOTAL PRINCIPAL AMOUNT OF ALL OUTSTANDING LOANS AS OF THE LAST DAY OF THE REPORTING PERIOD	\$ 0.00												



JOIN US FOR AN EVENING OF FINE DINING & DRINKS TO HELP

Judge Charley Prine**RETIRE THE DEBT**

FOR THE 246TH FAMILY DISTRICT COURT OF HARRIS COUNTY

THURSDAY, FEBRUARY 5, 2015

5:30 P.M.

OUSIE'S TABLE

3939 SAN FELIPE | HOUSTON, TX 77027

\$1,000.00 SUGGESTED MINIMUM CONTRIBUTION

PLEASE SEE ATTACHED INVITATION

TO RSVP, PLEASE CALL SUSAN CLEVINGER AT 281 580 4502 OR

EMAIL MEG.SMITH.LAW@GMAIL.COM*CORRECTION: PLEASE NOTE THIS EVENT IS THURSDAY 02 05 2015

PLEASE MAKE CHECKS PAYABLE TO THE JUDGE CHARLEY PRINE CAMPAIGN

J E. GREENWAY PLAZA, SUITE 225, HOUSTON, TEXAS 77046



Attorney Greg Enos

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.

JUDICIAL CANDIDATE / OFFICEHOLDER REPORT: SUPPORT & TOTALS		FORM JC/OH COVER SHEET PG 2	
13 C/OH NAME: <u>Prine, Charley Jr. (Mr.)</u>		14 ACCOUNT # (Print Commission Name) 00068917	
15 NOTICE FROM POLITICAL COMMITTEE(S) ☐ additional pages	... This box is for notice of political expenditures by political committees to support the candidate / officeholder. These expenditures may have been made without the candidate's or officeholder's knowledge or consent. Candidates and officeholders are required to report this information only if they receive notice of such expenditure. ...		
	COMMITTEE TYPE: <u>TEXAS FOR LOYALTY RETURN</u>		
	COMMITTEE ADDRESS: <u>919 Congress, Suite 455 Austin, TX 78701</u>		
	COMMITTEE CAMPAIGN TREASURER NAME: <u>FRANK, LUPP</u>		
16 CONTRIBUTION TOTALS		1	
TOTAL POLITICAL CONTRIBUTIONS OF \$50 OR LESS (OTHER THAN PLEDGES, LOANS, OR GUARANTEES OF LOANS), UNLESS ITEMIZED		\$ 0.00	
2		TOTAL POLITICAL CONTRIBUTIONS (OTHER THAN PLEDGES, LOANS, OR GUARANTEES OF LOANS)	
		\$ 38,576.26	
EXPENDITURE TOTALS		3	
TOTAL POLITICAL EXPENDITURES OF \$100 OR LESS, UNLESS ITEMIZED		\$ 0.00	
4		TOTAL POLITICAL EXPENDITURES	
		\$ 61,763.68	
CONTRIBUTION BALANCE		5	
TOTAL POLITICAL CONTRIBUTIONS MAINTAINED AS OF THE LAST DAY OF THE REPORTING PERIOD		\$ 27,499.96	
OUTSTANDING LOAN TOTALS		6	
TOTAL PRINCIPAL AMOUNT OF ALL OUTSTANDING LOANS AS OF THE LAST DAY OF THE REPORTING PERIOD		\$ 0.00	



I e-mailed both Prine and Franklin and asked them to explain why they would advertise their parties as "retire the debt" events when their campaigns did not really owe any loans. Neither judge replied, which to me at least confirms that my facts are correct.

Just to be fair to them, I checked the Schedule G forms attached to Prine's and Franklin's campaign finance reports. Candidates use Schedule G to report campaign expenditures from personal funds that they hope to repay from political contributions. Such personal expenditures are not technically "debts" since they are not loans and do not have to be repaid. There are limits on how much candidates can repay themselves for such personal expenditures (\$25,000 per election cycle for Harris County judicial races).

Judge Prine's personal expenditures on his Schedule G forms totaled \$2,515.58 and thus he already has plenty of campaign funds to repay himself. **Prine did not need to seek contributions to "retire a debt" because he apparently has no campaign debt.**

Judge Franklin was a different matter. I added all of her reported personal expenditures on her Schedule G forms and came up with \$21,556.27, which is

\$4,820.27 more than the campaign funds she had in the bank on December 31. Franklin thus did not have enough in her campaign coffers to repay herself for all of her personal expenditures she spent on her campaign. Franklin no doubt would prefer to pay herself back, but she does not have to. Is it accurate to call raising money to pay herself back "retiring debt?" I am not sure, but it is at least arguable and so I will give her a pass on this one. I realize that "retire the debt" sounds a lot better than "I am asking lawyers who practice in my court to donate money that I can take home and deposit in my own personal bank account." The real ethical problem here may be with our Election Code that allows this to happen.

I wish both judges had communicated with me to provide their explanations for the ways they advertised their final campaign events. I stand ready to give you their side of the story if they ever see fit to provide it.

In Galveston County, Family District Judge Anne Darring actually does have a campaign debt of \$55,500 and her supporters are hosting a party on March 4 at Dan Amerson's mediation offices in League City that truthfully will help raise funds to retire a reported campaign loan.

Enough is Enough Already!

Prine, Franklin, Lombardino and Dean "suggest" a minimum donation of just \$1,000 in their invitations. Most regular attorneys, after almost two years of giving to various campaigns, cannot afford to cough up another \$4,000 to give to four judges whose campaigns are over and who right now do not even need the money (except for possibly Judge Franklin). So, these events end up being just for the same small gaggle of "big dollar" lawyers who can cheerfully afford the "suggested minimum contribution" and who are part of the vicious cycle of judges helping attorneys make money and attorneys using that money to finance judicial campaigns. It almost makes me miss wacky aunt Bonnie Hellums, who would not solicit or accept any donations from family law attorneys.

After March 4, Harris County family court judges elected in 2014 cannot raise or spend campaign funds for another two and a half years. The judges cannot spend the campaign funds they have in their campaign accounts until the next election season, except for very small donations to political parties and "officeholder expenditures" (an expenditure to defray expenses incurred by an officeholder in connection with the officeholder's duties or activities of office if the expenses are not reimbursable with public money).

These judges who are still trying to raise even more money are merely trying to get a jump start on their reelection campaigns in three years. This is just too much to ask of attorneys after a solid year of donating to candidates. Lawyers should simply say "enough is enough" and not donate any more. **Attorneys should go to the parties but only donate \$1, eat the food, drink their booze and dare George Clevenger to throw them out.**

Judge Sheri Y. Dean has \$44,442 in her campaign coffers and yet she is also asking lawyers to pony up one last time tomorrow night.



JOIN FRIENDS AND FAMILY
FOR
AN EVENING OF DINING AND FELLOWSHIP
WITH
JUDGE SHERI Y. DEAN

COME CELEBRATE
THE BEGINNING OF HER NEW TERM
AS PRESIDING JUDGE
FOR
THE 309TH FAMILY COURT

THURSDAY, FEBRUARY 25TH
5:30 P.M.

At
Mo's the Place For Steaks
1801 Post Oak Boulevard Houston, TX 77056

\$1,000.00 MINIMUM CONTRIBUTION IS SUGGESTED

PLEASE MAKE CHECK PAYMENTS TO

Sheri Y. Dean for Judge Campaign

2437 Bay Area Blvd., #235

Houston, TX 77058

Paypal Payments may be made at www.Dean4Judge.com

Credit/Debit Card Contributions Welcome on Location

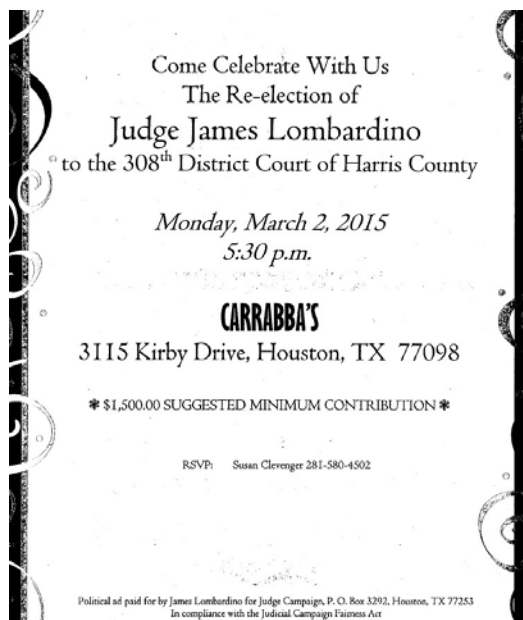
RSVP TO

sherivdean4judge@gmail.com or

Call Pat Downing at 713-582-8338

Political Advertising paid for by the Sheri Y. Dean Campaign, 2437 Bay Area Blvd. #235, Houston, Texas 77058.
Lance Davis, Treasurer in compliance with the Judicial Campaign Fairness Act.

Judge James Lombardino is also accepting a final round of donations at a party on March 2, presumably because he is down to just \$10,052 left in his campaign coffers. Lombardino asks attorneys to RSVP to Susan Clevenger, as did Charley Prine. Hmm, that name sounds familiar.



Judge Roy Moore, who faced no opponent in either the Republican primary or the general election (because he is that damn good of a judge), has \$106,010 in the bank for his campaign and even he is still fundraising one last time this evening. Moore is at least honest when he calls his party a "build for the future" event. Moore's invitation on Facebook says his party is to "thank" us and that no minimum contribution is requested.





Issue: No. 60

February 27, 2015

The Enos Law Firm

17207 Feather Craft Lane, Webster, Texas 77598

(281) 333-3030 Fax: (281) 488-7775

E-mail: greg@enoslaw.com

Web site: www.divorcereality.com

Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.



Relax Lemkuils, this is not really my next full blown newsletter. This is mostly an advertisement for my March 12 seminar, which is rapidly filling up.

[Click here](#) to download the registration form for the first legal seminar sponsored by this newsletter. **The Ultimate Discovery Seminar** on March 12 will explain in three hours how to send and respond to discovery in an efficient, correct and high tech way. The \$90 fee for 3.0 CLE hours is 100% refundable if you think the seminar is boring or is not practical, useful, or fast paced. There will be two bonus presentations on "The State of Same-Sex Marriage and Divorce" and "Using an iPad in Court for Exhibits and Videos."

Greg Enos
The Enos Law Firm

Ultimate Discovery Seminar: Answering and Responding to Discovery In a Correct, Efficient and High-Tech Way

[Click here](#) for details and registration information. We limit attendance, so register early! The price is \$90 if you register in advance and \$120 at the door.

**Please Hurry and Register - Space is Limited and We Are Filling up
Fast!**

PLEASE DO NOT MAIL REGISTRATION FORMS AFTER MARCH 4!

When: Thursday, March 12, 2015

Where: Harris County Jury Assembly Auditorium

*"Together, attorneys can improve our
family courts!"*



Hilarious But So True Video About The Folly of Electing Judges

[Click here](#) to see a very funny but oh so true video by John Oliver about what a wacky idea it is to elect judges.



A Defense of Judge Kim Sullivan

Galveston County Probate Judge Kim Sullivan is suing the county because commissioners eliminated an extra \$5,000 per year she had been paid to be Administrative Probate Judge.

The county defendants tried to get the lawsuit thrown out on plea to the jurisdiction, but it was denied on February 20 and the county has given notice of an interlocutory appeal.

I have tried to make it clear that I think the

Cost: \$90 if paid in advance (\$120 at the door if there is room)

CLE Hours: 3.0

Registration starts at 12:15 p.m. The actual seminar is from 1:30 p.m. to 4:45 p.m.

Special Bonus Topics:

The State of Same-Sex Marriage and Divorce

How to Use an iPad in Court to Present Evidence and Videos

This is going to be a fast paced, interesting and fun seminar that explains the process of sending and responding to discovery in family law cases in the correct, efficient and hi-tech way. Seminar participants will receive a printed seminar booklet and a flash drive with papers, rules and forms.

Speakers: Greg Enos - A lawyer with 30 years experience who is Board Certified in Family Law, Enos has organized his own seminars and spoken at State Bar seminars. Houston attorney Jim Evans will speak on "The State of Same Sex Marriage and Divorce." Attorney Amy Carlin will speak on "Requests for Production to Non-Parties." Webster lawyer Christina Tillinger will speak on motions to compel and how discovery responses (or the lack of them) can change or even lose a trial.

Every Mongoose Seminar is guaranteed to be practical, useful, fast paced and never boring. 100% of the seminar fee will be refunded if you do not agree. Part of the seminar proceeds will be used to buy bullet-proof vests for Houston area police officers.



Topics and Times:

12:15 - 1:30 Registration

1:30 - 1:40 Greg Enos - Introduction: Why do we send discovery? Explaining the process to clients. When not to send discovery. The danger of not sending discovery and how to protect yourself if you do not. Various forms of written discovery, including the financial disclosures requires by the local rules.

1:40 - 1:50 Christina Tillinger: The end game: how discovery effects a trial and how no or inadequate discovery responses can really hurt your case and your client.

1:50 - 2:00 Greg Enos - Depositions: How to notice depositions. When a deposition is worth the expense. and ideas on who to depose. Telephonic and video depositions.

2:00 - 2:15 Greg Enos - **The single most important topic of the day: The deadly discovery deadlines and how to calculate them and calendar them.**

2:15 - 2:30 **Bonus Topic: The State of Same-Sex Marriage in the U.S. and in Texas**
(when do we get to file same-sex divorces?) - Presented by Jim Evans - see attached resume.

2:30 - 2:45 Break

county is wasting money to fight a fellow Republican official over this small amount. However, I managed to raise some judicial hackles when I suggested that Judge Sullivan might be hard pressed to justify why she needs extra pay to "administer herself" since she is the only probate judge in the county.

I heard from my dear friend, Gladys Burwell, our former Probate Judge, who e-mailed me to say (in part):

GREG

As the former Probate Court judge I can testify to all the extra work that the Probate Judge does in administrative work that the other judges do not do. Kim [Sullivan], as I did, does her own budget as the Probate Court budget has many cost centers that the other courts do not have. Also, there is a lot of making sure that the auditor and commissioners court follow the laws regarding fees that are dedicated fees and can only be used for certain items.

When I was judge it took several years before the auditors and the court understood that the \$40 fee paid by people filing cases had to be segregated and could not be used for what the judge said they could be used for. By the time the commissioners court and auditor got it all straight, they had to move a little over \$250,000 out of the general fund to that special fund. I used the fund to set up an electronic data program for the guardianship program at Social Services, pay for continuing education for the staff in the county clerk's office as well as education for my staff, among other things. The present commissioners court took some money out of that account and transferred it to the DA's office to pay for an assistant DA and Judge Sullivan had to go to them and eventually with Judge Herman's help it got put back.

There is another fee that is generated by new cases that Judge Sullivan told me that the auditor had not been keeping track of which can only be used for ad litem in court initiated guardianship cases or for guardianship programs. She said she was surprised to find out how much was in that account when they tracked all the payments from when she became judge. I had been tracking it while I was judge and we even had a cost center for that fund to pay ad litem when it was a guardianship that was a court initiated guardianship which saved the county money in the general fund.

Another thing that Judge Sullivan does that the other Courts do not do is sending to the treasurer the billing for hearing mental health cases for other counties or for making sure that when other counties bill us for mental health hearings that those are legitimate charges and then, of course, doing the work for those counties to be paid by Galveston County. Galveston County recapped funds monthly from Brazoria County as Judge Sullivan does the mental health hearings for Brazoria County when the patients are at the Gulf Coast Center just as I did when I was judge.

I am not sure how this issue is handled now but when I was judge we did all the purchase orders to pay ad litem (since we had different cost centers depending how they were used) and all our other purchases, paying the associate judge in mental health, etc. The other courts use the Justice Administration to that work for them.

Judge Burwell

I then heard from Judge Sullivan:

Greg,

Judge Burwell is correct when she states that in Galveston County, the Probate Court Judge, as Administrator, is left to handle numerous duties that are set out by statute and by Judge Herman's 2001 Administrative Order. The duties are numerous and are handled directly by the Probate Judge. Whereas, the County Court and District Court Administrative Judges always have the assistance of Justice Admin.

I have created a chart which identifies the duties and who performs those duties which I presented to Commissioners to no avail during the budget process. This chart although prepared by me, was

2:45 - 3:00 Amy Carlin: Requests for Production to Non-Parties - How to do it the correct way

3:00 - 3:25 Greg Enos - Discovery Tips and Tricks:

- Discovery requests embedded in pleadings
- Agreements on discovery deadlines
- "The Golden Rule"
- What to do when you miss a discovery deadline
- Agreements to exchange specific documents
- Limits on discovery
- What discovery is filed with the court?

3:25 - 3:50 Greg Enos - The mechanics of discovery

- Serving Discovery, including electronically (service by regular e-mail does not comply with the rules)
- Sending your discovery requests in word processor form
- How to get clients to cooperate with answering discovery
- Objections to discovery - which objections can be made and which objections are not permitted (but still made all the time)
- Asserting privilege and privilege logs
- What to do when you accidentally produce something?
- Interrogatory verifications do not have to be notarized
- Responding to requests for production:
 - * Produce documents or make available?
 - * Organizing documents
 - * Numbering documents (hi tech, easy methods)
 - * An index of documents produced
 - * Produce on paper or electronically?
- Responding to Requests for Disclosure
- Production of documents and authentication
- Witness Subpoenas
- What do you do with discovery once the case is over?

3:50 - 4:00 Break

4:00 - 4:10 **Greg Enos - Bonus Topic: How to Use an iPad in Court to Present Evidence and Videos**

4:10 - 4:20 Christina Tillinger - Motions to compel discovery

4:20 - 4:45 Greg Enos - Sample Discovery Requests

- Divorce with no kids discovery: RFP, INT
- Divorce with children discovery: RFP, INT
- Modification discovery: RFP, INT
- Child support discovery
- Discovery in an enforcement case?

4:45 **Time to go find a place to drink!**

[Click here](#) for the seminar registration information.

also presented and blessed by the other two Administrative Judges.

Please feel free to come by my office to discuss the duties and why this issue of only "one court" is really irrelevant.

Respectfully,

*Kimberly Sullivan
Probate Court Judge*

A Very Useful Date Calculator

We all need to figure out the date 30 days before trial or 30 days after discovery had been served. [Click here](#) to go the web page my office uses for most date calculations.

[Click here](#) for another legal deadline calculator offered by depo.com.

Caution: You still need to be familiar with courthouse holidays for the particular county where the case is pending.

Useful Lawyer Links

[Harris County Vacation Request Form](#)

[Galveston County Vacation Request Form](#)

[Harris County Family Court Chart](#)

[Galveston County Court Chart](#)

[Attorney General Contact Info](#)





"Justice will not be served until those who are unaffected are as outraged as those who are."

- Benjamin Franklin



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Issue: No. 61

March 26, 2015

A New Mongoose Format and a Successful Mongoose Seminar

This 61st edition of *The Mongoose* premieres a new format that is easier to read on mobile phones. Each article will be summarized and then you can select a link to read the full story.

In this issue...

- [Dan Lemkuil and the 308th](#)
- [It is Not Too Late to Buy Judge Franklin \(a wedding gift\)](#)
- [DRO to Offer Parenting Coordination](#)
- [Mandamus Petition is the Solution When a Judge "Pulls a Pratt" and Will Not Rule](#)
- [HBA Guide to Family Court Procedures](#)
- [Useful Form: An Agreement to Abate Discovery and Exchange Financial Documents](#)

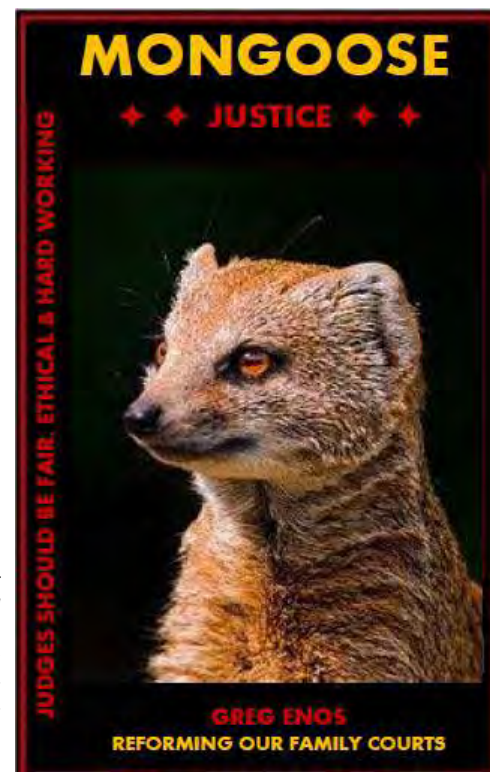
The first Mongoose Seminar, **The Ultimate Discovery Seminar**, on March 12, was a great success. About 160 attorneys and paralegals attended and Judge John Schmude briefly spoke to the group. Here are a few comments I received about the seminar:

- *Thanks so much for the discovery seminar yesterday. The subject matter and materials were highly relevant, the delivery fast-paced, on point and even amusing; ... Thanks also for making the price so affordable.*
- *I absolutely loved, loved, loved your seminar. I have done many CLE's in the last 14 years and yours kept me interested the entire time. We already have incorporated most of your useful tools into our practice ...*
- *I wanted to add my voice to the chorus praising your recent "Ultimate Discovery Seminar." I thought it was fabulous! It was informative, well-paced and loaded with invaluable information.*
- *I did enjoy all the presenters as well as the information. That is one thing that really impressed me about your seminar was that all of the presenters were interesting. I have been to many seminars (as I am sure you have as well), where there were a few presenters who kept you interested and the rest of them were boring. So kudos on that, you did good in picking your presenters!!*
- *It was a good seminar and I am already using one of the forms today.*
- *One of the best seminars I have ever been to... fast paced, interesting and even funny at times, never boring and full of interesting information and great forms I know we will use.*

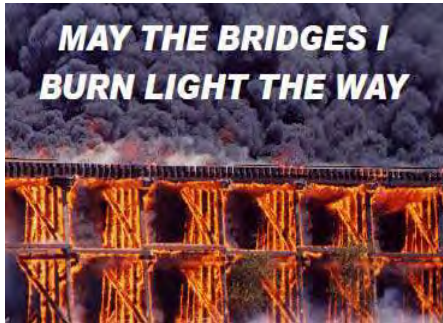
I offered a money back guarantee if anyone thought the seminar was not useful, interesting and fast paced and no one asked for a refund. I plan to present seminars about every two months starting next Fall. The Seminar Book (paper and forms) will be on sale for \$20 starting in April.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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Dan Lemkuil and the 308th

After two withdrawals on pending cases are resolved, Dan Lemkuil will no longer practice in the 308th as long as his wife is the Associate Judge in that court nor will he accept new cases already pending in the 308th. I understand that if any new cases filed by Mr. Lemkuil randomly fall in the 308th, then they will be randomly assigned to another court. This is a wise decision and policy by an attorney and judges who care about the integrity of our justice system. I am happy that there is no need to print the lengthy article I had written on this subject, in part because I consider Alyssa Lemkuil to be one of our best Associate Judges (even if she does not always rule for my clients). Friendly, smart and fair are a great combination in a judge and a handful of cases involving her husband should not detract from what a good judge Mrs. Lemkuil is.

I am not just a bomb thrower and complainer. If possible, I try to resolve issues behind the scenes and not in print. I am not out to embarrass people or ruin reputations or careers. I just want to reform and improve our justice system that is supposed to serve families and children in their darkest hours.

There is Still Time to Buy Judge Franklin a Wedding Gift

[Click here](#) to read my full article which has links to news coverage (including video of my appearance on ABC13) on the Judge Franklin Wedding Gift "Scandal." My full article cites the Penal Code and Code of Judicial Conduct and provides a partial defense of Judge Franklin.

There is still time to buy a wedding gift for Judge Alicia Franklin before her April 4 wedding. Whether you are motivated out of friendship or more practical purposes, Franklin made it very easy for you to buy her a gift on-line. Until Tuesday, anyone on the planet was able to see her *Honeymoon Pixie* site and quickly order her gifts for her honeymoon. Suddenly, after a very critical article was posted on the Republican blog *Big Jolly* about this unseemly situation, the links disappeared. Then, the site required a password then within hours the public could again see the couple's gift wish list and buy them gifts. Try [clicking this link](#) to possibly see it for yourself. A *Google* search for "Alicia Franklin Doug York" pulls up this gift registry website and several others. Here is part of what you were able to see until this week about the Franklin - York wedding:

Alicia Franklin & Doug York



Our Story

Doug and I fell in love and quickly discovered our common passion for traveling. Some of our prior travels have taken us to Paris. We fell in love with the City of Lights for many reasons but to name a few: the fashion, FOOD, culture, language, passionate attitudes, history, architecture, museums, and café au lait! So it made perfect sense that Doug proposed to Ali in the most romantic city in the world on the Pont des Arts (commonly known as the Love Lock Bridge). The legend of the bridge in simple terms is essentially if you affix a lock with your loved one onto the bridge and throw the key into the river, if the lock isn't unlocked by the key, the couple live happily ever after. Naturally, Doug set the bar high not only proposing in Paris, but he also ordered a lock with Doug and Ali's names and the date of the engagement and of course we affixed our lock to the bridge and threw our key into the Seine. Now we want to start our honeymoon by going back to the bridge in Paris to affix a new lock with our wedding date to our lock already affixed to the bridge with our engagement date!

Our Honeymoon

Destination(s): Paris, Italy

We plan to start our honeymoon by staying a few days in Paris. We want to visit our love lock on the Pont des Arts, visit a few museums, roam the cobblestone streets hand in hand while warming ourselves with café au laits, and visit a few favorite restaurants! Since it will



Honeymoon Dates:
Apr 06, 2015 - Apr 20, 2015

13 Days!

Registry Items

Accommodations

	Honeymoon Suite We'll be staying at a great hotel with all first class amenities. We would love to stay in their romantic Honeymoon Suite!	Gift Value \$100.00	Requested 4	Received 0	Give: 0	Add to Cart
	Tropical Accommodations We will stay approximately 10 nights in the Maldives and will spend a lot of time in our quarters and thus we will remember our tropical accommodations for years.	Gift Value \$200.00	Requested 30	Received 0	Give: 0	Add to Cart
	French Quarters We will spend a few nights in Paris, the most romantic city in the world and having comfortable "french quarters" to retreat to will be treasured.	Gift Value \$150.00	Requested 10	Received 0	Give: 0	Add to Cart

Fun Activities

Judge Franklin and Mr. York are also registered on a variety of sites for gifts, including *The Knot* and *Williams-Sonoma*. These on-line wedding registry sites are now common. However, if you are a judge, there is something unseemly about soliciting gifts from the general public. Two well-off professionals, one of whom is an elected judge (and who made over \$800,000 in court appointment fees in CPS cases in recent years), could perhaps have told their wedding guests to make charitable donations in their names out of a sense of propriety and, as it turns out, to avoid criticism from fellow Republicans. I have now talked to many attorneys and family law judges, and they all agree that Franklin was at best unwise in seeking wedding gifts in the way she did. A counter-argument is now being made for Franklin, but as you will see in my full story, the facts do not support the defense some are making on behalf of the judge/bride-to-be.

I question the wisdom of this excited bride (who happens to be a judge) for signing up for these public wedding gift registries. **However, I feel that the criticism of Judge Franklin in the recent *Big Jolly Republican* blog went too far and I certainly do not think Franklin was soliciting gifts from lawyers.**

I have known about Franklin's on-line wedding gift registries for months but I chose not to write about them. This did not become news until a **Republican** blogger who has supported Franklin against Pratt and me wrote a blistering attack in *Big Jolly* and now other news outlets have picked up the story.

Channel 13 news ran a story on this controversy and I agreed to be interviewed in order to defend Franklin once it was clear they were going to run a story whether or not they spoke to me. [Click this link](#) to read my full story, read the full Republican blog written by a former Franklin supporter, see the TV news story and consider my analysis and partial defense of Judge Franklin. The *Houston Press* blog has now also published a story about the Franklin - York gift registry, which includes a statement by Doug York defending his betrothed and invoking the Almighty in their defense. [Click here](#) to read that article in *The Houston Press*.



This newsletter goes to many news directors, editors, columnists, television and print reporters in the Houston area and I often work with my news competition on stories. I prefer not to be on television if I can help it, but this time, when Miya Shay called me, I wanted to make sure that this controversy was considered in proper context. Of course, most of what I said was edited out from the final snippet that was shown on television. What Franklin did was perhaps tacky, unseemly and unwise, but it was not illegal nor did she violate the ethical rules for judges (based on what is known so far). As my full article notes, there were many good reasons for Franklin to not sign up for public gift registries like other brides simply because she is a judge and she is held to a different standard. I feel bad that this controversy has marred the week before her marriage, but Franklin could have avoided this entire mess by heeding the simple words of the Preamble to the Texas Code of Judicial Conduct:

...judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system.

[Click here](#) to read my full story on this Wedding Gift "Scandal" and see my partial defense of Judge Franklin.

Legal News You Can Use...

DRO Now Offering Parenting Coordination

The Domestic Relations Office is now offering Parenting Coordination as authorized under Chapter 153, Subchapter K, Texas Family Code. The service will be provided by a DRO employee who is a Licensed Professional Counselor, Licensed Master Social Worker, or Psychologist and has complied with the TFC's training requirements. Attached is the DRO Order to access these services. There is a sliding scale fee based on each party's gross income which compensates for six sessions.

[Click here](#) to download an order (in Word) appointing the DRO as parenting coordinator (which is the confidential type who, unlike a parenting facilitator, cannot testify).

A Mandamus is the Solution When A Judge "Pulls a Pratt" and Will Not Rule

A petition for mandamus just filed this week against one of our best family judges by the fearless Patsy Wicoff provides good legal authority that a judge who takes months to rule after a trial has abused his discretion and should be ordered to make a decision. [Click here](#) to see this very educational mandamus petition.

Super Useful HBA Guide to Family Court Procedures

The HBA Family Law Section compiled a super useful guide to the procedures and rules of each of the Harris County Family District Courts. Now, you can know who requires mediation prior to temporary order hearings, etc. [Click here](#) to download this document which every family lawyer and paralegal needs to have handy.

A Form You Can Use: An Agreement to Abate Formal Discovery and Exchange Financial Documents

A school teacher and a plumber who are getting a divorce and not fighting over the kids, who are close to agreement and who do not own complex property, should often not have to answer dozens of production requests asking for such things as two year old credit card statements or cell phone bills. Sending and responding to full blown written discovery in such a case is wasteful and simply not needed to settle or even try the case.

Early on in such a case, the attorneys could agree to not serve or respond to formal written discovery for 75 days and instead to exchange the following property documents in 20 days:

1. The most recent statements for every bank, retirement, financial and credit card account in either spouse's name (wife will provide copies of joint accounts).
2. Most recent statements or an Internet printout showing the current balance on all loans, including auto loans and the mortgage.
3. Deed and deed of trust to the family residence and for each auto the VIN, year, make, model, current mileage and list of options the vehicle has as requested for valuation of such a used vehicle at www.NADA.com.
4. Lists of items husband wants from the house and what wife wants back from the items husband took from the house when he moved out.
5. If either spouse is claiming separate property, documents that would support such a claim, including statements showing 401k balances just prior to marriage, documentation of gifts or inheritances, etc.
6. Sworn inventories and appraisals and requested property divisions shall be exchanged 20 days after the deadlines to exchange property documents set forth above.

[Click here](#) to download a form entitled, "Agreement to Abate Discovery and Exchange Financial Documents."

Useful Attorney Links...

[Harris County Family Court Chart](#)

[Galveston County Court Chart](#)

[Harris County Vacation Request Form](#)

[Galveston County Vacation Request Form](#)

[HBA Family Section Summary of Harris County Family Court Procedures](#)

[Attorney General Contact Information](#)

[Harris County Family Court Phone Directory](#)

[Enos Links for Family Law Attorneys](#)



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries. The Enos Law Firm serves clients in Galveston County and Harris County, Texas.



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Board Certified in Family Law, Texas Board of Legal Specialization

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Issue: No. 62

April 6, 2015

I have published a legal directory for Galveston County/Clear Lake since 1996 and I have published a Harris County Family Law Directory twice. I need to refresh and publish both directories and so I need to update your information. [Click here](#) to download in PDF my most recent directories.

The 2013 Harris County Family Law Directory listed over 1,100 attorneys and provided information on custody evaluators, process servers, real estate appraisers, parenting coordinators, parenting classes, etc.

Lawyers change firms, get married and change names, move offices, retire and die. Every year, a bunch of new attorneys join our ranks. Not even the State Bar can keep up with all of these changes.

Your listing in my directory is free and it will be available in print and on-line. I can assure you that judges, clerks and court coordinators will have a copy.

Here is what I ask you to do:

1. Please forward this e-mail to all of the attorneys in your firm, your building and on your e-mail list. We all benefit if everyone is listed in these directories.
2. Please e-mail me the following information on **you** to MongooseDirectory@gmail.com. You can [click here](#) to download a form that you can fill out and fax or scan and e-mail. You can cut and paste the following and put it into an e-mail to me at MongooseDirectory@gmail.com.

Name:

Firm:

Mailing Address:

Street Address (if different):

Bar No.:

Phone: (_____) _____

Fax: (_____) _____

E-mail Address (please type or print very nearly):

Web Site:



Check one or both to be listed in:

☐ Harris County Family Law Directory

☐ Galveston County/Clear Lake Legal Directory

Are you Board Certified in Family Law? ☐ No ☐ Yes

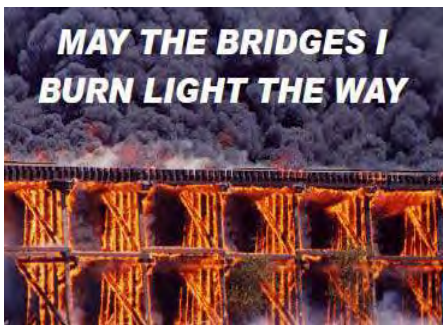
Please send the above information to me at MongooseDirectory@gmail.com.

3. Please recommend the best professionals who work with our clients and family law firms. My Harris County Family Law Directory will include court charts, therapists/counselors, mediators, investigators, process servers, real estate and business appraisers parenting coordinators and facilitators, drug testing facilities, computer experts and translators. Please send me the name and contact information for any of these professionals that you would recommend. [Click here](#) to download a form you can use to recommend professionals for the directory. This will result in a very useful resource for attorneys and courts if everyone sends in the best counselors, real estate appraisers, investigators, etc.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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Wisdom From the *Texas Code of Judicial Conduct*

We are lucky to have many good, honest, hard working judges who care deeply about their jobs and who live up to these precepts every day.

The Preamble to the *Texas Code of Judicial Conduct* states:

...judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system.

The *Code of Judicial Conduct* also states:

Canon 1: Upholding the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and should personally observe those standards so that the integrity and independence of the judiciary is preserved.

Canon 2: Avoiding Impropriety and the Appearance of Impropriety in All of the Judge's Activities

A. A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. A judge shall not allow any relationship to influence judicial conduct or judgment....

Useful Attorney Links...

[Harris County Family Court Chart](#)

[Galveston County Court Chart](#)

[Harris County Vacation Request Form](#)

[Galveston County Vacation Request Form](#)



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Issue: No. 62

April 30, 2015

In this issue...

- [The Gary Polland / Alicia Franklin Scandal is Now an Even Bigger Devon Anderson Scandal and Embarrassment](#)
- [Greg Enos: Moral Coward?](#)
- [Judge Franklin York Expects an Exhibit List](#)
- [Judges: No Facebook Posts About Pending Cases](#)
- [A House Purchased in One Name Just Before Marriage Could Be Jointly Owned Separate Property](#)
- [Can Judges Ignore Inadmissible Evidence?](#)
- [Updated List of Four Hour Parenting Classes](#)

New Mongoose Logo

I paid an artist to create my own unique Mongoose artwork, which has its debut in this issue. T-shirts and coffee mugs with this new logo will soon be available.

Legal Directories and Your Free Listing

I am updating my contact information on Harris County family lawyers and all attorneys in Galveston County/Clear Lake for my legal directories. Please [click here](#) to download a form you can send me to change or confirm your information. Your listing in my annual legal directories is free.

Other Projects

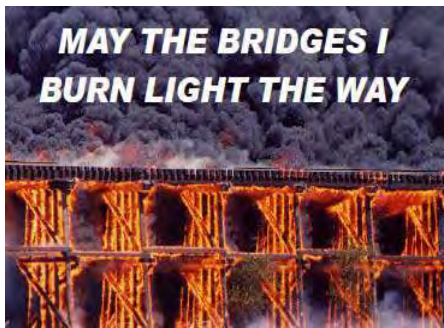
I have hired a summer law clerk to make me finish my *magnus opus* on grandparent visitation and custody rights in Texas (assuming this legislature does not abolish them completely). I am already planning my *Mongoose* booth at the Advanced Family Law Seminar this August 3 - 6 (you can already register for the seminar and book a hotel room!).

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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The Gary Polland / Alicia Franklin Scandal is Now an Even Bigger Devon Anderson Scandal and Embarrassment

[Click here](#) to read my complete essay on why the Gary Polland / Alicia Franklin CPS Billing Scandal matters to the integrity of our local government and courts and should be of great concern to the Harris County Republican Party. The refusal of District Attorney Devon Anderson to either investigate or recuse herself should now be considered an even bigger scandal and embarrassment.

My Tea Party and Republican friends agree with me that our government should be efficient and transparent and should use tax dollars wisely. Liberals, like me, and arch-conservatives all believe that "insider" power brokers should not be allowed to manipulate or profit from government and that criminal laws should be enforced equally on the average citizen as well as well-connected big shots. Folks who scream at each other over same-sex marriage can agree that our criminal justice system must BE fair and APPEAR fair to the public it serves and protects. Everyone wants abused and neglected children to be properly protected by dedicated professionals who perform their duties imposed by law and who do not immorally profit from the CPS system.

All of these universal principles, which virtually all citizens agree on, explain why a local scandal involving a few judges who appoint a handful of politically connected attorneys over and over to represent children and parents in CPS cases is a big really big deal. At least it should be a big deal, but the lawyers who are literally making millions from this system are too powerful and **our District Attorney refuses to investigate or recuse herself, even though she has an enormous conflict of interest.** Our local Republican elected officials, who are almost all people of good faith and integrity, should be embarrassed and a little worried that the focus of this scandal is shifting toward District Attorney Devon Anderson.

Devon Anderson should do what the Republican District Attorney of Collin County recently did regarding his friend Attorney General Ken Paxton and recuse herself "to avoid any potential appearance of impropriety arising from [her] business and personal relationship" with Gary Polland. [Click here](#) to download a copy of the motion filed this month by Collin County District Attorney Greg Willis to recuse himself because he was personal friends with Ken Paxton and had a business relationship with him. The D.A. there did the right thing and asked for a special prosecutor (in Texas called a "prosecutor pro tem") to be appointed to investigate whether Attorney General Paxton violated State securities laws.

I am now going to write directly to the individual grand juries currently sitting in Harris County and sending them my information and documents in hopes that they will take action when our District Attorney will not. A grand jury can request a prosecutor pro tem.

.....

[Click here](#) to read my complete essay. I hope no one thought I had given up on this particular issue!

Greg Enos: Moral Coward?

I recently stood by quietly in a hearing and watched my opposing counsel get treated very rudely and unprofessionally by a judge. Even for this notoriously cranky judge, this performance was over-the-top loud and angry and unfair. I was allowed to expound on my position all I wanted but my opposition was interrupted, yelled at and basically told to shut up. My opponent handled this brutal judicial beat down with stoic calm and professionalism and she at least never raised her voice or acted disrespectful in any way to the judge. I called her the next day and apologized to her for how she was treated and for my failure to say something. Even my successful client was bothered by how the judge treated the other side.

Although I owed my client a duty to zealously advocate for her case, I should have spoken up for my fellow attorney and the integrity of our system. Thinking about it now, I should have said something like, "Judge, I know I will totally disagree with what she will say, but she at least should be given a chance to speak." That might have startled the judge enough to calm him down and get him to reconsider how he was acting. I could have asked for a break in the hearing and asked if counsel could speak to the judge in his chambers to see if I could calm him down. I sure as hell should have had a court reporter making a record, so I could share the transcript with those with a lot more power over the situation than me.

It is really hard when your client is so clearly winning to take the chance that judge will pivot and direct his over-the-top ire toward you, but there are times when things are just so outrageous and unfair in court, that we as officers of the court have the duty to speak out, even if it is to help out opposing counsel. I hope this particular judge when reading this article realizes how much I now regret not doing something to help him maintain his dignity and composure. I also hope I do better next time I am in this position.

Judge Franklin York Expects an Exhibit List

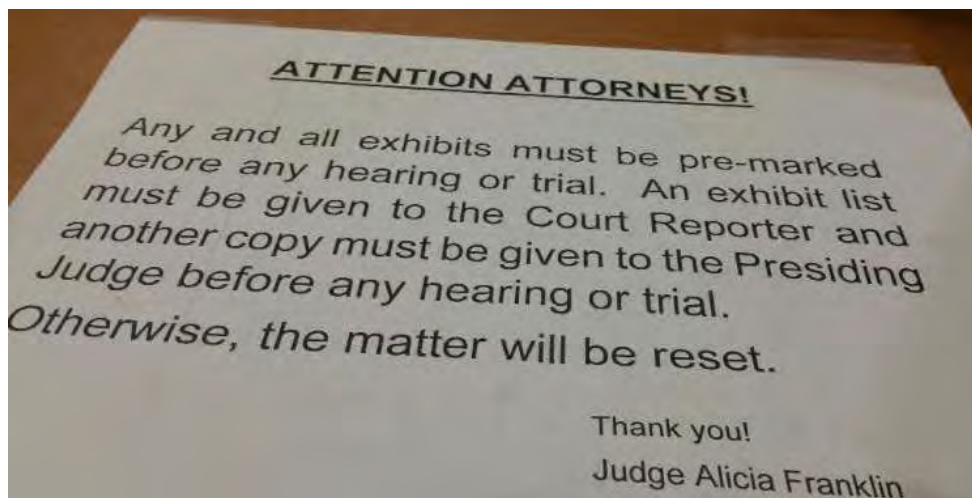
As expected, Alicia Franklin was a stunningly beautiful bride. I was on the third row at the wedding disguised as a distant relative of the groom from Brooklyn. Unfortunately, it was very difficult to aim the camera hidden in my Shtreimel. Some actual guests posted lovely pictures of the bride and couple on Facebook.



The staff at the 311th lost no time after the wedding and posted new signs with the judge's new married name - "Alicia Franklin York." Now I have to revise all of my court charts!



Judge F.Y. now has signs in her courtroom warning attorneys that their exhibits must be pre-marked (duh!) and that an exhibit list must be given to the court reporter and the judge or the hearing will be reset (say what?).



I always have typed exhibit lists for trials but even O.C.D. Enos seldom has them for temporary orders hearings, much less hearings on motions to compel or to appoint an amicus. I know of very few attorneys who prepare exhibit lists for such hearings. Now, in at least in one of our nine family courts, you had better bring an exhibit list or you will not get a hearing. What happens if I bring an exhibit list but my opponent does not and it is my motion that is being heard? Will my hearing be reset? Will the judge accept handwritten exhibit lists? What if the hearing is really

important for the safety of a child or to preserve community property? Will she really risk a child or spouse's property because of this extremely unusual requirement that no other judge has? [Click here](#) to download a blank Exhibit List form you can print and carry in your briefcase in case you find yourself in the 311th for a hearing and the judge's need for such a tidy, typed exhibit list outweighs the parties' need for a hearing.

Judges: No Facebooks Posts About Pending Cases!

You know a judge's conduct must be pretty bad if the Texas Commission on [Ignoring] Judicial [Mis]Conduct actually publicly reprimands a judge who still holds office. The Commission did not get around to reprimanding Judges Pratt or Dupuy for criminal behavior until months after they had resigned.

I am a big fan of Galveston District Judge Michelle Slaughter and I was one of her earliest financial contributors, well before most attorneys even knew who she was. I am thus sad to report that the Commission on Judicial Conduct on April 20, 2015 came down hard on Judge Slaughter for posting comments on Facebook about a criminal case she was presiding over which resulted in a mistrial. [Click here](#) to read the full order, which states in part:

*Judge Slaughter cast reasonable doubt upon her own impartiality and violated her own admonition to jurors by turning to social media to publicly discuss cases pending in her court, giving rise to a legitimate concern that she would not be fair or impartial in the Wiesseckel case or in other high-profile cases. The comments went beyond providing an explanation of the procedures of the court and **highlighted evidence that had yet to be introduced at trial**. Judge Slaughter's Facebook activities interfered with her judicial duties in that, as a direct result of her conduct, a motion to recuse was filed and granted requiring the judge to be removed from the Wiesseckel case. The judge's recusal then led to the granting of a motion for mistrial so that the case could be retried in its entirety before another judge. **Judge Slaughter's conduct in the case was clearly inconsistent with the proper performance of her duties and cast public discredit upon the judiciary or administration of justice in light of the considerable negative media attention given the case and her posting**. The Commission therefore concludes that Judge Slaughter's conduct constituted a willful and persistent violations of Canons 3B(10) and 4A of the Texas Code of Judicial Conduct, and Article V, Section 1-a(6) of the Texas Constitution.*

In condemnation of the conduct described above that violated Canons 3B(10) and 4A of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution, it is the Commission's decision to issue a PUBLIC ADMONITION AND ORDER OF ADDITIONAL EDUCATION to the Honorable Michelle Slaughter, Judge of the 405th District Court, Galveston, Galveston County, Texas.

Judge Slaughter then REALLY disappointed me by trying to pull a "Ted Cruz" by defending her actions to her Tea Party fans with a laughably bogus argument that invokes the Constitution but defies common sense and the law. Judge Slaughter claims she was merely exercising her First Amendment rights. If Judge Slaughter catches a juror tweeting about a trial, I wonder if she will have the same attitude and do nothing about it.

[Click here](#) to read what Slaughter posted on Facebook and on her web site, which says in part:

My Fellow Galveston County Residents,

The Commission on Judicial Conduct has issued a public admonition in my case based on truthful, objective statements regarding publicly-available information that I posted on my Facebook page. I respectfully disagree with the Commission's action, and for several reasons I will seek review by a higher court.

First, and foremost, I believe that the public has a right to know what judges and courts do. In Texas, voters elect judges, and taxpayers pay our salaries and the costs of maintaining the court system. The people should know what we do and how we do it. Social media can be very useful for communicating that information to the public.

....

To help protect that important public interest, to uphold the right of judges to use social media to provide truthful, objective information to the public, and to help clarify the guidelines on use of social media by Texas judges, I intend to vigorously pursue the appeal of my case to a court of special review. This is an issue of transparency and First Amendment rights.

I will be represented by Chip Babcock (who successfully represented Justice Hecht in overturning the Commission's public admonition), of Jackson Walker L.L.P.; legal ethics expert Chuck Herring, of Herring & Irwin, L.L.P.; and Bob Warneke, former General Counsel of the Commission on Judicial Conduct.

If Judge Slaughter did indeed post comments about this criminal case while the trial was going on and if she mentioned information that was not in evidence, she acted terribly improperly and no big shot lawyers and no constitutional argument will help her out of the mess she created for herself. Slaughter simply should have acted like the good judge she usually is and paid attention to the trial instead of her social media accounts on her smart phone. Any litigant, but certainly a criminal defendant, deserves a judge who does not make posts about an on-going trial, much less posts about matters that have not even been admitted into evidence in the trial.

Even before yesterday, Slaughter's argument that she was simply exercising her right to freely express herself was embarrassingly inane. Of course, a judge has the general right to write whatever she wants to say on her Facebook page. But, her duty as a judge and the ethical rules that govern her conduct properly prevent her from writing some things, especially those that threaten the integrity of the justice system or a litigant's civil rights. Unfortunately for Judge Slaughter, the U.S. Supreme Court yesterday issued an opinion by Republican Chief Justice Roberts that very clearly says that a state's judicial ethics rules can limit a judge's freedom of expression in order to protect public confidence in the judiciary. [Click here](#) to read *Williams-Yulee v. Florida Bar*, that upheld the state's right to prohibit judges from personally soliciting campaign contributions.

Slaughter is going to embarrass herself further by fighting this reprimand and she will just bring more public attention to her indefensible behavior. Her posting of inappropriate comments was a momentary mistake made in a brief second. That error is not nearly egregious as her on-going effort to try to excuse her behavior. Slaughter is way too smart to think that she has a First Amendment right to act unethically or violate a defendant's rights. Slaughter's various written defenses fail to quote the Commission's reprimand and she does not reveal to her gullible followers exactly what she posted. If she continues making this defense, Judge Slaughter is knowingly misleading the public and that is an even worse sin.

Legal News You Can Use...

A House Purchased in One Name Just Before Marriage Could Be Jointly Owned Separate Property

A man and woman lived together with her children and the man signed an earnest money contract and closed on the purchase of a home solely in his name. Then the couple got married. When the inevitable divorce occurs, most lawyers would assume the house is the husband's separate property because he purchased it in his own name prior to marriage. Yet, in *Aaron v. Aaron*, No. 14-10-00765-CV (Tex. App. Houston [14th Dist.] 1/31/2012)(mem. op.), Judge David Farr and then the Fourteenth Court of Appeals found the house was jointly owned separate property. The moral to this story is for lawyers to not assume and not give up on a house purchased before marriage when the man and woman were a couple (albeit unmarried). This article would probably apply to same sex couple who bought properties together before their marriage became legal (as I predict will happen this summer thanks to the U.S. Supreme Court).

[Click here](#) to download my full article on this subject that could someday allow you to win a lot more money for your client. This article also explains a judge's options when dealing with jointly owned separate property in a divorce.

Updated List of Four Hour Parenting Classes

[Click here](#) to download an updated list of four hour parenting classes to help your client comply with the family courts' requirements for parents to attend such classes in cases involving children.

Can Judges Ignore Inadmissible Evidence?

We expect a lot from our hard working judges. In bench trials, we often expect judges to "ignore" or "forget" mention of inadmissible evidence. When a document is offered and an attorney objects, sometimes the judge actually looks at the document and then rules it is not admissible. Can we really expect the judge not to be influenced by that inadmissible document she just read? [Click here](#) to read a very interesting study that tested actual judges and concluded, "judges are generally unable to avoid being influenced by relevant but inadmissible evidence."

Useful Attorney Links...

[Harris County Family Court Chart](#)

[Galveston County Court Chart](#)

[Harris County Vacation Request Form](#)[Galveston County Vacation Request Form](#)[HBA Family Section Summary of Harris County Family Court Procedures](#)[Attorney General Contact Information](#)[List of Four hour Parenting Classes for Divorcing Parents](#)[Enos Links for Family Law Attorneys](#)

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries. The Enos Law Firm serves clients in Galveston County and Harris County, Texas.



Greg Enos

Board Certified in Family Law, Texas Board of Legal Specialization

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Issue: No. 63

July 21, 2015

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The Mongoose Hibernation is Over!

Rampant rumors of my institutionalization, a restraining order or even a possible sale of *The Mongoose* is to Doug York do not explain this newsletter's summer hiatus that ends with this issue. I have taken a family vacation, moved to the country and actually tried to do a little lawyer work. I have also finished my book, *GRANDPARENTS' CUSTODY AND VISITATION RIGHTS IN TEXAS: 2015*, and it will be on sale starting at the Advanced Family Law Seminar.

This newsletter returns with a BANG as I offer an article that examines why some attorneys fear that all orders signed by former Associate Judge Bob Newey may be void.

I also summarize some major advances in my campaign to clean up appointments in CPS cases thanks to the Texas Legislature and I provide a useful chart on which Harris County family courts require mediation prior to the first hearing on temporary orders.

Former Galveston County Judge Christopher Dupuy, who resigned and plead guilty to perjury charges involving me and this newsletter, was arrested and charged with on-line impersonation. Dupuy has filed a pro se discovery motion seeking e-mails from and to me (and many others)!

One focus of this newsletter over the coming months will be the problem of a FEW family court judges who come to work late or seldom show up to work. Shame on a judge who does not leave her house and start her 30 minute commute until past 10 a.m. when she has a courtroom of nervous parents and expensive lawyers who all got up early and battled traffic to be in her court by 9:00 a.m. I once staked out former Judge Denise Pratt's house with an investigator to see when she left for work and I am not above doing it again (imagine a video of a tardy judge juxtaposed with a photo of her packed courtroom on the local evening news!). **Most of our family court judges are conscientious and they work very hard**, so it is a shame that a few seem so relaxed about the hours they put in for us taxpayers. A judge who cancels a hearing with me because her staff says she had to leave for a family emergency and then posts happy photographs of the judge and her child leaving for a cross-country car trip seems to be begging for a headline story in this newsletter.



The Next Mongoose Issue Will Really Tick Off Some Judges and Hopefully Educate Voters

A special issue of this newsletter will soon focus just on the crazy, never-ending battle between Galveston County Commissioner's Court and some of the judiciary, lead by Judge Lonnie Cox. I plan to mail at my own expense a print edition of this newsletter to all families who voted in the 2014 Galveston County Republican primary just to make sure the public knows what this ridiculous feud involves and who is responsible. Court orders, lawsuits, mandamus actions, appeals and public mud slinging have made the Galveston Justice Center a very tense place to work. This dispute ostensibly is about the firing of the Director of Justice Administration and who gets to control the courts' administrator. Some judges are going along with their fearless leader, Lonnie Cox, to support judicial independence and because they are sick of County Commissioners nickel and diming them. Judge Kim Sullivan is miffed because her \$5,000 extra a year for being the Administrative Probate Judge (when she is the only probate judge) was axed by commissioners. Some judges are frankly intimidated by Lonnie Cox and his tea party cronies. However, most interested folks honestly see that this fight is really about a vendetta by Judge Cox against County Judge Mark Henry. Cox tried to defeat Henry in the primary and then the general election and now Cox is using the fired Ms. Quiroga as a proxy for his battle with Mark Henry. Cox is truly enjoying this fight and he is making himself a hero to judges across the state. The Legislature passed a law that allowed the County Commissioners to do what I first urged as a compromise back in December (create a separate office of court administration controlled by the judges), but that is not enough for Judge Cox (even though it is just what the judges said they wanted this Spring except for the amount of salary for the department head).

[Click here](#) to read the e-mail District Judge Kerry Neves sent out that cites my plan to mail out a print edition of *The Mongoose* as a reason for judges and commissioners court to stop fighting and settle. Sadly, his voice of reason is not being listened to. I have nothing to gain from disagreeing with so many of my judge friends in Galveston County and I agree that County Judge Mark Henry has not handled this dispute as he should have. At times, it seemed that Commissioners Court was purposefully trying to antagonize the judges. But, I have many Republican friends, including party leaders and elected officials (and at least four of the nine judges), who agree with me that this waste of time and tax payer dollars should stop. The embarrassing sham of a court case going on now with Cox suing Mark Henry individually only makes the problem worse and insures an on-going battle. There was a lot about the most recent court hearing that made Republican party activists who watched the proceedings think it was not fair and "the fix was in." Courtroom observers should not have been able to see the visiting judge talking to Lonnie Cox, a party to the proceeding, during breaks in the hearing, but they say they did. The Cox v. Henry battle has shifted to the court of appeals and now Cox wants Mark Henry and a bunch of folks he has not even sued yet to be held in contempt of court. [Click here](#) to read the contempt motion filed for Lonnie Cox in the Court of Appeals.

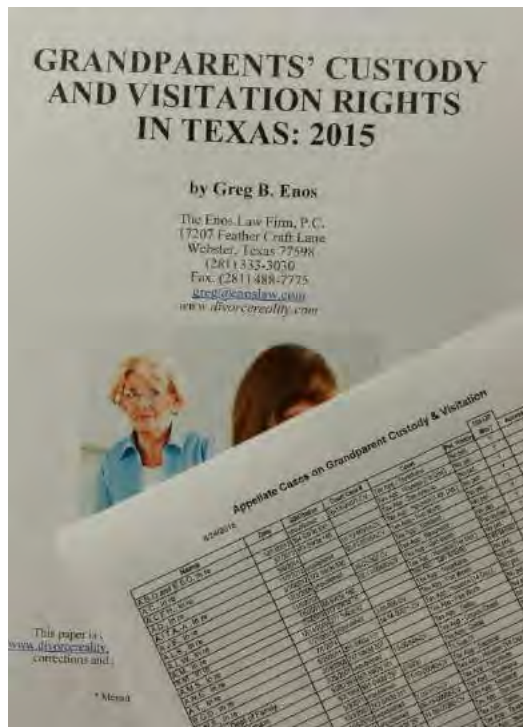
A majority of the judges need to stand up to Cox and say, "our point has been made, we have won already and this ridiculous fight needs to stop." An office of court administration has been created and funded but sits empty because of a stubborn refusal to compromise. Enough is enough. It makes everyone involved look bad and it is wasting a lot of tax payer money and a ton of judges' time that should be spent doing their jobs in the courtrooms. Commissioners need to treat judges like independent officials from the same party playing on the same team for the common good. Judges need to act like judges and stop acting like the irrational, petulant litigants they often scold in their own courts for being unreasonable and not settling.

Legal Directories and Your Free Listing

I am still updating my contact information on Harris County family lawyers and all attorneys in Galveston County/Clear Lake for my legal directories. Please [click here](#) to download a form you can send me to change or confirm your information. Your listing in my annual legal directories is free.

August is Going to be Big!

My *magnus opus* on grandparent visitation and custody rights in Texas will be published in August and will completely cover this complicated and ever-evolving topic with case law, analysis and practical advice. The booklet will include a chart summarizing every recent case in the last 15 years on the subject.



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by Greg B. Enos	
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My *Mongoose* booth at the Advanced Family Law Seminar this August 3 - 6 in San Antonio will offer all new swag featuring my new *Mongoose* logo and includes a handy wallet size chart of Harris County family courts.



I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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Please forward this e-mail newsletter to everyone who cares about our family courts!



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The Mongoose.

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Are All Orders Signed by Former AJ Robert Newey Void Because He Took Office After the Mandatory Judicial Retirement Age of 75?

A growing number of lawyers are sharing the concern that possibly hundreds of orders signed by former Associate Judge Robert Newey may be void and unenforceable because he had already hit the mandatory retirement age for judges when Judge Denise Pratt first appointed him to be her Associate Judge.

I think that orders Judge Newey signed that were not also signed by Judges Pratt or Franklin are unlikely to be declared void. All orders signed by Judge Newey are presumed valid until a court rules otherwise. However, some very smart lawyers have looked at a draft of this article and they feel there is a realistic chance that orders signed by Newey could be ruled void. That could create a huge mess, at least for the relatively small number of orders Newey signed which Pratt or Franklin did not also sign.

At the very least, this matter raises several vexing issues that need to be answered to avoid future situations where a judge takes office who is not qualified by law for the position.

Here are the facts, which I verified by talking to David Farr and Robert Newey:

Bob Newey was born on October 28, 1935. He turned 75 on October 28, 2010. Newey became Judge Denise Pratt's Associate Judge in January 2011 after his 75th birthday. Newey became Judge Alicia Franklin's Associate Judge on June 17, 2014, after his 75th birthday, but during Pratt's original four year term. Judge Newey retired in December 2014.

When Denise Pratt suddenly resigned in March 2014, Administrative Judge David Farr found himself dealing with a true crisis and a court that was totally screwed up in many ways. It made sense to keep Judge Newey on for the sake of continuity. However, Judge Farr knew Newey was already 75 and he had the staff attorney who works for the judges research the issue. Farr actually re-swore Newey right after Pratt's resignation and then fired and re-hired him twice because of concerns over his age and because of the varying legal advice Farr was receiving. However, Farr and everyone else involved assumed that Newey turned 75 after he became Pratt's Associate Judge. Farr says he never imagined that Pratt would hire someone who was already ineligible.

In the end, the legal advice Farr received concluded that Newey could finish out Pratt's four year term because it was assumed he had turned 75 during that term. Apparently no one asked Newey what his birth date was until this month. So, Alicia Franklin was told it was okay for her to hire Newey as her A.J. and she did. Franklin required Newey to retire at the end of what would have been Pratt's original four year term based on the legal advice she was given.

It was not until this month when a lawyer warned Farr that there was a potential explosive legal issue involving Newey's age. Farr then called Newey and realized for the first time that Newey had turned 75 before he even took office.

Obviously, Bob Newey knew when he turned 75 and he clearly in the Spring of 2014 knew how very concerned Judge Farr and others were about whether he was eligible to serve as a judge. However, Newey says no one asked him when his birthday was and no one every mentioned that when he turned 75 could be a problem. Judge Newey never hid his birth date and it is all over his employment records with the county. It seems very likely that Denise Pratt did not know about the mandatory retirement age for judges in the Texas Constitution.

The Texas Family Code says:

Sec. 201.002. QUALIFICATIONS. (a) Except as provided by Subsection (b), to be eligible for appointment as an associate judge, a person must meet the requirements and qualifications to serve as a judge of the court or courts for which the associate judge is appointed.

So, Judge Newey could only serve as the A.J. for a family district court if he had the qualifications to be a family district judge. It does not matter that he was actually employed by Harris County - he had to meet the State's qualifications for a district judge.

The Texas Constitution, Article 5, Section 1-a says:

*Sec. 1-a. RETIREMENT, CENSURE, REMOVAL, AND COMPENSATION OF JUSTICES AND JUDGES; STATE COMMISSION ON JUDICIAL CONDUCT; PROCEDURE. (1) Subject to the further provisions of this Section, the Legislature shall provide for the retirement and compensation of Justices and Judges of the Appellate Courts and District and Criminal District Courts on account of length of service, age and disability, and for their reassignment to active duty where and when needed. **The office of every such Justice and Judge shall become vacant on the expiration of the term during which the incumbent reaches the age of seventy-five (75) years or such earlier age, not less than seventy (70) years, as the Legislature may prescribe, except that if a Justice or Judge elected to serve or fill the remainder of a six-year term reaches the age of seventy-five (75) years during the first four years of the term, the office of that Justice or Judge shall become vacant on December 31 of the fourth year of the term to which the Justice or Judge was elected.***

The Texas Legislature has not set the mandatory retirement age for judges, so the Constitution's age 75 limit is in effect. The statute on the

qualifications to be a district judge merely sets the minimum age at 25 but does not say a judge cannot serve past the age 75. Gov't Code, Sec. 24.001 ("A district judge must be at least 25 years old").

So, what is the effect if a sitting judge does not have the constitutional qualifications to be a judge? There is no appellate case on a judge taking office after age 75, past the age when judges are allowed to serve by the Constitution (which is what the staff attorney told Judge Farr in the Spring of 2014). There is no law on the subject and the Texas Constitution only addresses a judge turning 75 during his or her term. However, there is a case involving a judge who failed to take the oath of office required by the Constitution. In *French v. State*, 572 S.W.2d 934 (Tex. Crim. App. 1978), the highest criminal court in Texas noted that the Texas Constitution requires judges to take an oath. The court held that any act by a judge who did not take the oath of office is void. "We are not dealing with the rights of a de facto judge but, rather, which right depends upon the taking of the oath of office prescribed by the Constitution, constituting a condition precedent to his right to act in that capacity."

So, if an order signed by a judge who did not take the constitutionally required oath of office is void, is an order signed by a judge who was past the constitutionally mandated retirement age of 75 when he first took office void? No one knows and my bet is that the orders will not be found to be void. Everyone, except maybe Judge Newey, assumed Newey had the legal qualifications to serve as Associate Judge and it looked to the world like he was an associate judge and he performed that office's functions. Were it not for the French case, cited above, it is likely that Judge Newey would be considered a "de facto judge" and thus his actions could not be collaterally attacked. In *Ryder v. U.S.*, 115 S.Ct.2031, 515 U.S. 177, 132 L.Ed.2d 136, (1995) the Supreme Court noted that the "de facto officer doctrine" confers validity upon acts performed by a person acting under color of official title even though it is later discovered that the legality of that person's appointment or election to office is deficient." At least one Texas case has followed the "de facto officer" doctrine. *Pyote I.S.D. v. Estes*, 390 S.W.2d 3 (Tex. Civ. App. - El Paso 1965, writ ref'd n.r.e.).

The problem is that the *French* case held that a "judge" who did not meet the condition precedent for being a judge is not a "de facto" judge. The Texas Constitution, Article V, Sec. 1-a says when judges must retire and declares their offices vacant at the expiration of the term during which a judge turns 75. The provision does not explicitly say that a judge who is already age 75 cannot take office, whereas the Constitution does require every judge to take an oath of office (I am requesting verification that every family associate judge in Harris County since 2010 has signed an oath of office). However, if a judge cannot serve past age 75 (or at least past the end of the term during which she turns 75), it is clearly implied that a judge who is already 75 cannot take office.

Any appellate court would want to desperately find some way to avoid invalidating the many orders Judge Newey signed, so my bet would be that some loop hole would be found to avoid a result that voided divorces and terminations and adoptions and changes of custody and increases of child support and contempt actions and monetary judgments.

The good news is that Pratt seldom let Judge Newey do that much on his own and she required that most of his orders be approved and signed by her (which at the time was one of the many complaints we all had about her). Alicia Franklin wisely decided to also sign almost every order Judge Newey signed. So, there are probably not that many orders that bear just Newey's signature. But, there are some and apparently lawyers are working on motions and maybe a mandamus to challenge whether those orders are void.

I predict (and hope) that orders signed by Judge Newey will ultimately not be declared void, but that begs the questions about how this happened in the first place and who checks to make sure judges are eligible to serve when they are elected or appointed.

Who has verified that our current group of Associate Judges are eligible to serve? They all appear to be over age 25 and under 75, but perhaps A.J.'s should provide birth certificates and proof of residence just like a school kid does when starting at a new school (shot records should not be required).

Finally, a word on Bob Newey. Despite what articles in this newsletter might make it appear, I am a big Newey fan. To know Newey is to love him. The more you know about him and the service he provides the community and his deep faith, the more you respect and like him. I never had problems with him as a lawyer in his court. But, as a pseudo-journalist, I have written articles that have made him squirm. Judge Newey was gracious enough to take me to lunch after one article and we truly enjoyed ourselves. I can only hope in 20 years I am as active and able as he is now. If anything, Bob Newey shows that some judges can serve capably and well past the arbitrary age of 75.

This article is not an attack on Bob Newey, but rather an effort to share pertinent information and ask questions that need to be asked. Lawyers are already talking about this problem and I understand some are researching motions and appellate filings based on the argument that his orders are void. However much we respect Judge Newey, this is an issue that needs to be out in the open and discussed. We can all understand that Judge Newey felt he was capable of serving as a judge and could really help after Pratt resigned, but he clearly knew when he turned age 75. Newey feels that it is the employer's duty to determine if a new hire is eligible for the job and he points out that no one ever asked about when he turned 75 until this month.

No one told Newey he was not eligible back in January 2011 or even raised that possibility and it is not 100% certain even now that he was disqualified from serving as an A.J. Yet, Newey, by the Spring of 2014, knew all about the concerns regarding his eligibility to serve based on the mandatory retirement age of 75 in the Texas Constitution. Judge Farr and others just assumed Newey turned 75 after he became Pratt's A.J. because they just did not think anyone would have taken the post after the time the Constitution says they cannot serve. As much as everyone wanted Newey to stay and help clean up the mess in the 311th, Newey in retrospect should have declined the offer or at least made sure everyone knew he had been 75 all along and let others make the call. Someone should have verified that Newey was eligible to be an A.J. when he was first appointed in January 2011.

Which Courts Require Mediation for Temporary Orders? A Handy Chart

Some Harris County family judges require mediation before every temporary order hearing and some only if the case involves child custody or

visitation. One judge requires mediation if the hearing will last over three hours and one says, "show up and we will decide if you need to mediate." This wide variance in policies creates a lot of confusion in law offices and wastes a lot of lawyer and client time. I have created a chart that summarizes what each court requires regarding mediation before temporary orders and I ran it past the judges and coordinators to make sure it was right. [Click here](#) to download a Chart on Mediation Before Temporary Orders.

Legislature Enacts Reform Law to Clean Up Court Appointments

Judicial patronage took a major blow as a result of two laws passed by the Texas Legislature. [Click here](#) to read S.B. No. 1876, which as of September 1, 2015, requires that judges use a rotation system to appoint attorneys and guardians ad litem and mediators. At my suggestion, the bill was amended to create an exception if a person is specially qualified because of prior involvement with the case, special expertise, language skills or geographic location.

[Click here](#) to read S.B. 1369, which requires detailed reporting of appointments for an attorney ad litem, guardian ad litem, guardian, mediator or competency evaluator. Unfortunately, this law does not cover the very lucrative posts of amicus attorney, custody evaluators, discovery master, receiver or forensic accountant.

New Family Court for Harris County Starts January 2016

We all need to thank Judges David Farr and James Lombardino for their work in getting the County to approve and the Legislature to create the new 507th District Court, which will bring the number of family district courts in Harris County to ten. The 507th will be located on the 15th floor of the Civil Courthouse at 201 Caroline in the space currently occupied by the 280th Judicial District Court (a/k/a the family violence court). Judge David Farr reports that the county is refurbishing the vacant courtroom on the first floor of the Juvenile Courthouse and the 280th District Court will move across the street soon. Farr says that his research shows it has been 38 years (1977) since Harris County has added an additional family district court.

My research shows that this new position will eventually be on the same non-presidential-year election cycle as the other family courts, but will be on the ballot in November 2016. The Governor will appoint someone to fill the post through December 31, 2016. The executive committees of the political parties (made up of precinct chairs) will select their nominees to run in November 2016 and serve from January 1, 2017 through December 31, 2018. It is believed that Governor Abbott will wait and appoint the person who is nominated by the Republican Executive Committee. This will really change who is willing to compete for this new judgeship and who is selected. Most assume the Governor's office would normally be more interested in legal qualifications and the approval of party leaders, whereas running to win the majority of precinct chairs is more based on grassroot support: who you know and who supports you locally. My newsletter in August will summarize who is seeking this position and provide short biographies.

Former Judge Dupuy Jailed for On-Line Impersonation, Demands MY E-mails

Former Galveston County Judge Christopher Dupuy was arrested and charged with on-line impersonation for allegedly posting fake sex escort ads for former or would-be girlfriends. [Click here](#) to read the *Houston Press* story that summarizes the bizarre story. [Click here](#) to read the search warrant affidavit which summarizes the clever police work that resulted in a search of Dupuy's apartment and his arrest.



Dupuy is being held on a huge bond and he filed a pro se motion seeking discovery and a reduction of his bond. [Click here](#) to read his motion which includes a request for production of all e-mails between me and the clever person who runs the exquisitely clever [Don Tequila](#) Facebook site (See request no. 26; Dupuy asks for communications involving a lot of people in his motion).

Dupuy was indicted for and plead guilty to a perjury charge involving me and this newsletter and he then resigned. That is when most folks at my law office got gun permits. However, in June I had what I hope was Dupuy's last court hearing (the State Bar has still not taken his law license away). Dupuy actually did a good job defending his client against my enforcement action and, as we sat at the counsel table and

worked out a deal, no one have been able to guess our complicated past history.

(To avoid a Jabba the Hutt complaint, it should be noted that several lawyers stood up to Dupuy during his reign of terror and he was indicted on charges that involved bad behavior aimed at more than just me. He did in the end plead guilty to the one charge involving me, however).



The Supreme Court and Family Law

Everyone knows that the Supreme Court struck down laws that ban or refuse to recognize same-sex marriages. If you have not read the actual decision, you should [click here to read Obergefell v. Hodges](#). Justice Kennedy's majority opinion has some beautiful and significant language, including:

The identification and protection of fundamental rights is an enduring part of the judicial duty to interpret the Constitution. That responsibility, however, "has not been reduced to any formula." Rather, it requires courts to exercise reasoned judgment in identifying interests of the person so fundamental that the State must accord them its respect. That process is guided by many of the same considerations relevant to analysis of other constitutional provisions that set forth broad principles rather than specific requirements. History and tradition guide and discipline this inquiry but do not set its outer boundaries. That method respects our history and learns from it without allowing the past alone to rule the present.

The nature of injustice is that we may not always see it in our own times. The generations that wrote and ratified the Bill of Rights and the Fourteenth Amendment did not presume to know the extent of freedom in all of its dimensions, and so they entrusted to future generations a charter protecting the right of all persons to enjoy liberty as we learn its meaning. When new insight reveals discord between the Constitution's central protections and a received legal stricture, a claim to liberty must be addressed.

It was not long before the first same-sex divorce was filed in Harris County. My next Mongoose Seminar will include a lot on this topic.

Many missed another decision by the U.S. Supreme Court that ruled that the right to confront an accuser in criminal cases is not violated by allowing the hearsay testimony of a teacher about what a child said when she first disclosed abuse. [Click here to read Ohio v. Clark](#).

Useful Links for Lawyers

[Harris County Family Court Chart](#)

[Galveston County Court Chart](#)

[Harris County Vacation Request Form](#)

[Galveston County Vacation Request Form](#)

[HBA Family Section Summary of Harris County Family Court Procedures](#)

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[List of Four hour Parenting Classes for Divorcing Parents](#)

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[Harris County Chart on Mediation Before Temporary Orders](#)

[Texas AG Child Support Calculator](#)



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries. The Enos Law Firm serves clients in Galveston County and Harris County, Texas.



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Issue: No. 64

August 2, 2015

In this issue

- [Attorneys Start to File Motions Arguing That All Orders Signed by Former AJ Robert Newey Are Void Because He Took Office After the Mandatory Judicial Retirement Age of 75](#)
- [Judge Slaughter Fights for the Right of All Judges to Post Comments on Social Media About On-Going Trials](#)
- [Useful Links for Lawyers \(and the Paralegals they work for\)](#)

Please Visit *The Mongoose* Booth in San Antonio

The *Mongoose* booth at the Advanced Family Law Seminar will offer free give-aways and sell t-shirts and my new book, *Grandparents' Custody and Visitation Rights in Texas: 2015*. Please stop by and visit us!

What is *The Mongoose*?

I have published this newsletter via e-mail for over four years to educate family law attorneys and to promote reform of the family courts in and around Harris County, Texas. This newsletter is sent via e-mail to over 3,000 attorneys and interested citizens, mostly in the Houston area, but I have subscribers all over Texas and as far away as France and Malaysia.



Attorneys tend to be afraid of judges and suck up to them. It is very rare for lawyers to publicly criticize a judge because judges wield such great power in the cases they hear, especially in family courts. Everyone thought I was crazy when I started this newsletter four years ago and I began to point out how some judges were acting improperly or even illegally. **However, this newsletter has now played a role in the resignation of two elected judges, a District Clerk and an appointed Associate Judge. I filed criminal complaints against two judges. One judge was indicted and removed and the other judge resigned to avoid indictment.** Other judges are paying attention and changing policies that are simply not fair. Last year, I exposed a scandal involving appointment of attorneys in CPS cases in Harris County and judges almost immediately changed their behavior and the Legislature enacted new laws to solve the problem. I have forced judicial candidates to return illegal contributions. However, I always praise the many honest, hard working, fair judges we are blessed with.

Stories in this newsletter have been picked up by *The Houston Chronicle* and Houston television stations. About once a year, I send a printed version of my newsletter to registered voters in Galveston County to educate them about what their judges are up to and it seemed to have a very real effect in the 2014 Republican primary runoff. I am about to mail another print newsletter to let citizens know about an ridiculous on-going feud between judges and county commissioners in Galveston County.

In my last issue, I wrote:

*One focus of this newsletter over the coming months will be the problem of a FEW family court judges who come to work late or seldom show up to work. Shame on a judge who does not leave her house and start her 30 minute commute until past 10 a.m. when she has a courtroom of nervous parents and expensive lawyers who all got up early and battled traffic to be in her court by 9:00 a.m. I once staked out former Judge Denise Pratt's house with an investigator to see when she left for work and I am not above doing it again (imagine a video of a tardy judge juxtaposed with a photo of her packed courtroom on the local evening news!). **Most of our family court judges are conscientious and they work very hard**, so it is a shame that a few seem so relaxed about the hours they put in for us taxpayers. A judge who cancels a hearing with me because her staff says she had to leave for a family emergency and then posts happy photographs of the*

judge and her child leaving for a cross-country car trip seems to be begging for a headline story in this newsletter.

One attorney e-mailed me to say:

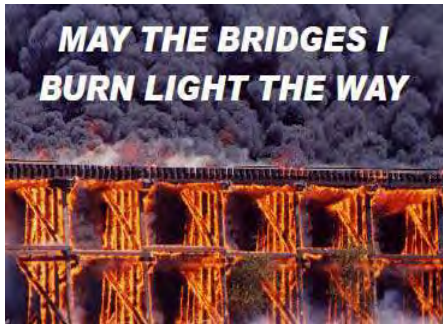
Hurrah on your article. It is difficult to explain and justify to clients why they must pay me my hourly rate to wait for HOURS because a family judge cannot be to court on time. Worse yet, clients generally have to take off work to be in court and few can afford to have their pay docked while they're waiting on the judge. Yes, there are times when not bring on time may be necessary. However, some make this a matter of routine.

At least one usually tardy judge in Houston started getting to work on time after my last newsletter, so I feel I have already accomplished something on this issue.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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Web site: www.divorcereality.com

Please forward this e-mail newsletter to everyone who cares about our family courts!

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Attorneys Start To File Motions Arguing Orders Signed by Former AJ Robert Newey Are Void Because He Took Office After the Mandatory Judicial Retirement Age of 75

[Click here](#) to read a motion filed by attorneys David Brown, Taylor Imel (at KoonsFuller) and Sallee Smyth that asks Judge John Schmude to declare null and void three orders signed by Associate Judge Robert Newey because he was already age 75 when he took office.

As background, this is part of the article I published in my last issue:

Bob Newey was born on October 28, 1935. He turned 75 on October 28, 2010. Newey became Judge Denise Pratt's Associate Judge in January 2011 after his 75th birthday. Newey became Judge Alicia Franklin's Associate Judge on June 17, 2014, after his 75th birthday, but during Pratt's original four year term. Judge Newey retired in December 2014.

The Texas Family Code says:

Sec. 201.002. QUALIFICATIONS. (a) Except as provided by Subsection (b), to be eligible for appointment as an associate judge, a person must meet the requirements and qualifications to serve as a judge of the court or courts for which the associate judge is appointed.

So, Judge Newey could only serve as the A.J. for a family district court if he had the qualifications to be a family district judge. It does not matter that he was actually employed by Harris County - he had to meet the State's qualifications for a district judge.

The Texas Constitution, Article 5, Section 1-a says:

*Sec. 1-a. RETIREMENT, CENSURE, REMOVAL, AND COMPENSATION OF JUSTICES AND JUDGES; STATE COMMISSION ON JUDICIAL CONDUCT; PROCEDURE. (1) Subject to the further provisions of this Section, the Legislature shall provide for the retirement and compensation of Justices and Judges of the Appellate Courts and District and Criminal District Courts on account of length of service, age and disability, and for their reassignment to active duty where and when needed. **The office of every such Justice and Judge shall become vacant on the expiration of the term during which the incumbent reaches the age of seventy-five (75) years or such earlier age, not less than seventy (70) years, as the Legislature may prescribe, except that if a Justice or Judge elected to serve or fill the remainder of a six-year term reaches the age of seventy-five (75) years during the first four years of the term, the office of that Justice or Judge shall become vacant on December 31 of the fourth year of the term to which the Justice or Judge was elected.***

The Texas Legislature has not set the mandatory retirement age for judges, so the Constitution's age 75 limit is in effect. The statute on the qualifications to be a district judge merely sets the minimum age at 25 but does not say a judge cannot serve past the age 75. Gov't Code, Sec. 24.001 ("A district judge must be at least 25 years old").

So, what is the effect if a sitting judge does not have the constitutional qualifications to be a judge? There is no appellate case on a judge taking office after age 75, past the age when judges are allowed to serve by the Constitution (which is what the staff attorney told Judge Farr in the Spring of 2014). There is no law on the subject and the Texas Constitution only addresses a judge turning 75 during his or her term. However, there is a case involving a judge who failed to take the oath of office required by the Constitution. In *French v. State*, 572 S.W.2d 934 (Tex. Crim. App. 1978), the highest criminal court in Texas noted that the Texas Constitution requires judges to take an oath. The court held that any act by a judge who did not take the oath of office is void. "We are not dealing with the rights of a de facto judge but, rather, which right depends upon the taking of the oath of office prescribed by the Constitution, constituting a condition precedent to his right to act in that capacity."

So, if an order signed by a judge who did not take the constitutionally required oath of office is void, is an order signed by a judge who was past the constitutionally mandated retirement age of 75 when he first took office void? No one knows and my bet is that the orders will not be found to be void. Everyone, except maybe Judge Newey, assumed Newey had the legal qualifications to serve as Associate Judge and it looked to the world like he was an associate judge and he performed that office's functions. Were it not for the French case, cited above, it is likely that Judge Newey would be considered a "de facto judge" and thus his actions could not be collaterally attacked. In *Ryder v. U.S.*, 115 S.Ct.2031, 515 U.S. 177, 132 L.Ed.2d 136, (1995) the Supreme Court noted that the "de facto officer doctrine" confers validity upon acts performed by a person acting under color of official title even though it is later discovered that the legality of that person's appointment or election to office is deficient." At least one Texas case has followed the "de facto officer" doctrine. *Pyote I.S.D. v. Estes*, 390 S.W.2d 3 (Tex. Civ. App. - El Paso 1965, writ ref'd n.r.e.).

The problem is that the *French* case held that a "judge" who did not meet the condition precedent for being a judge is not a "de facto" judge. The Texas Constitution, Article V, Sec. 1-a says when judges must retire and declares their offices vacant at the expiration of the term during which a judge turns 75. The provision does not explicitly say that a judge who is already age 75 cannot take office, whereas the Constitution does require every judge to take an oath of office (I am requesting verification that every family associate judge in Harris County since 2010 has signed an oath of office). However, if a judge cannot serve past age 75 (or at least past the end of the term during which she turns 75), it is clearly implied that a judge who is already 75 cannot take office.

Any appellate court would want to desperately find some way to avoid invalidating the many orders Judge Newey signed, so my bet would be that some loop hole would be found to avoid a result that voided divorces and terminations and adoptions and changes of custody and increases of child support and contempt actions and monetary judgments.

The good news is that Pratt seldom let Judge Newey do that much on his own and she required that most of his orders be approved and signed by her (which at the time was one of the many complaints we all had about her). Alicia Franklin wisely decided to also sign almost every order Judge Newey signed. So, there are probably not that many orders that bear just Newey's signature. But, there are some and apparently lawyers are working on motions and maybe a mandamus to challenge whether those orders are void.

The real moral to this story is that someone needs to always verify that Associate Judges are eligible to serve. I am checking, but I have not found written proof that all current Associate Judges took oaths of office, so I wonder if some AJ orders could be challenged.

Judge Slaughter Fights for the Right of All Judges to Post Comments on Social Media About On-Going Trials

Galveston County District Judge Michelle Slaughter appealed the April 2015 reprimand she received from the usually worthless Texas Commission on [Ignoring] Judicial Conduct. Slaughter caused a mistrial in a criminal case because she was posting comments on Facebook about the trial as it was going on. [Click here](#) to read an article about the two day trial Slaughter just went through before a three judge panel in Austin.

Judge Slaughter has tried to defend her actions with an argument that invokes the Constitution but defies common sense and the law. Judge Slaughter claims she was merely exercising her First Amendment rights. However, everyone's right to freely express themselves is temporary suspended or limited during a trial, including lawyers, witnesses, jurors and judges. If Judge Slaughter catches a juror tweeting about a trial, I wonder if she will have the same attitude and do nothing about it.

Judge Slaughter appealed the Commission ruling to a special three judge panel and last month she was the subject of a two day trial in Austin. No matter how that ruling comes down, I know based on my 30+ years of legal experience that Slaughter acted terribly improperly and the posse of high priced lawyers representing her cannot excuse her conduct. Slaughter simply should have acted like the good judge she usually is and paid attention to the trial instead of her social media accounts on her smart phone. Any litigant, but certainly a criminal defendant, deserves a judge who does not make posts about an on-going trial, much less posts about matters that have not even been admitted into evidence in the trial.

Of course, a judge has the general right to write whatever she wants to say on her Facebook page. But, her duty as a judge and the ethical rules that govern her conduct properly prevent her from writing some things, especially those that threaten the integrity of the justice system or a litigant's civil rights. Unfortunately for Judge Slaughter, the U.S. Supreme Court in April 2015 issued an opinion by Chief Justice Roberts that very clearly says that a state's judicial ethics rules can limit a judge's freedom of expression in order to protect public confidence in the judiciary. Judge Slaughter's error of posting social media comments during a trial is not nearly as egregious as her on-going effort to try to excuse her behavior. Slaughter is too smart to think that she has a First Amendment right to act unethically or violate a defendant's rights. Slaughter is brazenly trying to mislead the public and overpower the Commission with her many expensive lawyers (who presumably are billing the good judge their normal hourly rates, since ethics rules generally prohibit a judge from accepting free or discounted legal services).

Useful Links for Lawyers

[Harris County Family Court Chart](#)[Harris County Vacation Request Form](#)[HBA Family Section Summary of Harris County Family Court Procedures](#)[List of Four hour Parenting Classes for Divorcing Parents](#)[Harris County Chart on Mediation Before Temporary Orders](#)[Galveston County Court Chart](#)[Galveston County Vacation Request Form](#)[Attorney General Contact Information](#)[Enos Links for Family Law Attorneys](#)[Texas AG Child Support Calculator](#)

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Issue: No. 65

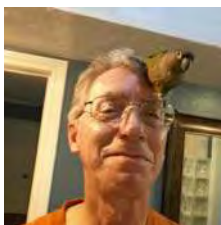
November 19, 2015

In this issue

- [Attorneys Seek Appointment to New 507th Family District Court](#)
- [2015 HBA Judicial Evaluation Survey Results](#)
- [Judge Slaughter Wins the Right for All Judges to Post About Pending Cases on Facebook](#)
- [Useful Links for Lawyers \(and the Paralegals they work for\)](#)

Where Has *The Mongoose* Been Hiding?

My three month sabbatical from publishing this newsletter is over and I am back with really big plans for 2016. I appreciate the many inquiries from my loyal readers asking where *The Mongoose* was. One Republican precinct chair e-mailed me to express her concern and said, "I sure hope the powers-that-be have not gotten to you and silenced a true voice for reform." I frankly have not been myself for a few months, but I have recovered my joy for life and I have not lost the thrill of raising hell over unfairness and unethical behavior. Exercise, the love and support of family and good friends and playing with kids and animals seems to have cured my funk.



In recent weeks I spent a lot of effort investigating a district judge in an outlying county (at the request of other judges in that county). I suspect that word of my nosing around and my surveillance of when the judge went to and from work was not kept secret. The judge who was the target of my investigation suddenly announced he will not seek re-election. The fact that he is only working a few hours a week will still be a big problem for litigants in that county for another year unfortunately. I plan to write in detail on this problem in future issues.



I am asking for a Parrot Bebop Drone 2 for Christmas (or Festivus). This drone will give up to 28 minutes of flight time as it hovers above a judge's house recording in HD when the judge leaves her house to finally head for court.

We are blessed with many hard working, dedicated judges who arrive early and leave late to hear the most difficult sort of cases. However, the few bad apples who constantly come in to court late or go days without wearing their robes, give our entire judicial system a black eye.

Farewell to a Legal Legend

Galveston County lost one of its greatest attorneys ever, Ervin Apffel, Jr., who passed away on November 11 (Armistice Day). A husband of 60 years, Mr. Apffel was the father of six children, including two great lawyers in their own rights, our past State Bar President, "Trey" Apffel and Darrell Apffel (candidate for county commissioner). Erv founded McLeod, Alexander, Powel & Apffel (MAPA) in 1964. I met Mr. Apffel as a young personal injury attorney, since MAPA was the premier insurance defense firm in the county. Back in the glory days of PI law, when I would handle 10 - 15 jury trials a year, I learned so much as a trial lawyer from him, as Mr. Apffel kicked my ass in case after case. Apffel prepared meticulously for trial and before a jury he was calm, affable and reasonable. Behind that impish grin was a mind of steel (and a lot of very sharp #3 pencils). Each of us busy attorneys would do well to note that Mr. Apffel's greatest achievement and love was his family and grandchildren and great grandchildren. In the end, his family is what meant the most to him, not his illustrious legal career or successful law firm.



It is Time We Protect Domestic Violence Victims from the 280th District Court

I plan to start a campaign to make the 280th District Court a general family law court and to do away with a court hearing only family violence protective orders. I have heard many complaints about Judge Lynn Bradshaw-Hull before, but I seldom handle protective order cases in Harris County. But, recently my firm won a protective order for a client in the 280th and the ordeal made me seriously question Judge Hull's priorities and even her grip on reality. I do not expect to ever hear a woman who has recordings of the most horrific threats ever to be told by a judge, "the good thing about Houston is that there are lot of good shelters you and your child can go to." If a woman and her children are really threatened with imminent harm, do not reject her filing because there is a gray streak on the still legible affidavit or because an attached e-mail that promises to blow the girlfriend's head off is printed in landscape mode. Please judge, do not say in open court that if a woman appears with a private attorney that means the District Attorney must have refused to take the case and therefore a protective order is almost certainly not going to be issued. A kick-out order can be effective even if it does not use the exact language a finicky judge requires verbatim down to the punctuation. A judge hearing domestic violence cases should not put form over substance and endanger people's lives.

I ask any attorneys with horror stories about the 280th to contact me (as well as those who think she is the best judge ever).

[Click here](#) to read a 2014 *Houston Chronicle* story that summarized complaints about Judge Bradshaw-Hull. Judge Bradshaw-Hull received some of the worst ratings in the recent 2015 HBA judicial Evaluation. About 45% of attorneys gave her a negative overall rating of "Poor" (34%) or "Below Average" (11%). Almost half of the attorneys surveyed rated Bradshaw-Hull "Poor" on "Is courteous and attentive to attorneys and witnesses."

I am still going to publish a print version of this newsletter to mail to Republican voters in Galveston County. But, I have waited to publish while the judges and county commissioners court tried once more to reach a settlement. I did not want a newsletter I sent out to the world to effect the outcome of those talks. But of course, they were unable to reach a deal, because a few just want to fight. We are still waiting for a ruling from the Court of Appeals on the county's application for writ of mandamus. It looks like my mailed newsletter will now go out in January.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

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Attorneys Seek Appointment to New 507th Family District Court

The Governor's office is interviewing attorneys seeking to be appointed judge of the new 507th Family District Court that will begin operation on January 1, 2016. The Republicans who are seeking the appointment are:

- Melanie Flowers
- Angelina Gooden
- Aneeta Jamal
- Alyssa Lemkuil
- Lan Nguyen
- Chelsie Ramos
- Meca Walker

Julia Maldonado, a staunch Democrat, also applied and has been interviewed, although the odds that Governor Abbott would appoint her seem very slim. Maldonado, Chip Wells and Jim Evans apparently plan to seek the Democratic nomination.

I think it would be best if an experienced Associate Judge (Lemkuil, Walker or Ramos) is appointed, as they already know the job. On the other hand, Judge John Schmude shows that a lawyer with no judicial experience can turn out to be a really good judge, so a Melanie Flowers might well turn out to be a wonderful pick.

You can contact the Governor's office to urge him to appoint the candidate you feel is the most qualified by faxing or writing to:

Governor's Appointments Office

Mail: P.O. Box 12428, Austin, Texas 78711

Overnight Delivery: 1100 San Jacinto, Austin, Texas 78701

Fax: (512) 475-2576

The appointment is expected by early December so that the person selected can attend the "New Judge's School" that is held during the week of December 7 (I was not invited to speak to the new judges again this year!).

The new court will be on the 15th floor of the Civil Courthouse (where the 280th was). The family board of judges has decided on the methodology for "stocking the pond" in the 507th with cases. According to Judge David Farr:

We are currently moving 240 total cases out of the 311th District Court (30 cases randomly assigned to each of the other 8 courts) in order to assist with the continuing "Pratt backlog" in that court. These are all original suits that are within 0 months - 3 months old with no current settings in place in the 311th. Along those same lines we will move 1/9 of the total caseload in each court to the 507th in December for a total of approximately 2100 cases. These will be both original suits and post-judgment suits (CEJ is able to be released based on the new court being stood up) within 0 months - 6 months old and randomly pulled from each of the nine courts.

The new 507th court is created as of January 1, 2016, so the position will not be on the primary election ballot in March. The nominees will be selected by the Executive Committee of each county party. The executive committee is made up of the precinct chairs who will be elected in March. The meeting of the executive committees to select the parties' nominees for the 507th are expected to be held in June 2016. On the Republican side, the person appointed by Governor Abbott would be expected to have the advantage, but there is a surprising track record of gubernatorial appointees being defeated in such elections. It all means that the persons who will appear on the November ballot for the 507th will not be selected in an open primary but rather in a much smaller election decided by a few hundred precinct chairs. This is much more like the College of Cardinals selecting the Pope.

The 507th will be elected in a different election cycle than the other family district judges and this position will be decided in a presidential election year. Even if Ted Cruz is the GOP nominee (and I still am giving him the best shot), Harris County is likely to go Democratic and so we may soon be kowtowing to a judge Evans or Maldonado or Wells in that court.

For the best analysis of the 2016 Presidential Election race (and Congressional races as well), you should daily read electoral-vote.com.

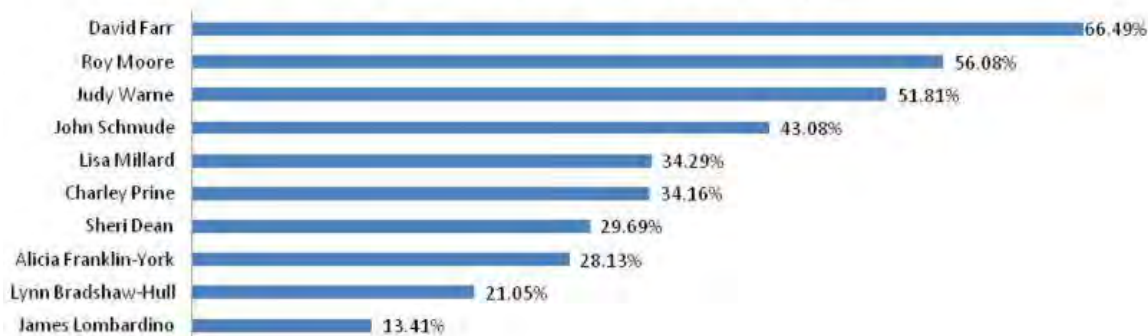
2015 HBA Judicial Evaluation Poll Results

The results of the Houston Bar Association Judicial Evaluation survey are in. [Click here](#) to see the results for Harris County Family District Judges. [Click here](#) to see the results for the Harris County Family Associate Judges. Judges Farr, Moore, Warne and Schmude received the best

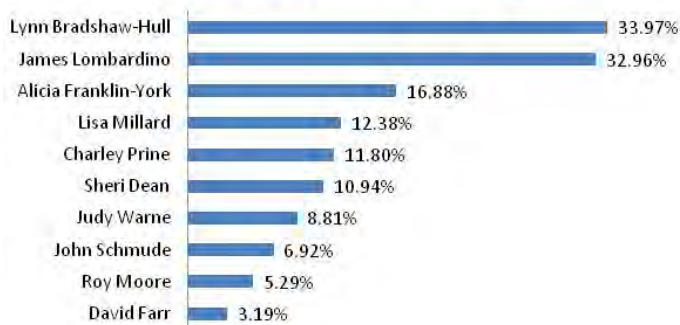
marks and Judges Lombardino, Franklin-York and Brandshaw-Hull received the lowest ratings among the family district judges. All of the Associate Judges actually received high ratings. Judges Gaffney, Cooper and Patterson were the highest rated Associate Judges.

There are a lot of results and they are hard to summarize in a small space, but on the overall rating given the district judges, here is how they were rated "Outstanding" or "Poor" overall. Other choices were Above Average, Average and Below Average.

Overall Evaluation - Outstanding



Overall Evaluation - Poor



Judge Slaughter Wins the Right For All Judges to Post Comments on Social Media About On-Going Trials

I was wrong and Judge Michelle Slaughter was right. It is apparently just fine for a judge to do what she tells jurors not to do and no punishment will be levied on a judge who writes about an on-going trial on social media. Galveston County District Judge Michelle Slaughter caused a mistrial when she posted comments on Facebook about a criminal case she was presiding over. Slaughter appealed the April 2015 public reprimand she received from the usually worthless Texas Commission on [Ignoring] Judicial Conduct and Slaughter won her appeal to a three judge Special Court of Review!

During the criminal trial, Judge Slaughter told the jurors:

During the trial of the case, as I mentioned before, you cannot talk to anyone. So make sure that you don't talk to anyone. Again, this is forbidden by any means of communication. So no texting, e-mailing, talking person to person or on the phone or Facebook. Any of that is absolutely forbidden.

Slaughter then ignored her own admonition and posted comments about the criminal case on Facebook while the trial was going on. One giddy post (that showed just how excited this young judge was to be hearing a high profile case) said:

Opening statements this morning at 9:30 am in the trial called by the press "the boy in a box" case. After we finished Day 1 of the case called the "Boy in the Box" case, trustees from the jail came in and assembled the actual 6'x8' "box" inside the courtroom! This is the case currently in the 405th!

[Click here](#) to read the opinion which exonerated Slaughter but still criticized her and held:

- The Texas Constitution provides that a judge may be disciplined for a willful violation of the Code of Judicial Conduct or for willful or persistent conduct that is clearly inconsistent with the proper performance of his or her duties or that casts public discredit upon the judiciary or administration of justice. "Willful conduct requires a showing of intentional or grossly indifferent misuse of judicial office, involving more than an error of judgment or lack of diligence."
- Canon 3(B)(10) does not constitute a complete prohibition against a judge ever commenting about a pending proceeding. Instead, the Canon only prohibits a comment "which suggests to a reasonable person the judge's probable decision on any particular case."
- This Special Court of Review finds that the credible evidence overwhelmingly preponderates in favor of a finding that Respondent did not violate Canons 3(B)(10) and 4(A) of the Code of Judicial Conduct or Article V, Section 1- a(6)(A) of the Texas Constitution. The Commission did not present evidence that the Respondent's extrajudicial statements would suggest to a reasonable person the judge's probable decision on any particular case or that would cause reasonable doubt on the judge's capacity to act impartially as a judge. Further, there was no evidence or legally insufficient evidence that the Respondent's comments rose to the level of willful or persistent conduct clearly inconsistent with the proper performance of the Respondent's duties as a judge. The Commission presented no evidence that the Respondent's actions amounted to an intentional or grossly indifferent misuse of her office.
- **While we have held that such communications did not rise to the level of communicating to others how the judge might have ruled in the case, the timing of the posts is troublesome for the judiciary. A judge should never reveal his or her thought processes in making any judgment. Even calling attention to certain facts or evidence found significant enough for the judge to comment on in a pending matter before any decision has been rendered may tend to give the public the impression that they are seeing into the deliberation process of the judge. Additionally, extrajudicial comments made by a judge about a pending proceeding will likely invite scrutiny, as it did in this case. While the Respondent's comments were ultimately proven to not be suggestive of her probable decision on any particular case, the process for reaching this conclusion required the expenditure of a great deal of time, energy, and expense. And as this case illustrates, comments made by judges about pending proceedings create the very real possibility of a recusal (or even a mistrial) and may detract from the public trust and confidence in the administration of justice.**

Any wise judge would never post on Facebook or Twitter about an on-going trial anyway. Any judge who reads this opinion on Judge Slaughter will surely realize it is still not a good idea even if Slaughter managed to avoid any punishment for what she did.

Judge Slaughter is one of the most effective campaigners Galveston County has ever seen and this victory on the reprimand pretty much insures that she will sail to a win in the March 1 Republican primary over her little known challenger, Ben Roeder ([click here](#) to see his website).

Judge Slaughter made a mistake that I bet she will not repeat. As I know all too well myself, **beauty does not equate to wisdom**. Experience and a willingness to learn from our mistakes is what makes us wise (old age helps as well).

The 30 most beautiful women in politics for 2015

Entertainment | Media News and Reviews | Politics

by Eric Golub | June 1, 2015

It is time to reveal the Top thirty hottest political women of 2015.



Useful Links for Lawyers

[Harris County Family Court Chart](#)

[Harris County Vacation Request Form](#)

[HBA Family Section Summary of Harris County Family Court Procedures](#)

[List of Four hour Parenting Classes for Divorcing Parents](#)

[Harris County Chart on Mediation Before Temporary Orders](#)

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Greg Enos

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Issue: No. 66

December 28, 2015

Alyssa Lemkuil Appointed Judge of the New 507th District Court

I received the following press release from the Governor's office today:

Governor Abbott Appoints Lemkuil Judge Of 507th Judicial District Court

AUSTIN - Governor Greg Abbott has appointed Alyssa Lemkuil of Houston as judge of the 507th Judicial District Court in Harris County for a term set to expire at the next general election in November 2016. This appointment will be effective Jan. 1, 2016.

Alyssa Lemkuil serves as associate judge in the 308th Judicial District Court in Harris County. She previously served as an attorney in the Harris County Domestic Relations Office and in private practice. She is a member of the State Bar of Texas and the Houston Bar Association, and she formerly served as director of the Houston Bar Association's Juvenile Law Section. Lemkuil received a Bachelor of Business Administration in management from Texas A&M University and a Juris Doctor from the University of Houston Law Center.

Lemkuil is an excellent selection. She is already an experienced judges and family lawyers of all political persuasions recognize her as an excellent judge. This appointment will require Judge Lombardino to appoint a new associate judge. Lemkuil herself will need to quickly select her own associate judge, coordinator and court reporter.

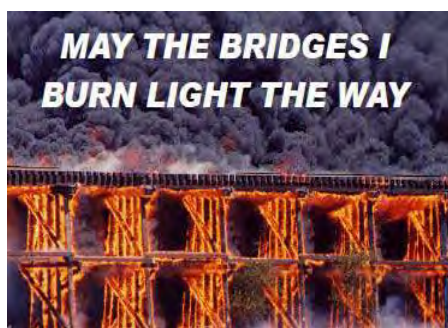
Lemkuil will have to win the Republican nomination in an unusual election decided by the Harris County GOP precinct chairs who will be elected March 1.

2016 is shaping up to be a good year for Democrats because of the presidential race. Democrats have mostly won judicial elections in Harris County in the last two presidential election years. Lemkuil's term of office may be limited by factors far beyond her control. We all need to send her our congratulations and best wishes.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.

Greg Enos

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 Web site: www.divorcereality.com

Please forward this e-mail newsletter to everyone who cares about our family courts!

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[Harris County Family Court Chart](#)[Galveston County Court Chart](#)[Harris County Vacation Request Form](#)[Galveston County Vacation Request Form](#)

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Issue: No. 67

February 18, 2016

[Click here](#) to download a new 2016 Chart of Harris County Family Courts.

Effective February 18, 2016 *All phone numbers are (713) area code*

Court	Judge	Floor	Phone (713)	Associate Judge	Coordinator
145th	Ray L. Moore	15th	368-5900	James "Doc" Cooper	Renee Diaz 368-7970
246th	Charley Price	16th	274-4550	Chadler Ratcoe	Yolanda Harris 274-4555
247th	John Schwede	15th	368-6870	Paula Vidales	Patricia Tison 368-8170
257th	Judy Warner	16th	274-4560	Deborah Patterson	Melissa Parker 274-4564
280th	Lynn Brubaker-Hall	JDC1	274-4600	No A.J.	Joan Lindemann 274-4611
308th	James Lombardino	8th	274-4600	Michael Sydney	Sonya Davis 274-4609
308th	Shel Y. Dean	16th	274-4520	Beverly Madaris	Madeleine Rowell 274-8127
310th	Lisa McHard	15th	368-6880	Conrad Moore	Molly Noyes 368-6730
311th	Alicia Franklin-York	8th	274-4580	Diane Guadalupe	Victor Amundson 274-4583
312th	David Farr	16th	274-4540	Eden Gaffney	Pat Patten 274-4540
507th	Alyssa Lemhall	15th	274-4620	Amy Price	Stacy Garcia 274-4620
CPS Impact		JDC7	222-4960	Katrina Griffith	Innocent Morris 222-4965

All family courts are in the Civil Courthouse at 201 Caroline, except the 280th Protective Order Court and the CPS Impact Court, which are in the Juvenile Justice Center (JJCC) at 1200 Congress.

Useful Phone Numbers

Director Clerk/Clerk	760-8379
Family Court Services	760-8794
Texas Child Support (TDCS)	800-252-8914
National Screening	760-236-7867
Domestic Relations Office	760-4781
Deputy Executive Center	760-8274

Published by Greg B. Enos
(281) 333-3030 www.themongoose.com

Greg Enos is Board Certified in Family Law.
Texas Board of Legal Specialization
The Enos Law Firm serves families in Harris, Brazoria and Galveston Counties, Texas.

A public service of The Mongoose,
The International Journal on the Reform of Family Courts

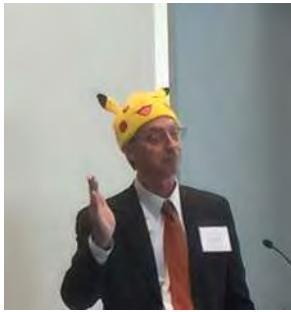
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- [U.S. Supreme Court Information](#)
- [How to Keep Guns Out of Your Law Office](#)
- [The Heart Broken Client in Divorce Cases](#)
- [Useful Links for Lawyers \(and the Paralegals they work for\)](#)

A Judiciary To Be Proud Of

Publishing this newsletter is not quite as interesting as it used to be simply because almost all of our current family court judges are really good, honest, hardworking jurists who do their best to be fair. Intellectually, I prefer a judiciary that does not need indicting, reforming or defeating. But, it is just more fun to write about and battle wack jobs in judge's robes like I did in 2013 and 2014. For 2016, I plan to focus on providing information that the family law bar will find useful even as I keep a close eye on our judges and those running for judge. 2015 was a really bad, painful year for me and I can already tell this year is going to restore my usual energy and zest for reform and silly, good humor. This is me speaking at a South Texas College of Law ethics seminar last week wearing a Pikachu hat (my 9 year old dared me):





My Big Plans for 2016

I admit I slacked off during the last half of 2015 but I have resolved to get a lot done in 2016, including:

- Redesign my law firm's extensive web site (95% completed). Check out www.divorcereality.com, my very useful [links](#) page and [click here](#) for my complete list of all Houston area school district calendars.
- Publish my 2016 Harris County Family Law Legal Directory and my 2016 Galveston County - Clear Lake Legal Directory with a new database design. Each directory will have free listings for over 800 attorneys plus helpful listings of courts, mediators, custody evaluators, business appraisers, etc. [Click here](#) to search my up-to-date database of attorneys online. If your listing needs correction, [Click here](#) for a form you can fill out and send me.



Lawyers switch firms, get married and change names, die, or move away, so it is a constant challenge to correctly list information on attorneys. I need each of you to make sure I have your information current. [Click here](#) to download a form you can use to confirm or correct information on your free listing. Use this form if you are not currently in my database and want to be listed.

- Put on more seminars in May and October in the Harris County Jury Assembly Center. Over 200 lawyers and legal assistants attended my "Ultimate Discovery Seminar" last March. This May 2016 "2016 Mega-Practical Mongoose Family Law Seminar" will cover in four hours:
 - Text Messages/Social Media/E-mails - How to capture, present and admit electronic evidence and what to tell your clients NOT to do on-line.
 - New Clients: From Sign-Up to First Hearing - Forms, Procedures and Tips
 - Discovery - The Updated Ultimate Discovery Seminar condensed to 90 minutes with lots of new forms.
 - Winning the Property Division War - How to get information from the client, what documentation is needed and how to correctly make a simple property division spreadsheet that works in mediation and in court.
- Focus on the peculiar ways of the 280th District Court and a certain judge on the 16th floor who once she takes a disliking to a party, no amount of evidence or law or common sense is going to change the outcome of a case.
- Start work now on creating even more family district courts in Harris County and converting the 280th to a general family district court with a different judge. Each family court should handle its own protective orders.
- Take on a few more pro bono cases. I was in the 306th in Galveston waiting my turn when I saw a pro se mom explain to the judge that she did not agree to a settlement giving the father custody because he had been arrested for DWI with the kid in the car. I volunteered then and there to be a free amicus and got appointed. At this rate, I will never have a jet or yacht like my hero Bobby Newman.

There are two things I decided NOT to do in 2016:

I opted not to spend \$15,000 of my own money to mail a special print edition of the *Mongoose* to Republican primary voters in Galveston County like I did two years ago to great effect. After talking to a lot of Galveston County Republicans, I concluded that publicity and shame and common sense arguments are not going to make the judges and county commissioners make peace in their ridiculous feud that has

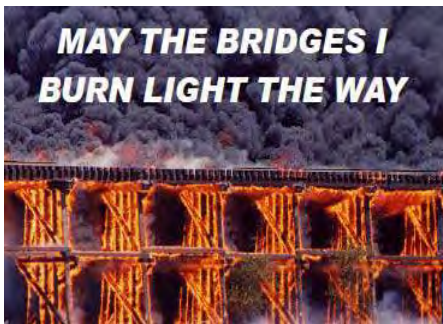
gone on too long and cost way too much tax payer money. I would rather give my money to charity than waste it on dolts actually seriously choosing between Trump or Cruz or Carson. The judges in Galveston County have won their battle but they will not allow the commissioners to surrender because of the personal vendetta a few judges have with Mark Henry. The commissioners court caused the ruckus by seeming to intentionally infuriate the judges and then they made it worse by acting on poor legal advice. Yet, now the judges have what they said they really wanted but Judge Lonnie Cox will not drop his lawsuit until he sees our County Judge held in contempt and a ruling implemented that now makes no sense.

I was going to try to find a home for my foster office dogs I rescued off a rainy, busy street one night in December. These two well behaved, sweet bundles of muscle and affection live at my office (I already have 4 dogs, a bird and lizard at home). They have won my heart and become the main reason I want to go to work each morning, so "Oreo" (aka "Whitey Bolger") and "Simon" will continue to guard my office (that has a fenced back yard).



I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and who actually personally visit their minor clients in their homes). Is that asking too much? Stay tuned.

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Meet the New Associate Judges

Time to break in a new crop of Associate Judges.

Farewell M.L. Walker, Hello Again to Diana Guariglia

Diane Guariglia was appointed by Judge Alicia Franklin-York to be Associate Judge of the 311th District Court. Guariglia replaces Meca Walker, who resigned after a week of rumors that she was on the way out. No one will ever say that Judge Franklin-York is not putting in long hours as a judge and she expects her AJ to do the same. Franklin-York put out a press release that certainly made it look like Walker "retired" on her own and was not forced out. The press release said:

It is with heavy heart that I announce the retirement of Associate Judge Meca Walker. It has been an honor having Judge Walker as my Associate Judge since January 1, 2015. On behalf of myself and the 311th team, we congratulate her and offer our best wishes for the next chapter of her life. I would be remiss if I failed to thank Judge Walker for her many years of service to the community, bar, and judiciary. I would also like to personally recognize Judge Walker for her invaluable assistance during her tenure as a member of this Court's staff. Congratulations, farewell, and thank you, Judge Walker!

Guariglia starts March 1 and she is already well known to the family bar from her years of excellent work as Roy Moore's AJ in the 245th District Court. Judge Franklin-York made an great selection but alas, this flattery will get me nothing as I do not accept cases in the 311th (explaining to prospective clients how I tried to get the judge indicted is simply too complicated).



Diane Guariglia

Lemkuil Selects Amy Perez to be Associate Judge for the 507th

We all know that Governor Abbott paused briefly in his tireless efforts to pander to the lunatic fringe of his party and for once made a brilliant decision to appoint Alyssa Lemkuil as the Judge of the newly created 507th District Court. Lemkuil selected Amy Perez to be her Associate Judge. Perez received her undergraduate degree from Baylor University in Political Science and graduated Cum Laude from South Texas College of Law in 2000. Perez opened her own practice in Spring, Texas on November 1, 2011 after working for Craig Haston and Joe Rentz. Perez became Board Certified in Family Law in 2014. Perez is a well known, highly qualified and widely liked attorney and she is a great selection.



Amy Perez

Lombardino Taps Michael Sydow Jr. to be AJ of 308th

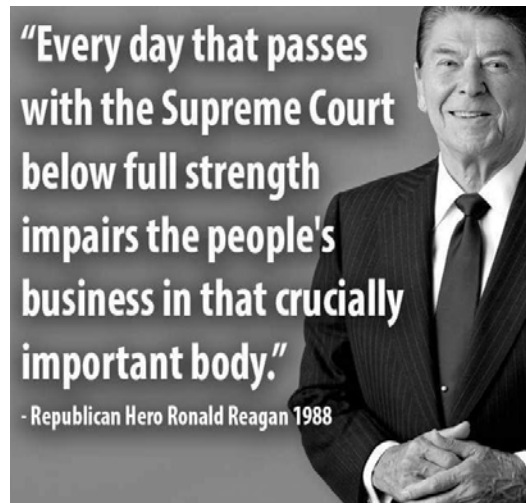
Judge James Lombardino had really big shoes to fill when he lost Alyssa Lemkuil as his AJ. Lombardino suprised many by choosing Michael D. Sydow, Jr. to be his Associate Judge. Sydow has been a lawyer for ten years and has practiced more civil law than family law. Sydow graduated Baylor in 2001 and The University of Texas Law School in 2004. This Michael Sydow should not be confused with his father, who has the same name. I made a total fool of myself by e-mailing Lombardino to ask how he could appoint someone to be his AJ when they had a big pending case in his court? Turns out, that the father, Michael Sydow Sr. (who was a prominent personal injury attorney and one of the pioneers of mediation in Houston back in the day) knows the 308th from the inside and is still litigating there years after his divorce. If you try to Google this guy, assume that all of the very interesting results relate to the father and not the son.

Too many lawyers assume that everything Judge Lombardino does is for some nefarious political reason. I may not always agree with Lombardino's legal rulings and our politics are very far apart, but I have come to truly appreciate how much Lombardino does behind the scenes to help the practice of family law and I am willing to give him the benefit of the doubt on this selection. Time will tell whether young Mr. Sydow can be as good an AJ as Lombardino's first selection was.



Michael Sydow, Jr.

U.S. Supreme Court Information



[Click here](#) to read an article, "The Supreme Court Vacancy Explained (in 250 words)."

[Click here](#) to see a chart that shows every name that was put into nomination for a seat on the Supreme Court in the last eighteen months of a president's term since 1791. This is actual historical evidence that Presidents have traditionally continued to appoint justices even at the end of their tenures and the Senate traditionally did its job and almost always approved the nominees.

[Click here](#) to read a *Washington Post* story that questions why Justice Scalia was staying for free at this exclusive resort owned by a man who owns a company that last year had a case before the Supreme Court. You too can stay (but hopefully survive) at Cibolo Creek Ranch, located 32 miles south of Marfa on U.S. Highway 67. Rooms start at \$350. A suite costs \$800 a night. Check it out at www.cibolocreekranch.com.

Retired Supreme Court Justice Sandra Day O'Connor says President Barack Obama should name Antonin Scalia's replacement. O'Connor, a nominee of President Ronald Reagan who became the court's swing vote until she retired from the bench in 2006, broke with Republicans who say they plan to block Obama's nominee, and want his successor to name the next justice. "I don't agree (with Republicans)," O'Connor said in an interview with Phoenix-based Fox affiliate KSAZ. "We need somebody in there to do the job and just get on with it." She noted that it's unusual to for a Supreme Court opening to exist in an election year, saying that the proximity to the presidential race "creates too much talk around the thing that isn't necessary." She said Obama should name a replacement for Scalia, an influential conservative member of the nation's high court who was found dead Saturday at age 79. "Well you just have to pick the best person you can under these circumstances, as the appointing authority must do. And it's an important position and one we care about as a nation, as a people," O'Connor said. "And I wish the president well as he makes choices and goes down that line -- it's hard." (Source: CNN).



Records from the States News Service from May 19, **2005** indicate that current Senator Majority Leader Mitch McConnell once argued, "Any President's judicial nominees should receive careful consideration. But after that debate, they deserve a simple up-or-down vote. . . . It's time to move away from advise and obstruct and get back to advise and consent. The stakes are high . . . The Constitution of the United States is at stake. Article II, Section 2 clearly provides that the President, and the President alone,

nominates judges. The Senate is empowered to give advice and consent."

And on the floor of the Senate that same day - at a time when Republican President George W. Bush was set to replace Sandra Day O'Connor on the Court and his party had fewer than the 60 required votes in the Senate - McConnell continued:

Because of the unprecedented obstruction of our Democratic colleagues, the Republican conference intends to restore the principle that, regardless of party, any President's judicial nominees, after full debate, deserve a simple up-or-down vote. I know that some of our colleagues wish that restoration of this principle were not required. But it is a measured step that my friends on the other side of the aisle have unfortunately made necessary. For the first time in 214 years, they have changed the Senate's 'advise and consent' responsibilities to 'advise and obstruct.' ... Given those results, many of us had hoped that the politics of obstruction would have been dumped in the dustbin of history. Regretfully, that did not happen.

Source: "Remembering the Time Mitch McConnell Said, 'The President Alone Nominates Judges'"
by J.D. Durkin | www.mediaite.com, February 15th, 2016

How to Keep Guns Out of Your Law Office

Texas may rank 43rd in the nation for the quality of our public education and dead last in the number of people with no health insurance, but by golly we know how to protect the 2nd Amendment rights of those who want to prance around with handguns strapped to their hips or in their purses. A lot of normal men and women concerned about crime are licensed to have concealed weapons. **Generally speaking, Texans who insist on their right to pretend to be Wyatt Earp and "open carry" are paranoid white men over compensating for too-small organs at the top and in the middle of their bodies.** I personally prefer that trained police officers carry pistols on their belts while the rest of us strap smart phones to our sides with the ability to call 911 but not the ability to accidentally shoot ourselves or others.



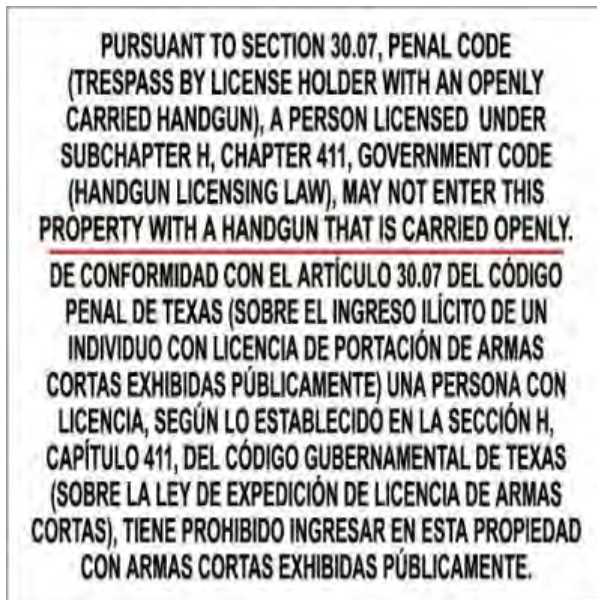
Law firms involved in very emotional divorce and child custody cases are not good places for visitors to be openly packing heat and this article provides the very specific information needed to prohibit "open carry" and "conceal carry" license holders from bringing their weapons into your law offices. Business owners who want patrons to leave their weapons behind must post two large signs. The signs must meet strict rules on appearance, wording and text size. The signs must use the exact language of the statute in English and Spanish and the letters must be an inch high and in a color that contrasts with the background of the sign.

Texas Penal Code Sec. 30.06 applies to concealed handguns and Sec. 30.07 applies to open carry weapons. Posting a Section 30.06 sign ONLY means no CONCEAL carry on premises but open carry is allowed. Posting a Section 30.07 sign ONLY means no OPEN carry on premises but conceal carry is allowed. Businesses need to post both Sections 30.06 and 30.07 signs to keep out both concealed and openly carried guns on their premises.

Here is a sample Sec. 30.06 sign:



Here is a sample Sec. 30.07 sign:



You can order both signs that comply with these laws from Office Depot ([click here](#) to see their \$13.99 sign).

The Heart Broken Deserve More Consideration from Divorce Judges and Attorneys

Judges and divorce attorneys should be more aware of the feelings, needs and motivations of spouses who are heartbroken by the divorce cases their wives or husbands have filed

Divorce professionals tend to dismiss the overwhelming sadness of emotionally devastated spouses because there is so little we can do about it and because Texas grants divorces without regard to fault if one spouse wants to end the marriage. All too often, we basically tell our clients, "suck it up, get it over it and deal with it --- this divorce is happening whether you want it or not."

Calm, analytical attorneys are more comfortable dealing with angry clients or rational clients who want the divorce and are not deeply upset by the split. It is simply hard to deal with grownups we do not know who are crying their eyes out and feel their worlds have come crashing down. It is not always wives who are emotionally crushed by a divorce. Husbands can also experience the same sort of broken heart.



The heartbroken spouse may know their marriage has problems but usually they are surprised by the divorce and often they are the victims of adultery. These divorce clients need extra attention from their lawyers and need advice on how to handle their emotional devastation. Often, counseling or medicine is needed. Many heart broken spouses suffer situational depression. Situational depression is a short-term form of depression that can occur in the aftermath of various traumatic changes in normal life, including divorce, retirement, loss of a job and the death of a relative or close friend. Doctors sometimes refer to the condition as adjustment disorder.

We lawyers must protect our clients from themselves and we need to be wary that the heartbroken clients often do really stupid things in the early states of a divorce.

In hearings and trials, judges should not treat the heart broken spouse like just another product moving down the divorce assembly line conveyor belt. These people need to hear that their feelings are understood and taken into account.

Lawyers and legal assistants should take more time with their heart broken clients and yet still gently explain how the divorce process is going to work regardless of how they feel.

Symptoms of the heartbroken spouse, especially in the early states of a divorce, include:

Their nerves are frayed. They can't sleep. They can't eat. Their thoughts are obsessive. Intrusive visions and flashbacks assault them without warning. They cry at the drop of a hat. They feel empty, used up, exhausted. The stress consumes their energy and their life until they feel like there's nothing left.

DISBELIEF: They expect to wake up any minute from this nightmare. It can't be true. They don't believe it. ...

SHOCK: They are numb and often seem dazed. Their emotions are frozen. Their senses are dulled. They go through the motions mechanically, robotically, but can't seem to apply sufficient concentration to their day -to-day lives....

REALITY: "Oh my God. It really happened." They feel they're getting worse. Actually, reality has just set in. It's as if a ton of bricks just fell on them and they're buried beneath them. They don't know where to turn, or can't.

CONFUSION: They're disoriented. They can't think straight. They become impatient, disorganized and forgetful. More frequently than usual they go to a room to retrieve something, but once they get there they can't remember what it was.

PHYSICAL SYMPTOMS: They may sleep or eat too little - or too much. They may suffer physical aches and pains, numbness or weakness. They may feel unusually tense and develop headaches, abnormal tics, twitching or shaking. They may feel sick to their stomach and vomit, or their digestive system may react with constipation or diarrhea. Weight loss is common.

CRYING:

Deep emotions suddenly well up, seeking release as crying, uncontrollable sobbing and even screaming out loud.

NEED TO KNOW:

They will ask lots of questions. Their curiosity may be insatiable or it may be limited. Different people have different needs and tolerances for information, but they need information to process their trauma, move through it, and move past it.

INJUSTICE:

They feel it's all so unfair

INADEQUACY:

Their self esteem is shattered. They feel belittled, insignificant, and often even unlovable.

TRIGGERS:

Particular dates, places, items and activities can bring back their pain as intensely as ever. It feels like they're caught in a loop as they relive the trauma. It is emotionally debilitating. Triggers can cause days and nights of depression, renew anger, and can spark and reignite nightmares, which may make them fear sleeping. Triggers can cause them to question if they will ever again experience life without the anguish.

Source: Understanding Your Betrayed Spouse - A quick reference manual for unfaithful partners. www.emotionalaffair.org

For lawyers, it is much easier to represent a spouse who is rational and who wants the divorce. We need to muster extra time and patience and understanding for our heart broken clients, even as we try to keep their emotions from creating legal fights that are not needed.

I want to write more on this subject and I will share tips or insights any judges or attorneys have for dealing with clients who do not want to be divorced and who are heart broken by their spouse's actions.

Useful Links for Lawyers

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Issue: No. 68

May 24, 2016

[Click here](#) to download a 2016 Chart of Harris County Family Courts.

2016 Harris County Family Courts

Judge	Case	Case Type	Case Number	Case Name
1001	1001	1001	1001	1001
1002	1002	1002	1002	1002
1003	1003	1003	1003	1003
1004	1004	1004	1004	1004
1005	1005	1005	1005	1005
1006	1006	1006	1006	1006
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2016 Harris County Family Courts



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Get ready for a *Mongoose* a week for a while as I make up for my hiatus. I vow to bring to light a scandal at least as big as Pratt or Pollard by the end of the year. Not only do I plan to educate a few judges on the errors of their ways, I have also decided to bring my reform efforts to outlying counties, such as sleepy and friendly Brazoria County.

I do have a great book to recommend: *The Midnight Assassin* by Skip Hollingsworth tells the chilling tale of America's first serial killer who stalked Austin, Texas for a year in 1884-5. Victims were pulled silently from their homes with others sleeping nearby and killed in extraordinary gruesome ways by a killer who was never caught and who simply disappeared. London police in 1887 even considered whether their "Jack the Ripper" was the world famous killer from Austin. I grew up in Austin and I have never heard this story until now. The image of almost the entire terrorized town gathered on Congress Avenue on Christmas Eve under the few electric lights after two women had been found horribly killed in opposite ends of the city within minutes of each other is haunting. The headline of the Dec. 25 Austin Daily Statesman read, "Blood! Blood! Blood! Last night's horrible butchery." This is a riveting and well researched book.



I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and who actually personally visit their minor clients in their homes). Is that asking too much? Stay tuned.

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Rick Ramos Fails in Bid for World Domination

Attorney Rick Ramos, husband of Associate Judge Chelsie Ramos, lost his bid to unseat Harris County Republican Party Chair Paul Simpson in yesterday's runoff election. Simpson defeated my pal Jared Woodfill (the scourge of transgender potty goers) two years ago with the support of County Judge Ed Emmett. Ramos was supported by the big GOP slate mailers (Hotze, Lowrey and Polland) who do not like their loss of influence under Simpson. Ramos came in first in a three way race in March and forced the runoff election. However, Simpson thrashed Ramos yesterday 69% to 31%.

Some Republican bloggers raised concerns about how Simpson has spent far more than donors contributed to the local GOP in the last two years while other conservative bloggers lit into Ramos. One "TexasTrashTalk" blog in particular addressed Mr. Ramos' lack of prior Republican party involvement and even discussed his "family values" and disgustingly posted excerpts from orders in Ramos' rather exciting 2007 divorce that might make even our new GOP role model Donald Trump blush. Given my own track record, I certainly do not hold Ramos' one divorce against him. Donald Trump has proven that divorce and improper marital behavior will not be held against the leader of the "Christian values" party. As long as a politician is not being a hypocrite, a divorce that did not involve proven family violence or child abuse should not be a factor in an election and old court orders that are otherwise tightly sealed should not be posted on-line as part of a smear campaign. Surely all of us divorce lawyers can agree on that!

A few weeks ago, I was in the 309th and Mr. Ramos was sitting in the audience section on the first row with some other lawyers. The court reporter saw him and went to the back and came out with a cup of coffee that she brought over to Ramos with a bow and a smile. Everyone in the courtroom saw this obsequious behavior and noted it. I shutter to think what influence Ramos would have had if he had been elected leader of the Trump party. On the other hand, it is very likely the local GOP will lose most races this year in November and perhaps it was best for Rick that he did not win the chairman post this time around. I have always like the rascal Ramos and if more Republicans were like him, the world would be a better place in my book.

At least the Ramos family is well represented by Judge Chelsie Ramos, who is doing a really good job for Judge Prine. I hesitate to praise any judge for fear of looking like the typical "suck ass" lawyer, but Mrs. Judge Ramos is hard working, fair, efficient and even-handed (at least until she reads this article).



Lombardino Divorce Shows the System Mostly Works

I often write about topics lawyers are already gossiping about and usually I try to share actual facts to counter the rumors that are flying about. It is a sad fact that lawyers are talking about a new divorce case that involves the son and grandchild of Family District Court Judge James Lombardino. In the "divorce world" of Harris County, this case is news.

The wife, a physician, hired Jim Evans who filed for divorce for her (Evans ran against Judge Lombardino in the last general election). The case was randomly assigned to the court of Alyssa Lemkuil, Judge Lombardino's former Associate Judge. Lemkuil recused herself and the case went to the court of Alicia Franklin, who also recused herself. The case then went to Judge Judy Warne's court and Warne recused herself. Administrative Judge Underwood then assigned Judge Tom Stansbury, who appointed an amicus attorney, Cindy Aguirre. The young Mr. Lombardino is represented by Joe Indelicato. The wife replaced Evans with Marcela Halmagean. A hearing on temporary orders was started and a "band-aid" order entered.

This case to me shows that our system does actually work contrary to the suspicions of some that the system is rigged so that powerful people are able to use their influence to get results they should not. An experienced and very fair judge from another county is hearing the case and the wife is in fact being treated fairly despite who her father-in-law is.

However, this case raises a few uncomfortable questions, such as:

- If a new divorce case is confidential for the first 30 days it is filed, how was the young Mr. Lombardino allegedly able to see the TRO before he was served?
- How did the case get sealed so tight that for a while the wife's lawyers could not access the case on the District Clerk web site even though the wife filed the case?
- Why wouldn't the case have gone to Judge Underwood as soon as the first judge recused herself?
- How can a clerk have the authority to deny the wife's new attorney access to the case even though she had filed an entry of appearance?
- What will be done about the case the amicus attorney has pending in Judge Lombardino's court? The matter was raised at the first hearing and Judge Stansbury suggested that the amicus or Judge Lombardino would know what to do (I assume he meant that either the amicus withdraws from that other case or Lombardino recuses himself). However, a lawyer who works a lot in Harris County will know she will likely have cases in the future before Lombardino after his son's divorce is over. Will Ms. Aguirre temporarily or forever decline appointments from Judge Lombardino's court even if it is the result of the random appointment wheel? Ms. Aguirre has a reputation of integrity and fiercely advocating for children, so it is a safe bet that her concern will be what is best for the child rather than what his grandfather wants and that is how it should be.
- What happens with the cases where Mr. Indelicato represents someone right now in Judge Lombardino's court? I would expect the parties opposing Indelicato's clients in the 308th to be concerned that Indelicato is currently representing the judge's son in a fight over the judge's grandson who is currently living in the judge's house. Indelicato has one case set for trial June 7 in the 308th. Will his

opponent, Bobby Newman, ask the judge to recuse himself or would it ever enter Newman's mind that anyone could have more influence than him?

I hesitated to write about this case because I frankly like and get along just fine with Judge Lombardino and I appreciate his efforts behind the scenes to improve family law in Harris County. I am sorry that his family is suffering through a divorce and I respect both parents' privacy. Yet, the judge is a public official and how his son's case is being handled is a matter of public interest (lawyers are certainly talking about it). I will not write about allegations or testimony in this case, because that is none of our business. How a divorce case involving a divorce judge's son is handled procedurally and its ethical implications are our business.

This case to me shows that our system of justice actually does work, thanks mostly to people of honesty and integrity who fill the roles of judges, clerks and lawyers. The issues raised by this case arise from time to time in every county, especially small counties where there may be only one judge and his child's divorce causes similar concerns that are magnified because there may only be 20 lawyers in the county. I wish the best for all involved, particularly the little child whose life is changing so dramatically.

Darrell Apffel Elected County Commissioner - Is An End in Sight to the Foolish Fight Between Judges and Commissioner's Court?

Attorney Darrell Apffel won the run off primary election yesterday for the Republican nomination to be Galveston County Commissioner and he will thus replace Ryan Dennard on January 1. Apffel is an experienced lawyer from a family of amazing lawyers and it is hoped that he will be able to bring an end to the ridiculous feud between commissioner's court and the county's judges that has gone on far too long at a cost of almost a million dollars in legal fees.



Who Knew? AJ Can Conduct Final Trial But Elected Judge Must Sign the Final Order

This decision could effect almost every judgment based on a final trial heard by an associate judge.

The mother filed a modification case in 2013 in Galveston County and it was transferred to Denise Pratt's court in Harris County. Pratt appointed Doug York the amicus attorney and the parties agreed that Associate Judge Newey could hear the final trial. The parties waived de novo appeal and the trial was conducted before Newey off and on over several months. Eventually, Newey ruled mostly for the father and Newey signed a final modification order. Pratt did not sign the final order and none of the lawyers asked her to. The mother appealed to the Court of Appeals.

The Houston First Court of Appeals dismissed the appeal for lack of appellate jurisdiction because the final order was not signed by the referring judge. This is big news for family lawyers in Houston because we often agree for the Associate Judges to preside over final trials and we do exactly what the lawyers in this case did. The court of appeals held that Tex. Fam. Code Sec. 201.007(a)(14) allows an AJ to sign an agreed final order or a default final order or a final order with a waiver of appearance. However, Sec. 201.007(a)(16) otherwise only allows an AJ to "sign a final order that includes a waiver of the right of appeal pursuant to Section 201.015." The waiver of de novo appeal in this case was apparently made on the record but was not in the final order itself. The majority opinion implies that a waiver on the record would suffice but would still not permit the AJ to sign the order unless Sec. 201.007(a)(14) applied. A concurring opinion says the waiver of de novo appeal must be in the body of the order and then it would be appealable to the court of appeals. This is a confusing opinion that seems to make little sense. However, the real lesson is to insist that the presiding judge also sign the final order even if the AJ heard the trial.

Gerke v. Kantara, No. 01-13-00082-CV (Tex. App. - Houston [1st Dist.] 4/19/2016).

[Click here](#) to download this opinion.

Should the Oath Given to Witnesses Include

"So Help Me God?"

"Do you swear or affirm that you will tell the truth, so help you God?" We routinely hear court reporters and judges administer this oath to witnesses and think nothing of it. Yet, this standard oath might be inappropriate for several reasons.

Tex. R. Evid. 603 (which is identical to the Federal Rule of Evidence 603) only requires that "Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation administered in a form calculated to awake the witness' conscience and impress the witness' mind with the duty to do so."

"So help me God" is not a required part of the oath. In *United States v. Looper*, 419 F.2d 1405, 1407 (4th Cir.1969), the Fourth Circuit held that the trial judge erred in refusing the testimony of a defendant who would not take an oath that referred to God. Specifically, Looper had told the trial judge, "I can't [take the oath] if it has God's name in it. If you ask me if I'll tell the truth, I can say that." The Fourth Circuit concluded that any form or statement that impressed on the mind and conscious of the witness the necessity for telling the truth would suffice as an oath, citing proposed Rule 603. The opinion suggested that trial judges faced with religious objections to an oath or affirmation should "make inquiry as to what form of oath or affirmation would not offend defendant's religious beliefs but would give rise to a duty to speak the truth."



In *Spigarolo Ferguson v. C.I.R.*, 921 F.2d 588, 590 (5th Cir. 1991), the pro se litigant's Christian beliefs prevented her from swearing or affirming and the tax court judge refused to allow her to testify and dismissed her case. The Fifth Circuit reversed and said:

The right to free exercise of religion, guaranteed by the First Amendment to the Constitution, is one of our most protected constitutional rights. The Supreme Court has stated that "only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion." The protection of the free exercise clause extends to all sincere religious beliefs; courts may not evaluate religious truth. Fed.R.Evid. 603, applicable in Tax Court ... requires only that a witness "declare that [she] will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so." As evidenced in the advisory committee notes accompanying Rule 603, Congress clearly intended to minimize any intrusion on the free exercise of religion.

The rule is designed to afford the flexibility required in dealing with religious adults, atheists, conscientious objectors, mental defectives, and children. Affirmation is simply a solemn undertaking to tell the truth; no special verbal formula is required.

....

If Judge Korner had attempted to accommodate Ms. Ferguson by inquiring into her objections and considering her proposed alternative, the entire matter might have been resolved without an appeal to this court. Instead, however, Judge Korner erred not only in evaluating Ms. Ferguson's religious belief, and concluding that it did not violate any "recognizable religious scruple," but also in conditioning her right to testify and present evidence on what she perceived as a violation of that belief.

The pro se party in the Ferguson case tried to get the judge to allow her to follow the Supreme Court of Louisiana decision in *Staton v. Fought*, 486 So.2d 745 (La.1986), as an alternative to an oath or affirmation:

I, [Betty Ann Ferguson], do hereby declare that the facts I am about to give are, to the best of my knowledge and belief, accurate, correct, and complete.

According to the Pew Research Center 2014 Religious Landscape Study, about seven percent of Americans consider themselves atheist or agnostic and 23% describe their beliefs as not affiliated with any religion. An oath based on a belief in God might not comply with TRE 603 if the witness does not believe in God, since such an oath would not be "in a form calculated to awake the witness' conscience." Requiring a witness who does not believe in God to swear an oath to God would also violate the witness' constitutional rights.

Article I, section 5 of the Texas Constitution makes clear that no person can be prohibited from giving testimony or evidence because of his religious beliefs (or lack thereof):

No person shall be disqualified to give evidence in any of the Courts of this State on account of his religious opinions, or for the want of any religious belief, but all oaths or affirmations shall be administered in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of perjury.

Paradoxically, the Texas Constitution, Article XVI, Section 1, requires appointed officials, including judges, to take two oaths that conclude, "so help me God." In *re General Electric Capital Corporation*, 63 S.W.3d 568, 571 (Tex. App.-El Paso 2001, orig. proceeding) held that the "so help me God" part of the oaths for appointed officials could not be required. The opinion concluded, "...a solemn pledge may be executed by a reference to God; however, it need not. For these reasons, we conclude the "so help me God" ending is not an indispensable part of the oath."

The court in *Scott v. State*, 80 S.W.3d 184, 190 (Tex. App.-Waco 2002, pet. ref'd) held that the defendant's First Amendment right of religious freedom was violated by a judge who refused to let him swear as follows, "I vow to my heavenly Creator that I will tell the truth and that I will do so under any penalties that are equivalent to the penalties for perjury for those who swear or affirm oaths."

In *Society of Separationists, Inc. v. Herman*, 939 F.2d 1207, 1219 (5th Cir. 1991), Robin Murray-O'Hair appeared for jury duty in Austin but, as an atheist, she refused to swear an oath to tell the truth containing the phrase "so help me God." She also refused to make an affirmation to tell the truth that contained no reference to God. The trial judge held her in civil contempt. The Fifth Circuit ruled that the judge could not compel a juror to affirm to tell the truth when to do so would offend her beliefs as an atheist.

The Establishment Clause of the Constitution might also seem to be a reason for a court reporter or judge to not require an oath to include "so help me God." After all, if a school district cannot be part of a prayer at a football game, how can a government employed judge or court reporter invoke God in an oath? However, several cases have held that "so help me God" in an oath does not violate the Establishment Clause. See, e.g., *Commonwealth v. Callahan*, 519 N.E.2d 245, 252 (Mass. 1988) (holding that a juror oath concluding with the phrase "so help me God" was a permissible governmental acknowledgment of religion) and *School Dist. v. Schempp*, 374 U.S. 203, 212-13 (1963) (referring to "So help me God" oaths as an inseparable part of our nation's history and government).

So, how should a witness be sworn properly without knowing what his or her religious beliefs are? After all, many might object if a judge first asked each witness if they believed in God before the oath was administered. Most cases suggest that the usual "so help you God" oath be used and then if the witness objects to that oath, the judge should reasonably accommodate the witness' beliefs.

The Fifth Circuit in *Society of Separationists* said:

In holding that [the trial judge] erred, we do not mean to say that he was not courteous and thoughtful.... [T]he Constitutional guarantee of Free Exercise ... is to be watched, policed and rarely if ever trespassed. The judge's duty was to fashion statements of commitment to truth and integrity ... and to do everything that would make for absolute integrity. The [witness] must be able to articulate [his] commitment to [tell the truth and his understanding that he can be prosecuted for perjury if he does not]. The judge had a duty to fashion a statement for the prospective [witness] so that [he] could elucidate these concepts. This he failed to do.

We say that what the judge did was error ... Our decision should be understood not as chastisement by any means, but as ... a reminder that the Free Exercise Clause requires something more; here, a back-and-forth interaction designed to elicit positive cooperation from a protesting ... witness.

The U.S. Fourth Circuit Court of Appeals in *United States v. Looper*, 419 F.2d 1405, 1407 (4th Cir.1969) identified several informal means by which the English courts historically permitted witnesses to make their oaths and affirmations:

With the sophistication derived from England's role as a world trader, its courts have permitted Chinese to break a saucer, a Mohammedan to bow before the Koran and touch it to his head and a Parsee to tie a rope around his waist to qualify them to tell the truth.

419 F.2d at 1407 n. 4 (citing 6 Wigmore, Evidence in Trials at Common Law, § 1818 (3d ed.1940)).

The defendant in *Fagbemi v. State*, 778 S.W.2d 119, 121 (Tex. App. - Texarkana 1989, pet. ref'd) was Nigerian and was allowed to take an oath for truthfulness on his tribal icon when he testified that he believed if he were to lie after taking such an oath, he would be utterly destroyed within seventy-seven days.

Atheists and nonbelievers are often very reluctant to admit their beliefs in public because of the pervasive prejudice most Americans have against atheists. One author recently wrote:

Every single study that has ever looked at the issue has revealed massive amounts of bigotry and prejudice against atheists in America. The most recent data shows that atheists are more distrusted and despised than any other minority and that an atheist is the least likely person that Americans would vote for in a presidential election. It's not just that atheists are hated, though, but also that atheists seem to represent everything about modernity which Americans dislike or fear.

An atheist called to testify may not feel comfortable objecting to the "so help me God" part of the oath. On the other hand, a judge probably should not just assume that a witness believes in God. One article estimated there were over 8 million Wiccans in the United States. A Wiccan might swear an oath to the Moon Goddess or the Horned God, but might balk at a general oath "So help me God." Yet, many witches for good historical reasons might hesitate to admit their beliefs in public, especially if they are a witness who wants a judge or jury to believe them.

The best practice might be for the court reporter to hand the witness a card with several oaths or affirmations and ask them to select and read the one that best "awakens his conscience" according to his beliefs and will invoke his duty to tell the truth.

Two worthwhile law review articles to read if you are interested are:

Belcher, Jonathan, "Religion-Plus-Speech: The Constitutionality of Juror Oaths and Affirmations Under the First Amendment" William & Mary Law Review, vol. 34, No. 1 (1992) and Jonassen, Frederick B., 'So Help Me?': Religious Expression and Artifacts in the Oath of Office and the Courtroom Oath, Cardozo Public Law, Policy and Ethics Journal, Vol. 12, No. 2, Spring 2014.

Useful Links for Lawyers

[Harris County Family Court Chart](#)

[Harris County Vacation Request Form](#)

[HBA Family Section Summary of Harris County Family Court Procedures](#)

[List of Four hour Parenting Classes for Divorcing Parents](#)

[Harris County Chart on Mediation Before Temporary Orders](#)

[Galveston County Court Chart](#)

[Galveston County Vacation Request Form](#)

[Attorney General Contact Information](#)

[Enos Links for Family Law Attorneys](#)

[Texas AG Child Support Calculator](#)



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries. The Enos Law Firm serves clients in Galveston County and Harris County, Texas.



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Issue: No. 69

July 6, 2016

[Click here](#) to download an updated chart showing which Harris County family courts require mediation before temporary orders.

Harris County Family Courts June 2016

IS MEDIATION REQUIRED BEFORE TEMPORARY ORDERS HEARINGS?

Court	Yes	Only if Custody (primary concern) is at issue	If provisions of an order to child or to support	To all cases	Based on hearing length
148 th - Judge Moore				X*	
242 nd - Judge Pitzer	Mediation is not always required but is ordered in appropriate cases. If one party or both parties request mediation and there is an immediate need involving safety of the parties or the children the court will order mediation. The decision whether to require mediation is case specific.				
243 rd - Judge Schwab		X	X		For 2-3 hours
257 th - Judge Warner		X			
308 th - Judge Lombardo				X	
309 th - Judge Davis	Parties are required to appear at court on the initial hearing date and discuss all issues and orders will be entered by agreement or by court order until mediation or until full hearing can be completed. Entry dates for the orders as well as a hearing date shall be included in the final order. The practical result of this policy is that mediation is not required before temporary orders in most cases.				
318 th - Judge Bellard	X				
321 st - Judge Franklin Park		X			For 2-3 hours
322 nd - Judge Hart		X			
507 th - Judge Lemkuil				X	

Notes:

All courts will consider a request to waive mediation based on absence of substance or economic, personal circumstances.

* Judge Moore will use mediation unless he believes that it is not in the best interests of the parties or the children.

[Click here](#) to download a 2016 Chart of Harris County family courts.

2016 Harris County Family Courts - 2016

All phone numbers are 713 area code

Court	Judge	Phone	Address	Hours
148 th	Judge Moore	713-355-1000	1400 North Loop West	9:00am - 5:00pm
242 nd	Judge Pitzer	713-355-1000	1400 North Loop West	9:00am - 5:00pm
243 rd	Judge Schwab	713-355-1000	1400 North Loop West	9:00am - 5:00pm
257 th	Judge Warner	713-355-1000	1400 North Loop West	9:00am - 5:00pm
308 th	Judge Lombardo	713-355-1000	1400 North Loop West	9:00am - 5:00pm
309 th	Judge Davis	713-355-1000	1400 North Loop West	9:00am - 5:00pm
318 th	Judge Bellard	713-355-1000	1400 North Loop West	9:00am - 5:00pm
321 st	Judge Franklin Park	713-355-1000	1400 North Loop West	9:00am - 5:00pm
322 nd	Judge Hart	713-355-1000	1400 North Loop West	9:00am - 5:00pm
507 th	Judge Lemkuil	713-355-1000	1400 North Loop West	9:00am - 5:00pm

2016 Harris County Family Courts - 2016

All phone numbers are 713 area code

2016 Harris County Family Courts - 2016

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2016 Harris County Family Courts - 2016

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In this issue

- [Democrats Select Julia Maldonado to Face Alyssa Lemkuil for 507th District Court](#)
- [2016 Election Analysis for Harris County](#)
- [Former Judge Dupuy is Out of Jail \(For Now\)](#)
- [What is "Misogyny" and Why Should Family Law Attorneys Care?](#)
- [The Meaning of "Reside" and "Residence" in Texas Family Law Cases](#)
- [Useful Links for Lawyers](#)

This week *The Mongoose* dumps a cold bucket of political reality on the family law world and introduces the Democratic nominee for the 507th Family District Court: Julia Maldonado. So, this November it will be appointed Republican Judge Alyssa Lemkuil (assuming her party

nominates her on July 16 as expected) versus Democrat Ms. Maldonado.

This is heresy to my fellow Democrats, but I think Alyssa Lemkuil is a really good judge and if the race were decided on merit and current qualifications, Lemkuil should win. Julia Maldonado may turn out to be a fine judge, but right now she does not have Lemkuil's track record. If Maldonado is elected, I have confidence in her abilities to be a hard working, fair judge. After all, when John Schmude was elected, he was not nearly as qualified on paper as Maldonado is now and Judge Schmude has turned out to be an excellent judge. But, right now we KNOW Lemkuil already is an excellent judge and we do not need to hope or guess how she will be as a judge.

However, I predict that Maldonado may very well win for reasons that neither she or Lemkuil can control or influence. It does not matter how much either raises in political donations nor how hard they campaign because neither can really determine their fate in a Presidential election year (unless there is a high profile scandal, like a DWI arrest). Judge Lemkuil's fate is in the tiny hands of Donald Trump.



I have updated my chart on which Harris County family district courts require mediation before temporary orders. As you ponder how nice it would be if all ten courts followed the same dang rule, [click here](#) to download my new chart.

In each issue I will try to suggest a book or movie to broaden the cultural experience of family law attorneys and judges. This week, I strongly recommend the movie "Dirty Grandpa" which is out on DVD and Blu-ray (and iTunes and Amazon stream). This is a hilarious and very "R" rated movie that even those who are not grandfathers like me will enjoy.



I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and who actually personally visit their minor clients in their homes). Is that asking too much? Stay tuned.

Greg Enos

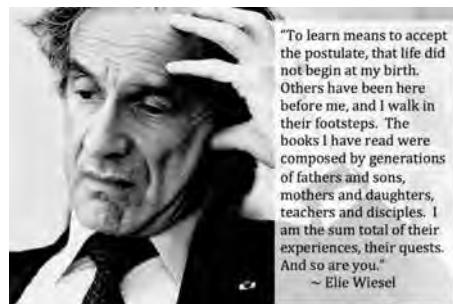
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"...if we forget, we are guilty, we are accomplices.

"We must always take sides. Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented. Sometimes we must interfere.

"When human lives are endangered, when human dignity is in jeopardy, national borders and sensitivities become irrelevant. Wherever men or women are persecuted because of their race, religion, or political views, that place must – at that moment – become the center of the universe."

~ Elie Wiesel



"To learn means to accept the postulate, that life did not begin at my birth. Others have been here before me, and I walk in their footsteps. The books I have read were composed by generations of fathers and sons, mothers and daughters, teachers and disciples. I am the sum total of their experiences, their quests. And so are you."
~ Elie Wiesel

MAY THE BRIDGES I



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Democrats Select Julia Maldonado to Face Alyssa Lemkuil

The Harris County Democratic Party Executive Committee selected Julia Maldonado to be the party's nominee for the 507th Family District Court. Six attorneys entered the race: Jim Evans, Sandra Peake, Chip Wells, Shawn Thierry, Germaine Tanner, and Maldonado. The election was decided by the Democratic Precinct chairs. Each candidate was given two minutes to speak before the precinct chairs voted by walking to the stand behind their chosen candidate.



A diverse, happy and very well behaved gaggle of Democrats selected judicial nominees in two races last week, including the 507th.

Shawn Thierry and Julia Maldonado received the highest vote totals but neither reached 50%, so an immediate runoff election was held. Maldonado ended up with 123 votes to Thierry's 115. This has to be one of the cheapest judicial primaries for candidates in decades. The 507th was created as of January 1, 2016, so it was too late to use the usual primary election to select the parties' nominees.

The Republican Party Executive Committee meets on July 16 to select its nominee and there seems little doubt the party will nominate Alyssa Lemkuil, who was appointed by Governor Abbott to serve as the Judge of the brand new 507th District Court.



Maldonado is Certified in Family Law by the Texas Board of Legal Specialization and has practiced law for over 15 years. She has two grown sons and is a grandmother.

Maldonado in many ways has lived the American dream and she should be the local poster child for what is wrong with what Donald Trump says about Mexicans and his stupid "Big Wall." Maldonado was born in Mexico and came to the U.S. at age 11. She received her citizenship in 1985. Maldonado attended Houston public schools, received an accounting degree from the University of Houston and a law degree from Texas Southern University. [Click here](#) to read an interview of Maldonado in Charles Kuffner's excellent political blog.

Read the next article below to see why I think there is such a big chance that Maldonado will get elected this November.

2016 Election Analysis for Harris County

Harris County District Court judicial races in the general election in Presidential Election years depend on what voters do at the top of the ticket (just ask Judge David Farr). This year, the newly created 507th District Court is up for election in a Presidential Election year, and that must surely make Judge Alyssa Lemkuil very nervous.

If Clinton defeats Trump in Harris County in November 2016 by more than two percentage points, it is very likely that Democrats will sweep all Harris County judicial races. In 2008, Obama beat McCain in Harris County by 1.06% and Democrats won 22 of 26 races for district courts in Harris County. In 2008, the only Democrats who lost their judicial races had "foreign sounding" names such as Ashish Mehendru or Mekisha Murray.

In 2012, Obama carried Harris County by just 0.08% and Democrats won 14 district court races and the Republicans won 9. In 2012, there was one race for district court that pitted two female candidates against each other. Republican Elizabeth Ray (a very Anglo sounding name) defeated Democrat Josefina Rendon (an obvious Hispanic name) by 14,468 votes or 50.64% to 49.36%. Will Julia Maldonado suffer because she is clearly Hispanic or will ignorant voters wonder if "Lemkuil" is an "American name" ? Will Trump bring out many additional Hispanic voters who will either vote straight Democratic or select Maldonado because it is a familiar name?

The following chart summarizes the last two general elections in Harris County in presidential years:

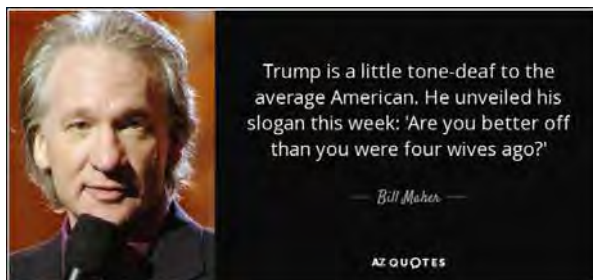
Harris County Election Analysis

	2008	2012
Barack Obama	50.45%	49.39%
Republican - McCain / Romney	48.82%	49.31%
Straight Votes - % of total	63%	69%
Straight Dem Votes	391,488	406,991
Straight Republican Votes	343,919	404,165
Harris County District Courts	Dems won 22 GOP won 4	Dems won 14 GOP won 9
Democratic Judicial Candidates Who Lost General Election	Andres Pereia Goodwille Pierre Ashish Mehendru Mekisha Murray	Josephina Rendon Shawna Reagin Vivian King Randy Roll Tracy Good Donna Roth Herb Ritchie Hazel Jones Mack McInnis

Texas allows voters to vote a straight party ticket and then, if they want, go down the ballot and vote for individuals of the other party. Former District Judge Mark Davidson, a Republican who was defeated in the 2008 Obama sweep, estimated then that less than 3% of straight ticket voters split their votes in local judicial races. Attorneys cannot know who all of the judicial candidates are and certainly the general public cannot, which explains why Harris County voters mostly vote straight ticket or go down the list voting for judges based on how they react to the names. Obviously, this is a very stupid way to select our trial court judges, but it is the system we are stuck with.

I know that Trump will carry Texas, but not by nearly as much as past Republicans. Romney won Texas by 16% and current polls show Trump ahead in Texas by just 6%. I find it hard to believe that Hilary Clinton will not get at least 51% of the vote in Harris County given all Trump is doing and saying to lose this election. I would be very surprised if Maldonado loses should Clinton receives over 51% of the Harris County vote.

The big tort lawyers who spend so much in judicial races will spend record amounts this year because they believe the Democrats will sweep the county. When our Senator Ted Cruz and our two former Presidents named Bush are refusing to support Trump, it seems unlikely that local Republicans are going to generate much enthusiasm for this election. Trump will continue to say outrageous things and voters will eventually start paying attention to the federal lawsuit filed against Trump by a woman who alleges that Trump raped her when she was 13. [Click here](#) to read an article that reminds us how the media ignored sexual allegations against Bill Cosby and why this lawsuit against Trump should be taken seriously.



Dupuy is Out of Jail (For Now)

Former Galveston County Judge Christopher Dupuy is out of jail after 11 months behind bars. Dupuy was arrested for allegedly posting online escort ads using the photographs of two women he knew. Dupuy could not post the very large bond his former judicial colleague Michelle Slaughter insisted on. But, a visiting judge last month dismissed the charges, calling the statute used to charge Dupuy "overbroad" and thus unconstitutional. Dupuy faces a hearing in August to revoke his probation arising from his 2013 conviction for official oppression. Dupuy is still under strict bond conditions - he has to wear a GPS tracker and keep a daily journal of anything he does outside of his home. He's also not allowed to text, use social media, or use or possess "any knife other than a standard steak knife."

Now here is the amazing news: Dupuy can still practice law because the State Bar has never pushed its case to disbar Dupuy to trial. It makes you wonder exactly what it takes to lose your law license if indictment, removal from office, conviction and probation and then arrest on other charges are not enough.



Finally, let's all recall what police found in Dupuy's apartment when they arrested him last year: two laser-sighted pistol, a silencer, magazines for the pistols, a 950,000-volt stun gun shaped like a pair of brass knuckles, duct tape, a pair of black gloves, and a GPS tracking device.

If you are curious to read more about what surely must be one of the oddest judicial careers in Texas history, check out these two excellent articles from the *Houston Press*:

[Notorious Ex-Judge Chris Dupuy Free After Charges Dismissed](#)

[Ex-Judge Chris Dupuy Was Arrested With a Lot of Weapons, but Should He Stay in Jail?](#)

What is "Misogyny" and Why Should Family Law Attorneys Care?

Misogyny is a word that has been used a lot in the 2016 Presidential race and I have been wondering what it means and how to properly use the term. It turns out that "misogyny" is a concept we deal with frequently in divorce and custody cases. It is also a rare word that can use both "Y's" in Scrabble and would be worth a minimum of 17 points.

Misogyny ("misj of uh knee") is the hatred of, contempt for, or prejudice against women or girls. Misogyny can be manifested in numerous ways, including sexual discrimination, hostility, male supremacist ideas, belittling of women, violence against women, and sexual objectification of women. The opposite of misogyny is "misandry." A person who hates men can be described as a misandrist, and the corresponding noun is misandry.

MISOGYNY

hard to spell

EASY TO PRACTICE

For example, recently Mitt Romney suggested that Donald Trump's election could legitimize racism and misogyny, ushering in a change in the moral fabric of American society. "I simply can't put my name down as someone who voted for principles that suggest racism or xenophobia, misogyny, bigotry," Mr. Romney said to CNN. "I don't want to see a president of the United States saying things which change the character of the generations of Americans that are following. Presidents have an impact on the nature of our nation, and trickle-down racism, trickle-down bigotry, trickle-down misogyny, all these things are extraordinarily dangerous to the heart and character of America," he said.

Campaigning in Florida the following morning, Mr. Trump responded by calling the 2012 GOP a "stone cold loser" and "a real stiff." "I watched this poor sad Mitt Romney this morning," Mr. Trump told supporters. "I don't think he knows what misogynist is." Earlier in the day, Mr. Trump told his Twitter followers that "Romney had his chance to beat a failed president but he choked like a dog."



Donald J. Trump
@realDonaldTrump

"@timjcam: @megynkelly @FrankLuntz
@realDonaldTrump Fox viewers give low
marks to bimbo @MegynKelly will consider
other programs!"



Consider this excerpt from "12 Ways to Spot a Misogynist" by Berit Brogaard Ph.D from the Psychology Today website ([click here](#) to read the full article):

In most cases, misogynists do not even know that they hate women. Misogyny is typically an unconscious hatred that men form early in life, often as a result of a trauma involving a female figure they trusted. An abusive or negligent mother, sister, teacher or girlfriend can plant a seed deep down in their brain's subcortical matter.

Once planted, this seed will germinate and begin to grow, the tiny root working its way into the fear processing and memory areas of the brain as its tiny stem works its way into frontal areas of the brain, affecting emotion and rational decision-making.

....

The following traits are typical of the misogynist:

1. He will zero in on a woman and choose her as his target. Her natural defenses may be down because he's flirtatious, exciting, fun, and charismatic at first.
2. As time goes on, he begins to reveal a Jekyll & Hyde personality. He may change quickly from irresistible to rude, and from rude back to irresistible.

3. He will make promises to women and often fail to keep them. With men, on the other hand, he will almost always keep his word.
4. He will be late for appointments and dates with women, but be quite punctual with men.
5. His behavior toward women in general is grandiose, cocky, controlling, and self-centered.
6. He is extremely competitive, especially with women. If a woman does better than him socially or professionally, he feels terrible. If a man does better, he may have mixed feelings about it but he is able to look at the situation objectively.
7. He will unknowingly treat women differently from men in workplace and social settings, allowing men various liberties for which he will criticize female colleagues or friends.
8. He will be prepared (unconsciously) to use anything within his power to make women feel miserable. He may demand sex or withhold sex in his relationships, make jokes about women or put them down in public, "borrow" their ideas in professional contexts without giving them credit, or borrow money from them without paying them back.
9. On a date, he will treat a woman the opposite of how she prefers. If she is an old-style lady who prefers a "gentleman" who holds the door for her, orders for both and pays for the meal, he will treat her like one of his male buddies, order for himself, and let her pay for the whole meal if she offers (and sometimes even if she doesn't). If she is a more independent type who prefers to order her own meal and pay for herself, he will rudely order for both and pay the check while she goes to the bathroom.
10. Sexually, he likes to control women and gives little or no attention to their sexual pleasure. Foreplay, if it occurs at all, is only a necessary means to an end. He likes oral sex but only as a recipient. His favorite positions enable him to avoid looking the woman in her eyes.
11. He will cheat on women he is dating or in a relationship with. Monogamy is the last thing he feels he owes a woman.
12. He may suddenly disappear from a relationship without ending it, but may come back three months later with an explanation designed to lure the woman back in.

Only rarely will a misogynist possess every one of these traits, which makes it harder to identify them. Their ability to lure women in with their charm and charisma adds to the difficulty of spotting the early-warning signs.

Women haters (unconsciously) get off on treating women badly. Every time they can put down a woman or hurt her feelings, they unconsciously feel good because deep down in their hidden brain, their bad behavior is rewarded with a dose of the pleasure chemical dopamine-which makes them want to repeat the behavior again and again.

Family law attorneys often run into parties who are misogynists and understanding this personality trait will help us better understand our clients and their spouses. We may even know a few lawyers who might qualify for this label.

The Meaning of "Reside" and "Residence" in Family Law Cases

Consider these scenarios and the meaning of "reside" or "residence" found in so many parts of the standard divorce decree:

1. A divorced father keeps his house in Katy but buys a lake house outside of Austin and begins to spend most of his time there, but he returns on weekends to Katy to exercise his visitation with his children, who live with their mother in west Houston. On April 1, the father designates 42 days of visitation in the summer because he says he resides more than 100 miles from the children. The mother/ex-wife disagrees and points out the father still owns his house in Katy (which is designated as his homestead) and he is registered to vote in Katy. Where does the father reside?
2. A divorced mother lives with her three year old child in an apartment in Clear Lake in Harris County where the divorce was granted. Mom meets a new guy and begins to spend most nights at the boyfriend's house in Friendswood, which is in Galveston County. The ex-husband who lives in Harris County contends that the mother must now come to his house to get the child at the end of his possession periods because the mother no longer resides in Harris County where they both resided at the time of the divorce.
3. A father is granted the exclusive right to determine the child's residence in Harris or contiguous counties. The mother volunteers for the Donald Trump campaign and when Trump is elected (and I move to Canada), the mother accepts a job in the White House in Washington, D.C. Mom rents an apartment in Virginia but keeps her house in Houston and lets her nephew live there. Can the father now move to Japan with the child because the mother no longer resides in Harris or contiguous counties?
4. A woman owns a house in The Woodlands but for two years she has worked for Exxon in Indonesia while her husband has been living with a woman in Dallas. Can the engineer file for divorce in Montgomery County? She may be a domiciliary of Texas but can she say she has resided in The Woodlands while she was working overseas?

All of these questions hinge on the meaning of "reside" or "residence." The meanings of those words can determine: what a specific portion of a court order means and what restrictions or obligations the court order imposes, whether a court has jurisdiction in a divorce and where a divorce or custody case can be filed or how a court order is enforced (and even whether it is enforceable by contempt). Where a child or parent or spouse resides can have huge legal significance, and that depends on what "reside" means.

I just recently won a dispute over transfer of modification and enforcement cases from Harris to Kerr County in which the father had gone to work in Hawaii for 9 months and while he was away, the mother with primary custody moved to Kerrville. The legal battle was over whether the father's temporary job in Hawaii lifted the geographic residence restriction. These issues actually do come up in our practices and this article explores the legal issues in detail.

[Click here](#) to download the full article. Please e-mail me with your thoughts, disagreements and suggested changes.

Useful Links for Lawyers

[Harris County Family Court Chart](#)[Harris County Vacation Request Form](#)[HBA Family Section Summary of Harris County Family Court Procedures](#)[List of Four hour Parenting Classes for Divorcing Parents](#)[Harris County Chart on Mediation Before Temporary Orders](#)[Galveston County Court Chart](#)[Galveston County Vacation Request Form](#)[Attorney General Contact Information](#)[Enos Links for Family Law Attorneys](#)[Texas AG Child Support Calculator](#)

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries. The Enos Law Firm serves clients in Galveston County and Harris County, Texas.



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Issue: No. 70

August 29, 2016

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- [Star Spangled Controversy and History](#)
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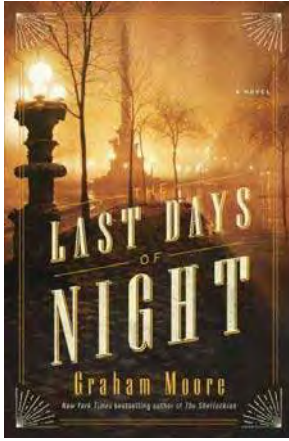
This issue of my newsletter has the longest and most upsetting story I have published since I wrote about the Pollard/Alicia Franklin CPS scandal. A lot of judges and even more attorneys have not followed the law on what Associate Judges can do and there is going to be hell to pay for some citizens whose divorces, child custody cases and adoptions are not really finished or final. I take the responsibility of proclaiming that "the sky is falling" very seriously and so I took the unusual step of sending a rough draft of my article to about 40 prominent family lawyers and district judges. No one wrote back to say I was wrong and most agreed with my analysis. Here is what one judge wrote to me:

...unfortunately, you are correct in characterizing this as a potential "catastrophe." Considering how long this has been going on, it is actually a little surprising that this was not raised by an appellate court years ago. Lawyers and judges need to work together to address the situation head on and prevent this from being a continued problem going forward. We all need to deal with this and not bury our heads in the sand and pretend that it's not a problem....

I really want lawyers and judges to e-mail me with their thoughts and suggestions on this topic and what can be done to avoid serious harm to our clients who thought they were divorced years ago when in reality they are not divorced and their cases are technically still pending.

A Really Good Book for Attorneys and Users of Electricity

Attorneys who fancy themselves litigators should read the new historical novel by Graham Moore, *The Last Days of Night*. In 1888, Thomas Edison sued his archrival George Westinghouse for violating his patent on the light bulb. Edison sued Westinghouse for about a billion dollars in 1888, which would be over \$24 billion today. That is what made Westinghouse's next move so utterly insane. Westinghouse hired as his lead litigator, on what might be the largest lawsuit in American history, a 26-year-old lawyer named Paul Cravath. Cravath was 18 months out of Columbia Law School and had never really had a client before, much less tried a case. Suddenly, Cravath found himself the lawyer in charge of this gigantic lawsuit. This very true story is the basis for a very entertaining novel that tells the the story of the great scientific rivalry of the 19th century, all from the perspective of this earnest, ambitious, hungry young attorney. This is a really good book and by the end you will know the difference between AC and DC electricity.



Trump Continues to Let Team Lemkuil Down

A recent poll of likely voters in Texas showed Donald Trump beating Hillary Clinton by only six percentage points. Romney won Texas four years ago by 16 percentage points while losing the nation by four. Political pundits think that if Trump barely wins statewide, then a Democratic sweep of Harris County is very likely. This past week, three different elected Republican officials told me the same thing - even they expect a Democratic sweep locally this year.

The Public Policy Polling survey done in mid-August showed Trump leading state-wide with 44% to 38% for Hillary Clinton, 6% for Gary Johnson, and 2% for Jill Stein. In a head to head contest, Trump lead Clinton 50% to 44% in the state, which Mitt Romney won by 16 points in 2012. Trump's lead is based entirely on his holding a 63% to 33% advantage among seniors age 65 and over. With voters under 65, Clinton lead Trump 49% to 45%. Among voters under 45, Clinton was beating Trump 60% to 35%. Older voters are overwhelmingly responsible for the Republican advantage in Texas, and generational and demographic changes are likely to help Democrats become more competitive in the future. Trump had a 69% to 25% lead with white voters but among non-white voters Clinton had a 73% to 21% lead, including a 68-27 edge with the state's booming Hispanic population.

The U.S. Census estimate for Harris County for 2015 shows a continued shift to a non-white population. The 2015 estimate for Harris County showed a total population of 4,538,028 divided racially as follows: Hispanic 41.8%, White alone (not Hispanic) 31.4%, Black alone (not Hispanic) 18.5%.



I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and who actually personally visit their minor clients in their homes). Is that asking too much? Stay tuned.

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The Mongoose.

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Changes in Galveston County

Personnel changes in Galveston County will effect family law cases. County Court No. 3 Judge Jack Ewing has a new coordinator: Celeste Huffstetler (no relation to the Brazoria County district judge with just one "f" in his name). Katherine Bush returned from having her baby but then decided she needed to stay home with her new child and we all understand her decision, even if we will miss her.

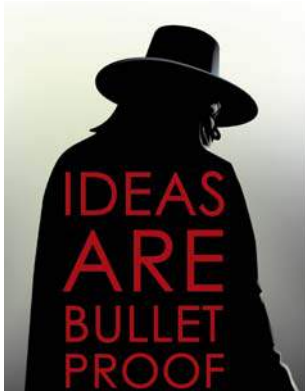
[Click here](#) to download a new, updated chart of Galveston County courts and court personnel.

Associate Judge Steve Baker is now hearing cases five days a week. Judge Baker now hears cases on Friday mornings, thanks to judges and county commissioners actually agreeing on something and hiring Kerri Foley to do magistrate work on weekends and holidays so that Judge Baker can spend more time on family law cases. Thanks to everyone for cooperating and getting this done!

Here are a few reminders on how family law cases are handled in Galveston County:

- Half of new cases go to the 306th District Court (Judge Darring) and the other half are divided between the three county court judges, all of whom use the District Clerk to handle family law cases. All four courts share one associate judge, Steve Baker.
- Almost all temporary order hearings, discovery motions and requests for appointments of amicus attorneys and custody evaluators are heard by Associate Judge Baker. Baker is routinely assigned protective orders and contempt actions, and objections to the associate judge hearing those final hearings are also routinely ignored. Judge Baker otherwise does not preside over final trials and he very seldom hears "prove ups" of agreed divorces.
- As many as five or six cases are scheduled in the morning and the same number in the afternoon with Judge Baker. He will finish all hearings in the morning by noon and the afternoon by 5:00 p.m., so if several lawyers need hearings, he will impose very draconian time limits. You may have only 30 minutes per side to present a custody case, for example, or you may have three hours for your motion to compel depending on the docket for that morning or afternoon session.
- Judge Baker hears cases for all four courts with family law jurisdiction and he does not have his own coordinator. You can get word about a canceled or delayed hearing to Judge Baker through the court coordinator of the court he is hearing your case for. The four court coordinators schedule hearings before Baker.
- Judge Baker knows the Family Code and Texas Rules of Evidence and he is efficient and fair. Judge Baker will treat an out of town lawyer who understands his procedures just like the local lawyers. He hears cases like a machine and makes his rulings right then.
- If a child is to be interviewed by Judge Baker, they need to be in or near the courthouse as he will see the child during that morning or afternoon session and will not usually hold off on a ruling so he can interview the child on a later day.
- Associate Judge Baker has not been given a court reporter by the county, so lawyers have to arrange for their own reporter as they would in a deposition (which is ridiculous!).
- Appeals from Judge Baker are actively discouraged and the presiding judges force parties to mediate prior to the de novo hearing. However, the presiding judges usually give much more time for the de novo hearings and they will issue rulings sometimes very different than Judge Baker.

I practice in front of Judge Baker more than any other single judge and he has a profound influence on almost all family law cases in Galveston County. He usually has a very stern demeanor but it is possible to crack him up. Judge Baker is usually predictable, very hard working, he knows the law and he does not play favorites. Judge Baker and I have disagreed plenty of times and I am sure he has a lot to say about me, but Judge Baker is one of the best parts of the family courts in Galveston County. Everyone can do well in his court if they get a good scouting report of Judge Baker's predilections, understand the procedures, come prepared, act respectfully to the judge and efficiently present a succinct case that gets to the point.



Star Spangled Controversy and History

The Star Spangled Banner is a big deal to me. I always stand, take off my cap and hold my hand over my heart when our national anthem is played. Sometimes I even get teary eyed as I sing along (it is one of the few songs I know all of the words to). I can be patriotic and sentimental even if I realize our nation has not always done the right thing. We are an imperfect collection of diverse people who enjoy freedoms and share dreams and prejudices that make our nation truly unique. Honoring our national anthem to me is also a way to honor the men and women (and their families) who have sacrificed for us in the military. So, I too was bothered by San Francisco 49er quarterback Colin Kaepernick when he very publicly refused to stand during the national anthem. I disagree with him but certainly recognize his right to express his own protest.

Kaepernick explained his action as follows: "I am not going to stand up to show pride in a flag for a country that oppresses black people and people of color. ... There are bodies in the street and people getting paid leave and getting away with murder." He would have been on more solid historical footing if he objected to the song written by Francis Scott Key as being, at least in part, racist.

Should we really expect African-American players to stand for "The Star-Spangled Banner" if it literally celebrates the murder of freed slaves? Few people know this because we only sing the first verse. But read the end of the third verse and you'll see:

**No refuge could save the hireling and slave
From the terror of flight or the gloom of the grave,
And the star-spangled banner in triumph doth wave
O'er the land of the free and the home of the brave.**

"The Star-Spangled Banner," was written by Francis Scott Key during the Battle of Fort McHenry in Baltimore harbor during the War of 1812. Few recall that the War of 1812 was a war of aggression that began with the U.S. trying to grab Canada from the British Empire. That move backfired on us and by the time of the Battle of Fort McHenry in 1814, the British had counterattacked and overrun Washington, D.C., setting fire to the White House. One of tactic of the British military was its emancipation and recruitment of American slaves. Whole families found their way to British warships and military units. The British accepted everyone and pledged no one would be given back to their "owners." Many freed black men volunteered and fought in a British regiment called the Colonial Marines, a unit which participated in many of the most important battles, including the August 1814 raid on Washington. [Click here](#) to read a Wikipedia article on the Colonial Marines. American slave owners were outraged by the British helping their "property" escape and even more infuriated (and scared) by the notion of arming blacks to fight against their former masters.



So, when Key (who had been a slave owner himself) wrote, "No refuge could save the hireling and slave / From the terror of flight or the gloom of the grave," he was celebrating the death of slaves who had freed themselves and were fighting for the British that night. In truth, only one of the freed slaves fighting for the British was killed in the battle Francis Scott Key watched and none were put to "flight." Unlike the American Revolution, the British Army did not rely on mercenaries in the War of 1812, although a small unit of Swiss mercenaries were stationed in Canada but did not enter the U.S. Thus, there were freed slaves fighting the Americans in the Battle of Fort McHenry but no "hirelings" unless one counts the sailors from around the world who served in the British Navy and who were paid meager wages for their service.

For more on this twist of history, [click here](#) to read an article from *The Intercept.com*, which inspired this article. [Click here](#) to read a more detailed 2014 article from *Harper's* on this part of our national anthem and its meaning for African Americans. After Britain and the U.S. signed a peace treaty at the end of 1814, the U.S. government demanded the return of American "property," which by that point numbered about 6,000 people. The British refused. Perhaps Kaepernick should say he is simply honoring that refusal and will not honor a song that partially celebrates the death of freed slaves fighting their former masters. For me, I will continue to stand and honor our flag and our imperfect union and those who fought bravely for it, even if some of the wars they fought in were not the best of ideas.

Associate Judge Catastrophe?

We expect judges to know and follow the law. Great mischief usually results when they do not. Most lawyers and judges will concede that the actual wording of a law should always control over habit, convenience or "this is the way we have always done it." Unfortunately for many family law litigants, most (but not all), family courts in the Houston area have not been following the letter of the law on what un-elected associate judges are allowed to do, and really big problems may well surface. The family bar is also part of the problem. We also had not closely read the law on what associate judges can and cannot do. We participated in final trials with associate judges and we did not insist that

the final orders be signed by the elected judges. The First Court of Appeals in two recent cases did actually read the law and now we all should realize we have been doing things improperly. The First Court of Appeals' rulings, while upsetting and perhaps surprising to many, seem to accurately implement what the law says, even if it may really screw up some lives and families. Judges and the family bar, and perhaps the legislature next year, will have to work together to deal with the disturbing development.

Imagine this scenario: A woman thinks she was divorced three years ago after a "final" trial was presided over by an associate judge. The woman has since remarried, had two children, bought a house with her new husband and added \$150,000 to her 401(k) plan. Imagine that lady's horror when she is told that her divorce was not actually granted and her divorce decree is not even a valid order because the associate judge lacked the legal authority to render and sign a final divorce decree. The poor woman is still married to her previous husband, her two new children are presumed to be his because she is still married to him and her new house and the increase in her retirement plan are community property subject to division because an associate judge cannot render and sign final orders.

This and other similar horrible scenarios may well be reality because of two recent cases from the Houston First Court of Appeals which are throwing into question the finality of perhaps hundreds of final orders signed by associate judges without legal authority.

An alternative scenario would be for the elected judge to simply now sign the "final" order and handwrite "rendition and this order is effective as of the date of the associate judge's ruling." If this tactic works, then there is no real problem for most litigants and life goes on with all of us being a little wiser and perhaps more careful. The problem is that it is far from clear that the problem can be fixed so easily. All of the appellate lawyers I have talked to do not think a judge has the power to render a retroactive decision and that the act of rendition involves a ruling made in the present.

Harris County and its larger suburban counties have elected judges with family law jurisdiction and also have associate judges who are hired by the elected judges. The associate judges have limited powers and can only act as authorized by the Texas Family Code. The majority of family judges in this area have been allowing their associate judges to conduct final trials and sign orders that are not also signed by the elected judges. Almost all of those orders are not valid orders according to the holdings in *Gerke v. Kantara*, No. 01-14-00082-CV (Tex. App. -Houston [1st Dist.] 4/19/15 and *Clark v. Clark*, No. 01-15-00615-CV (Tex. App. - Houston [1st Dist.] 6/28/16). [Click here](#) to download the *Gerke* opinion. [Click here](#) to download the *Clark* opinion. A third decision from the First Court of Appeals recently relied on the holdings in *Gerke* and *Clark*. *In re A.T.N.J.*, No. 01-15-00844-CV (Tex. App. - Houston [1st Dist.] 8/18/16).

Sec. 201.007 of the Texas Family Code sets forth the powers of an associate judge:

Sec. 201.007. POWERS OF ASSOCIATE JUDGE. (a) Except as limited by an order of referral, an associate judge may:

- (1) conduct a hearing;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on the admissibility of evidence;
-
- (10) recommend an order to be rendered in a case;
-

(14) without prejudice to the right of appeal under Section 201.015, render and sign:

- (A) a final order agreed to in writing as to both form and substance by all parties;**
- (B) a final default order;**
- (C) a temporary order; or**
- (D) a final order in a case in which a party files an unrevoked waiver made in accordance with Rule 119, Texas Rules of Civil Procedure, that waives notice to the party of the final hearing or waives the party's appearance at the final hearing;**
-

(16) sign a final order that includes a waiver of the right of appeal pursuant to Section 201.015.

In the *Gerke* case, Associate Judge Robert Newey presided by agreement over a final trial in a modification case. After a seven-day trial extended over several months, Judge Newey signed a "final" order of modification. The parties had waived a de novo hearing to the referring court on the record at least twice. The wife filed an appeal to the court of appeals of the modification order and the appellate court held that it lacked jurisdiction because the order was not a final order. The court held:

The powers of an associate judge are enumerated in the Family Code and they include the power to "recommend an order to be rendered in a case." Tex. Fam. Code Ann. § 201.007(a)(10) (emphasis added). Thus, an associate judge has the authority to "recommend" to the referring court that an order executed by the associate judge be "rendered" by the referring court and become a pronouncement, or final order, of that court. The associate judge's proposed order may be adopted, modified, or rejected or sent back to the associate judge by the referring court. Id. § 201.014(a). Such a proposed order becomes final and appealable from the date it is signed by the judge of the referring court, and not before. See id. § 201.016(b). This is specifically required when, as here, the parties have waived a de novo hearing before the referring court. Id. § 201.013(b) (stating that when parties waive de novo hearing before referring court, "the proposed order or judgment of the associate judge becomes the order or judgment of the referring court only on the referring court's signing the proposed order or judgment.") (emphasis added). There is no evidence in this record that the referring judge signed the proposed order of the associate judge.

....
... section 201.007(a)(16) of the Family Code... authorizes an associate judge to "sign a final order that includes a waiver of the right of appeal pursuant to Section 201.015." Tex. Fam. Code Ann. § 201.007(a)(16). The "appeal" referred to in section 201.015 refers not to an appeal of this Court but to the right to a de novo hearing before the referring court of matters heard by the associate judge. Id. § 201.015. The order itself contains no such waiver of appeal.

....
However, "[a]ssociate judges do not have the power to render final judgment outside the context of certain limited exceptions listed in section 201.007 of the Family Code." *Graham v. Graham*, 414 S.W.3d 800, 801 (Tex. App. - Houston [1st Dist.] 2013, no pet.). Within

those limited exceptions, an associate judge does have the power to issue an order that then "constitutes an order of the referring court." Tex. Fam. Code Ann. § 201.007(c). Those exceptions include (1) a final order agreed to in writing, (2) a final default order, (3) a temporary order, or (4) a final order in a case where a party files a waiver of notice or appearance. Id. § 201.007(a)(14). None of these circumstances apply to this case.

....

Here, the associate judge's modification order, which was signed after a trial on the merits and expressly indicates it is approved as to form only, is not an agreed or default judgment or one of the other limited exceptions listed in the Family Code which empower an associate judge to render a final order without the signature of the judge of the referring court. See id. § 201.007(a)(14). **Therefore, the associate judge's modification order "becomes the order or judgment of the referring court only on the referring court's signing the proposed order or judgment."** Id. § 201.013(b). Because there is no evidence in the record that the referring court signed the October 28th order, no final order has been rendered in this modification suit. See id. § 109.002(b) ("An appeal may be taken by any party to a suit from a final order rendered under this title."). Accordingly, we do not have jurisdiction over Mary's appeal.

The *Gerke* decision has upset most family court judges, but it is simply applying the very plain words of the Family Code and should not be such a shock (although its results may well shock a lot of people who think their divorce, custody or adoption cases are over when they are not).

Many associate judges have, by agreement of the parties and their attorneys, heard final trials and signed the "final" orders which were not then signed by the elected judge. *Gerke* means that NONE of those orders are valid, final orders or even renditions. The inability to even render a ruling means that the divorce or change of child custody or increase in child support or adoption has not even been granted.

It appears that the *Gerke* case will have to be retried completely because Judge Newey is no longer in office (and may not have been eligible to serve as an associate judge when he heard the case) and the suit has been transferred to a different court because the amicus attorney, Doug York, is married to the elected judge of the court that originally had jurisdiction of the case. So, those parents face a complete and expensive re-trial of their custody case.

The *Clark* case involved a modification suit in Brazoria County that went to a "final" trial before Associate Judge Bradshaw, who ruled in favor of the mother. Judge Bradshaw signed the "final" order and the father filed a motion for new trial. Bradshaw then issued an "Associate Judge's Report" in the form of a letter to the parties that said a judgment nunc pro tunc should be granted because of a clerical error (the geographic restriction on the child's residence was omitted from the order) and recommended denying the motion for new trial. No new judgment was submitted and no action was taken on the father's motion for new trial. The father filed for a writ of mandamus to the court of appeals, which was denied because the court of appeals lacks jurisdiction over an associate judge. *In re Clark*, No. 01-15-00458-CV (Tex. App.- Houston [1st dist.] 6/23/15)(orig. proc.). The father then wrote Judge Hufstetler and asked him to take action on the case in light of the rejected mandamus and nothing happened. The father then filed a notice of appeal challenging Bradshaw's original order and filed a petition for writ of mandamus because of Judge Hufstetler's failure to take any action on his associate judge's recommended order.

The *Clark* decision follows *Gerke* and dismisses the father's attempted appeal because the associate judge's order was not signed by the elected, referring court. However, the mandamus was conditionally granted. Here is what the court of appeals wrote (with case citations omitted):

As we explained in *Gerke*, " **[a]ssociate judges do not have the power to render final judgment outside the context of certain limited exceptions listed in section 201.007 of the Family Code.**" None of the exceptions identified by subsection [201.007] (a)(14) are applicable here.

Although an associate judge's power to render judgment is limited, associate judges may, nevertheless, "recommend" to the referring court that an order executed by the associate judge be "rendered" by the referring court and become a pronouncement, or final order, of that court. The associate judge's proposed order may be adopted, modified, or rejected or sent back to the associate judge by the referring court. § 201.014(a) **Such a proposed order becomes final and appealable from the date it is signed by the judge of the referring court.** See id. § 201.016(b) This is specifically required when, as here, the parties have waived a de novo hearing before the referring court. Id. § 201.013(b)(stating that when parties waive de novo hearing before referring court, "the proposed order or judgment of the associate judge becomes the order or judgment of the referring court only on the referring court's signing the proposed order or judgment") (emphasis added).

C. Analysis

Based on this statutory scheme, Judge Hufstetler has a non-ministerial duty to take some action on Associate Judge Bradshaw's order.

So, these two cases make clear that the "final" orders signed only by associate judges after trials that were not defaults or based on signed waivers are not final orders if the orders were not also signed by the elected, referring judge. Since the associate judge cannot even render in such situations, I do not think the parties can now say they were divorced back then but just need an order signed now. Unless the referring judge signed the order, there was no rendition, and thus no divorce or adoption or ruling on the change of custody or child support. All of the appellate attorneys I have talked to do not think that a judge can render retroactively and can only render a judgment now in the present.

Enforcement of these orders signed just by the associate judge could also be a problem because of Section 201.013(a), which states:

Pending a de novo hearing before the referring court, a proposed order or judgment of the associate judge is in full force and effect and is enforceable as an order or judgment of the referring court, except for an order providing for the appointment of a receiver.

Some interpret this section to mean that the AJ ruling is in effect and enforceable only if a request for de novo hearing is made. Surely, the AJ's ruling is in effect and enforceable if there is no de novo sought between the time of the ruling and the time an order is entered (and then signed by the presiding judge). I think Sec. 201.013(a) means the AJ's signed order is enforceable even if the elected judge did not sign it, but other board certified lawyers I have talked to disagree.

Orders in child support cases signed by IV-D masters (who are also associate judges) should not be affected by the *Gerke* and *Clark* decisions

(except in contempt cases), because the Family Code gives IV-D masters the power to render and sign final orders. Tex. Fam. Code Sec. 201.1041(a).

Some elected judges and their nervous associate judges are blaming the *Gerke* and *Clark* opinions on appellate judges who do not know family law. A few think there is an agenda by some to eliminate associate judges. I think the First Court of Appeals simply followed what the law clearly says. This explains why a few courts always have had any order of the associate judge signed by the elected judge - those judges knew and followed the law.



Cool photo of a swimming tiger (not related to this story but totally awesome).

However, there is a conservative, typically Texan political philosophy that the justices who wrote *Gerke* and *Clark* subscribe to. The Texas Constitution was written after the end of Reconstruction to disperse political power among many elected officials. After living under the "tyranny" of unelected Yankees and their "lackeys," Texas decided that almost all of its officeholders would be elected, from the County Surveyor to the Justices of the Supreme Court. Many in Republican circles strongly feel that unelected associate judges have been overstepping their authority and violating the spirit of the Texas Constitution. This philosophy actually makes some sense even if it ignores the reality of how the over-crowded family law courts in big counties must operate to survive.

I am not particularly blaming the judges who have not followed the proper procedure because us lawyers also allowed it to happen routinely without complaint. Most attorneys, including me, had never read the statute on associate judges closely enough to realize that almost all of us were doing it wrong.

It is not easy at all to determine how widespread a problem this is. I have already found in my firm's files a three year old divorce decree signed only by the associate judge after a trial (me and the other board certified lawyer did not know to insist the presiding judge sign the decree, so I am clearly not blaming just the judges). Categories of cases that could be effected include:

- "Final" orders in divorce, modification, SAPCR and paternity cases decided by the associate judges (not those involving a waiver of citation and appearance, default or an agreed order approved as to substance and signed by all parties)
- Agreed orders of any sort not signed by all parties. We often settle cases and then for various reasons do not get the parties' signatures. Sec. 201.007(14)(A) says the AJ can sign and render, "(A) a final order agreed to in writing as to both form and substance by all parties." If one party did not sign the agreed order for some reason, the AJ could not render and sign the "final" order.
- Adoptions heard by the AJ since those do not involve a waiver and they are not agreed since testimony must still be presented. Who wants to go tell a family that their adoption order from years ago was not a valid order?
- Name changes heard by the AJ.

Most agreed divorces heard by the associate judges will not be affected by this controversy because such cases involve waiver of citation and appearance and the orders are signed by both parties.

So, going forward this problem is easy to fix: ALWAYS have the elected judge sign any order of the associate judge. Next year, the legislature can clarify the statute and perhaps provide retroactive relief for the many citizens who would otherwise suffer because their "final" orders were not signed by the right judge.

In the meantime, lawyers should review their old, closed cases for situations where the associate judge heard the final trial and then check to see if the elected judge also signed the order. If the presiding judge did not sign the order, we need to contact our former clients and tell them that their cases are not over. The lawyer and law firm are still on the case because our contracts say we will represent the client until the case is over. If the case is not over, then we are still on the hook to serve that client.

Lawyers who determine that a former or new client is effected by an associate judge's order that is not final first must explain to the client how most judges and almost all lawyers allowed this to happen in spite of the clear wording of the Family Code. Next, the attorney must determine if there is a reason to re-litigate or whether (as will usually be the case), the best route is to inform the other side and reach a reasonable agreement on how to really finalize the case.

Some parties are going to try to take advantage of this situation by arguing that their case is really not over and they should relitigate property division or custody or child support. In some cases, that may be the fair thing to do or it may be the only possibility. However, if a party is simply trying to inflict emotional harm on or squeeze more money from a spouse who certainly is not to blame for this mess, the judge can

simply refuse to assist and say he or she will award 100% of the assets added since the "divorce" that was not final to the spouse who earned them and state clearly on the record why this is fair. Lawyers should be very cautious about advising clients who seek to take unfair advantage of this situation, especially if the lawyer giving the advice was counsel when the order that is not "final" was entered, since the lawyer probably bears some of the blame for the problem along with the judges.

So, consider this analysis of what lawyers could and/or should do if they find an old case where only the associate judge signed the "final" order (this does not apply to defaults or cases with waivers):

1. The "final" order that is not final after all was in a divorce case. As explained above, the parties are not divorced because the associate judge cannot even render a ruling. This means that the parties have probably continued to accumulate community property and a spouse who has remarried has not legally done so. Things get real complicated if the wife has had children with another man since she thought she was divorced.

A. If not much time has passed since the associate judge tried to divorce the couple and if very little or no new property has been accumulated and if neither spouse has "remarried" and the wife has not had a child with another man, file a motion to enter judgment.

B. If substantial property has been acquired by the spouse you do not represent (and not by your client), consider filing a motion to set aside associate judge's ruling and ask to resume discovery and request another trial setting. Your argument would be that the parties are still married and there is now more community property to value and divide. Be cautious because the judge, whose mistake may have caused this situation, may not like the thought of a party benefiting from a judicial error like this.

C. If your client is the spouse who has accumulated substantial assets since the trial with the associate judge, try to get by with a motion to enter judgment on the associate judge's ruling and hope that your opposing counsel has not read this article.

D. If your client has already remarried since the associate judge signed the divorce decree that is not a final order or even a rendition, you will need to very gently break the news to your client that he or she is still married to the man or woman she tried to divorce and cannot now be legally married to the new person. If that new relationship is strong, then they will simply have to deal with the crazy turn of events, finalize the divorce the right way and get remarried. If the new relationship has turned out to suck already, this development may be a ticket out of that relationship without a divorce. You should probably research and explain the concept of a "putative spouse" to your client in that situation however.

E. If the wife, who is not really divorced, has had a child (or children) with another man since the associate judge signed the divorce decree, then the guy she thought she had divorced is presumed to be the father of that child because it was born during their marriage. Tex. Fam. Code Sec. 160.204. The real father of the child can file an acknowledgment of paternity and the man who is still the spouse can file a denial of paternity to overcome that presumption. Sec. 160.204(b). Many judges will require the pleadings to be amended and the biological father to be made a party to the divorce case that is not yet really over.

2. In cases other than divorce, if your client or the person consulting you "won" the final hearing before the associate judge and likes the outcome: file a motion to enter judgment.

3. In cases other than divorce, if your client or the person consulting with you "lost" the final hearing before the associate judge and does not like the outcome: consider if it is wise to file a motion for new trial and argue that too much time has passed or new facts have developed which prevent the judge now from entering a judgment based on facts as they existed way back when.

4. If neither party really likes the ruling of the associate judge or circumstances have changed and they are not following the ruling any way: try to reach an agreement and then file a joint motion to enter an agreed order based on the new agreement.

5. If both parties accept the ruling of the associate judge and simply want an order entered: file a joint motion to enter judgment.

6. If the case that is not really over involved a ruling on child support, each side should try and determine if the obligor's income would result in a different amount based on current income. If a change in child support would be warranted, one party might file a motion to set aside the associate judge's ruling and argue that child support must be based on current income and it would be wasteful to require these people to file a modification action instead of just litigating that issue now before the new "final" order is entered.

7. If a modification suit has been filed to change the "final" order of the associate judge and:

A. The modification suit is still pending: file a motion to dismiss and argue that the court cannot modify an order that was not final and was never rendered or entered.

B. The modification suit has already been disposed of with a new order. I would assume that the modification is void if the prior order was not final, but I could find no authority on that point. I think you could file a motion to set aside modification order as void and interlocutory because in theory the prior case is still pending.

We will need to check with our district clerks to see how they re-open cases that their system say are closed in these situations.

I predict that there will not be an avalanche of motions and litigation involving cases that are not really final because most people will never know this has happened to them or will not know until years in the future. Many litigants may decide to just leave things alone, but that is not a wise choice in the case of a divorce or adoption that is not really a "final" order.

Lawyers may be tempted to not inform their former (current?) clients about this mess because it makes the attorneys look bad as well as the judges. However, this is a mistake almost everyone has made and we each have the duty to tell our clients about such an important development, even if it is bad news for the client.

I would very much appreciate the thoughts and opinions of other lawyers and judges about this issue and I will publish most of what I receive if it is worthwhile, even if it disagrees with the opinions set forth in this article. Please e-mail me at greg@enoslaw.com.

[Click here](#) to download the *Gerke* opinion. [Click here](#) to download the *Clark* opinion.

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Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries. The Enos Law Firm serves clients in Galveston County, Brazoria County and Harris County, Texas.



Greg Enos

Board Certified in Family Law, Texas Board of Legal Specialization

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Issue: No. 72

January 3, 2017

In this issue

- [New Harris County Family Court Chart](#)
- [New Faces in the 507th](#)
- [Judges Lemkuil and Perez Move On To New Challenges](#)

[Click here](#) to download a revised chart of Harris County family courts. Phone numbers for some courts have changed and of course there is a new judge in the 507th.

Effective January 1, 2017 *All phone numbers are (713) area code*

HARRIS COUNTY FAMILY COURTS - 2017					
Court	Judge	Floor	Phone (713)	Associate Judge	Coordinator
245th	Roy L. Moore	15th	274-1245	James "Jim" Cooper	Rosie Diaz 274-1245
246th	Charley Prime	16th	274-4500	Chelsie Ramos	Yolanda Harris 274-4505
247th	John Schmude	15th	274-1247	Paula Vlahakos	Pamela Hunt 274-1247
257th	Judy Warne	16th	274-4560	Deborah Patterson	Melissa Parker 274-4564
280th	Lynn Bradshaw-Hull	JJC1	274-4680	No A.J.	Susan Lindemann 274-4681
308th	James Lombardino	8th	274-4600	Michael Sydow	Norma Oralle 274-4600
309th	Sheri V. Dean	16th	274-4520	Beverly Malazzo	Madelaine Russell 274-4527
310th	Lisa Millard	15th	274-1310	Conrad Moren	Molly Nguyen 274-1310
311th	Alicia Franklin - York	8th	274-4580	Diane Guariglia	Victor Almasudara 274-4583
312th	David Farr	16th	274-4540	Eileen Gaffney	Pat Flodin 274-4540
507th	Julia Maldonado	15th	274-4620	Jim Evans	Kristel Rubio 274-4620
CPS Impact		JJC7	222-4960	Katrina Griffith	Inocencia Moreno 222-4965

All family courts are in the Civil Courthouse at 701 Caroline

I traveled to East Texas to see my cousin Jeff Fletcher sworn in as district judge in Wood County. It was moving and emotional to hear the politicians and Jeff's son talk about this guy I known my entire life and to sense the humility, excitement and uncertainty he feels upon taking office. Cousin Jeff won 57% of the 8,873 votes in the March Republican primary and faced no opposition in November in this very Republican, very rural county (Trump got 84% of the votes). The courthouse is old and very small, but the challenges the judicial system faces are very big. As in much of rural America, there is a big drug problem up in the piney woods. Wood County is typical of the huge swath of the middle of American where Hillary Clinton lost big time. Religion (of a protestant, evangelical Christian sort) pervades everything and at the swearing in ceremony there was not much separation of church and state to be seen.

I met many good people there but they just see the world completely differently than us coastal elites. One older gentleman sat on a bench next to me away from the crowd for a while and we talked about his ranch, his divorce and the secret Islamic army training in inner cities, which he hopes Trump roots out. This seemingly sweet man expected my cousin to be a fair judge and he really wanted Trump to change his mind and prosecute Mrs. Clinton. I met a charming newly elected Republican State Senator who thinks that eliminating straight ticket voting would probably suppress Democratic voting in urban areas like Houston (and he may be right). I kept my political opinions to myself and did not tell anyone I was once a convention delegate for Jesse Jackson or that I am closing my law office on January 20 to protest the inauguration and mourn.

In the end, I realized that I had much more in common with these good East Texas folks than we had areas of disagreement. I just wish politics could be more like the courtroom - we may compete and present opposing arguments but we do so in a way that is civil and polite. I do not have to hate those who disagree with me and if I listen carefully with an open mind, my own position may soften or change.

It was an good, eye opening visit to a part of Texas where my a lot of my childhood was spent during holidays and summers, often being picked on by my older brother and this cousin who now wears black robes.



Cousin Jeff (er, his Honor) is a big fan of this newsletter and he encouraged me to write more, which I plan to do.



I strongly recommend the *Outlander* series on Amazon. The best selling books by Diana Gabaldon were really good and this high quality series available for streaming on Amazon/Starz and on DVD combines history, romance, violence and a touch of Scottish magic to entertain almost anyone. My wife and office manager liked it so much that they are off this week for a trip to Scotland! I am in charge of boys and dogs at home and doing my own bank deposits at the office for 8 days. I sure hope Anna and Toni are not sucked back in time like the heroine of this series - I really need them to return and miss Toni already.

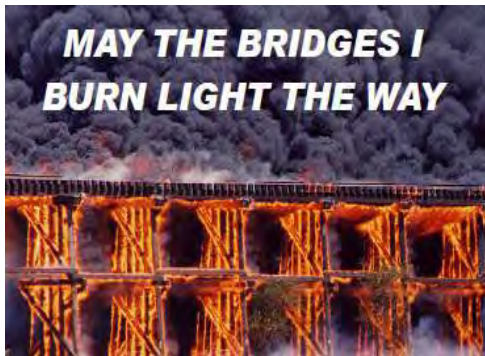




I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and who actually personally visit their minor clients in their homes). Is that asking too much? Stay tuned.

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New Faces in the 507th

Julia Maldonado was sworn in as judge of the 507th District Court on Sunday, but the show most lawyers will be able to attend is the Investiture Ceremony on Thursday, January 5, 2017 at noon in the 17th floor Ceremonial Courtroom in the Civil Courthouse Building. There will be a reception Following the Ceremony.



The new Associate Judge of the 507th is **Jim Evans**. Evans is 49 years old and was born and raised in Harris County. He graduated magna cum laude from Houston Baptist University in 1989 with degrees in Spanish and History. Evans graduated from Southwestern Baptist Theological Seminary in 1992 with a masters degree in education. He graduated from the University of Houston Law Center in 2003 and has practiced bankruptcy law and family law. Evans has two sons and is divorced from their mother. Evans is now married to William Flowers, who has had his own difficult time in family court in Judge Sheri Dean's court with his ex-wife (disclaimer: I represented Mr. Flowers in his successful appeal overturning a portion of then Associate Judge Prine's ruling). Maldonado and Evans competed against each other to get the nomination in 2016 that resulted in Maldonado's election.

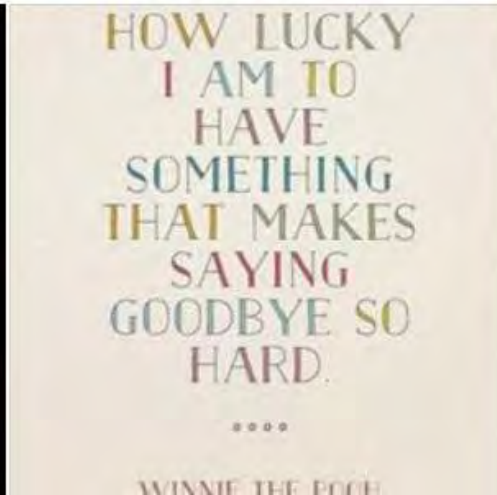
Maldonado and Evans represent the kind of change we will see on the family bench when/if Democrats continue to win local judicial elections. Instead of an all white group of almost all married judges, we get a divorced, Hispanic mom/grandmother as judge and a divorced, remarried, openly gay father as associate judge. That my friends is diversity and it frankly is more representative of the changing demographics of Harris County. However, the Anglo, Republican family court judges we have now are, for the most part, hard working, fair and honest and I truly hope that Judge Maldonado can live up to their high standards.

The new coordinator for the 507th will be **Kristel Rubio**, the former clerk for Judge Judy Warne. Not that there is any perceptible pattern to Maldonado's hiring, but **Ben Alva** has left Judge Millard's court to be the court reporter for Judge Maldonado.

I have high expectations for Judge Maldonado and her new team and I will be sure to let you know if they fall short.

Lemkuil and Perez Move On To New Challenges

Alyssa Lemkuil was a darn good judge. She lost not because of the job she was doing, but because she was a Republican in a presidential election year in an urban county where demographics are trending in a way that favors Democrats. Lemkuil posted a very sweet, touching video on Facebook that said a lot about her feelings and her character. A judge who can quote Winnie the Pooh knows her stuff.



Lemkuil announced last week that she plans to run for the 257th District Court in two years as Judge Judy Warne plans to retire. Lemkuil is, for now, opening Alyssa Lemkuil Mediation. At this time mediations will take place at Greenway Mediation Center. \$500 per side for a half day. A website and new phone should be up soon but until then Lemkuil can be contacted at 281-236-6655 or Alyssa.Lemkuil@gmail.com.

Lemkuil's Associate Judge, Amy Perez, is opening her own law office in Spring, Texas. I will provide her contact information in my next newsletter.

We all should thank these ladies for their service over the past year and the sacrifices they made to leave their law practices and take office knowing full well it would be a difficult election year.

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Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries. The Enos Law Firm serves clients in Galveston County, Brazoria County and Harris County, Texas.



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The International Journal on the Reform of Family Courts

The Mongoose

Published by Greg Enos

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[Click here](#) to download a chart of Harris County family courts.

Harris County Family Law Directory (rough draft) and A New Mongoose Seminar

2017 Directory

[Click here](#) to download in PDF a draft of the 2017 Harris County Family Law Directory attorney listings. Lawyers move, retire, and change names, so I need your help with corrections. Look at your listing and send me any needed corrections by fax or e-mail on the form provided. The complete directory will list over 1,300 lawyers and have handy listings of courts in Harris County and surrounding counties, custody evaluators, business appraisers, translators, etc. Make sure your fellow attorneys are also listed.

**2017 HARRIS COUNTY
FAMILY LAW
DIRECTORY**

Lothar Kreyssig - A Brave Judge to Remember



This directory honors a brave judge who expediently ended his career and his life to defend the powerless. Lothar Kreyssig became a judge at age 28 in Germany in 1928. Adolph Hitler came to power in 1933. Judge Kreyssig refused to join the Nazi party, but he managed to remain a judge. His work as a mental health court guardian judge made him responsible for several hundred mentally retarded children and adults in the Brandenburg area. After an increase in the number of death notifications of his wards began to accumulate on his desk, he began to suspect the deaths were connected to the "mercy killing" that had begun. On May 8, 1942, Judge Kreyssig sent a letter to Franz Chatter, Germany's Minister of Justice, complaining about the treatment of the disabled and prisoners in concentration camps. "What is right is what benefits the people. In the name of the fight for justice - as you, misunderstood by my guardian of rights in Germany - entire sectors of communal living are excluded from having rights, for example, all the concentration camps, and now, all hospital and institutions."

Judge Kreyssig then filed a charge against Reich Minister Philipp Bouhler for murder. Bouhler was a senior Nazi Party official who was also an SS leader responsible for the Nazi Aktion T4 euthanasia program that killed more than 70,000 handicapped adults and children. Bouhler, along with Himmler, also planned Aktion 14f13, also called "Sonderbehandlung" ("special treatment"), that killed as many as 20,000 concentration camp prisoners, by selecting for death the sick, elderly and those deemed longer fit for work than the rest of the concentration camp prisoners. It was an amazing act of bravery for Judge Kreyssig to charge such a high-ranking Nazi official with murder.

On 13th November, 1942, Kreyssig was summoned by the Minister of Justice, who told him to sign Hitler's personal letter that had started the euthanasia program, and which constituted the sole legal basis for it. Kreyssig replied: "The Führer's word does not create a right." Chatter demanded Kreyssig from his post, telling him, "If you cannot recognize the will of the Führer as a source of law, then you cannot remain a judge." As far as he knows, Kreyssig was the only German judge who attempted to stop the Aktion T4 euthanasia program. Efforts by the Chicago to send him to a concentration camp failed. In March 1942, Hitler forced Kreyssig to retire. Kreyssig survived the war and lived in East Germany until 1971, when he suffered a stroke and died. Kreyssig died in 1992 at age 85.

Published by Greg B. Eron
The Inner Law Firm, P.C.

*Serving families in Harris County,
Galveston County &
Harris County, Texas*
281-436-3000

Download or search this directory online at www.innerlawfirm.com

Mongoose Divorce Seminar

[Click here](#) to download a registration form and summary of the May 25, 2017 Mongoose Seminar to be held in the Harris County Jury Assembly Center that Thursday afternoon. This seminar is for legal assistants and the lawyers who work for them.

Practical, Real World Divorce Seminar

Thursday, May 25, 2017

1:20 - 4:20 pm, Harris County Jury Assembly Center

3.0 hours CLE

Total Cost: \$60 if you register by May 19 (**100% refund if you do not find this seminar to be very useful and practical**).

Cost is \$75 if you register after May 19.

Profits from this seminar will go to a law enforcement scholarship in memory of Phillip "Brother" Molis. Phillip was 23 when he was shot 11 times while working security on April 9 at a Galveston hotel. His lifelong dream was to be a peace officer and he expected to start working with his many friends in the Galveston Police Department this Fall. Tragically, the gunmen probably mistook Phillip for a police officer when he caught them breaking into cars in the hotel parking lot late at night. Phillip died of his injuries on April 15. [Click here](#) to read a short news story about this tragedy that is personal to my family in a lot of ways.



Phillip "Brother" Molis

Seminar Topics:

- The Mysteries of the District Clerk's Office
- Best Family Law Practices: Filing a Motion, Setting a Hearing, and Giving Notice

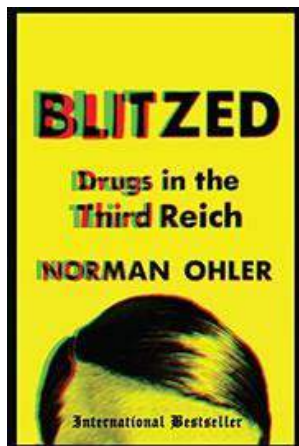
- Winning the QDRO Battle
- Best Family Law Practices: Scheduling and Preparing for Mediation
- Divorcing the House - Dealing with the Family Residence in a Divorce
- Family Law Discovery for Clients Who Are Not Rich

[Click here](#) to download the detailed seminar description and a registration form.

Book Review: Blitzed

I am now prepared to answer the inevitable child's question, "Dad, where did Heroin, OxyContin and Crystal Meth come from?" I can also now recommend the non-fiction book *Blitzed* by German journalist Norman Ohler. This book sheds a startling new light on widespread drug use in Germany during World War II and explains the origins of the drugs that currently plague our modern world. It turns out that German companies in the 1930's and even earlier invented and patented what we now call cocaine, heroin, OxyContin and crystal meth. For example, in 1895, the German drug company Bayer invented and marketed as an over-the-counter drug what it trademarked as "Heroin." The name was derived from the Greek word heros because of its perceived "heroic" effects upon a user. In 1938, a German company began selling Pervitin, a new drug that we now call "crystal meth" in pill form. Cocaine was first isolated (extracted from coca leaves) in 1859 by German chemist Albert Niemann. Oxycodone, the opioid that OxyContin is derived from, was developed in Germany in 1916 and it was sold as "Eukodal" in Germany before and during the war. It seems that Hitler at the end was addicted to Oxycodone.

This book shows how these drugs kept the German blitzkrieg attacks going and kept Hitler in a euphoric, delusional state. The relentless Nazi invasion of France, when German soldiers went three days and nights without sleep, was made possible by use of Pervitin (crystal meth). Relying heavily on the diaries of Dr. Theodor Morell, Hitler's personal physician, Ohler describes Hitler's drug use throughout the war, which began with a "power injection" of glucose and vitamins before big events, then escalated to cocktails of hormones, steroids, and vitamins, and finally, in his last year, to the use of both cocaine and Eukodal (Oxycodone). [Click here](#) to order this book on Amazon. [Click here](#) to read more from a recent *Rolling Stones* article.



I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and who actually personally visit their minor clients in their homes). Is that asking too much? Stay tuned.

Greg Enos

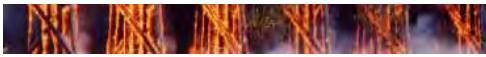
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Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of
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Judges & Money: The Races for 2018 - Part One

Our family law judges can start fund-raising in May if they are up for election in 2018. Lawyers can expect to be hit up from many different directions for contributions during the next year and a half. Democrats sense that the unpopularity, incompetence and policies of the Trump administration may change the usual voting patterns in Harris County, where Republicans usually win in non-presidential election years. It is easier to motivate voters with anger and fear than it is civic duty. It is well known that demographic changes in Harris County will mean that sooner or later all of our judges will be Democrats. The Legislature is considering eliminating straight ticket voting for trial judges, but it is not clear to me which side that will really help.

Judge Roy Moore is far ahead of the judicial pack in organization and he has a fund-raiser planned for Tuesday, May 16, 2017 at B&B Butchers, located at 1814 Washington Avenue. Judge Moore has for months been sending out e-mails inviting lawyers to join his steering committee. His early emails included his complete list and noted which attorneys had not yet committed. Moore politely asked attorneys to suggest those who might want to join his team, but some took his emails as a thinly veiled reminder that he had a list of those who are not supporting him. Of course, Moore is such a good judge, that every lawyer should show their support of him, regardless of such reminders. I am an avowed liberal Democrat and I enthusiastically joined the Moore re-election team.

... [Click here](#) to read the full article which discusses Judges Prine, Warne, Franklin-York and Farr. The full article explains what our family court judges are doing to prepare for re-election or retirement. The article tells you when the first fund raisers are, how much each judge already has in the bank and analyzes the Democrats' chance of sweeping Harris County next year. The "Trump Effect" is explained so that you can understand why local Republicans are so nervous about next year.

I am no longer running my complete articles in the body of the newsletter. I am instead linking to the full, complete articles on my blog in order to keep the size of this e-mail newsletter manageable when it appears on your phone or computer. [Click here](#) to review all of my blogs.

Judge Julia Maldonado: Words Matter, Not Money

I was prepared to write the headline, "Houston, We Have a Problem" during the second week of newly elected Judge Julia Maldonado's term, but I truly think things have turned around in the 507th. I am ready and willing to criticize a Democratic judge if the facts warrant, but I am starting to be impressed by what I am seeing.

Judge Julia Maldonado cannot raise campaign funds for a while as she is not up for re-election until 2020. Usually, once a lawyer is elected judge, attorneys swarm to contribute money after the fact. However, Maldonado's post-election fund-raising was surprisingly anemic, despite the fact that a large number of family law attorneys are progressive and really Democrats. Maldonado had to stop raising funds on March 8 and I think that some of the unusual and concerning procedures she initially adopted upon taking office discouraged many lawyers and dampened financial support for her. Currently, the 507th is not, thank goodness, requiring the filing of sworn inventories even in uncontested, agreed divorces, as it was in the first two weeks of Maldonado's term.

..... [Click here](#) to read the complete article, which lists Judge Maldonado's largest contributors and discusses her sometimes annoying habit of closely reading every order she signs (and even comparing them line for line with the settlement agreements they are based on). The full article also discusses Doug York's decision (in a case recently kicked to the 507th) to join as his co-counsel Judge Maldonado's good friend and campaign treasurer just two days after Maldonado took office.

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A Step Closer to the Truth about Lucrative Court Appointments - Part One

A very small, select number of attorneys make hundreds of thousands of dollars each year because they are regularly appointed by family and juvenile court judges to be amicus attorneys representing children in private custody cases in which the parties can afford to pay very large fees. The law that requires random appointment of lawyers for most positions (infamously called the "wheel") specifically does not apply to amicus attorneys or discovery masters. Each judge has the unfettered, and largely secret, ability to reward certain lawyers with these very lucrative appointments. There is no way to really track who gets these

appointments, which judges make the appointments or how much the appointees are paid. Public transparency and accountability has been sorely lacking for years. Now the Harris County Family District Judges are requiring a new reporting form to bring transparency to this issue. I applaud the judges, but more is needed.

In a case where wealthy parents are fighting over their children, some lawyer is probably going to get a lot of money serving as the amicus attorney. In some courts, those appointed to be the amicus attorney for the children in such cases are very often friends and political supporters of the judge. This is not true in many courts, and most judges look for the best lawyers to represent children. And, most lawyers who accept court appointments make very little money compared to the work they do on such cases. Almost all lawyers who serve as amicus attorneys really do care about the children they represent. I very rarely am asked to serve as an amicus attorney, it is usually by just one judge, and the work I do is usually for free or close to it. I know many lawyers who provide similar service because they just consider it part of the work we do within the justice system.

However, one dirty secret we all know about family law is that a select few attorneys, some of whom are in fact really good lawyers, make small fortunes off amicus appointments. There are frequently cases in which the amicus attorney is paid by court order over \$100,000. Those super-lucrative cases tend to go to the same lawyers over and over again and those lawyers almost always turn out to be big political contributors to the judges who appoint them. This does not happen in every court, but we all know it occurs and most of us know which judges and which lawyers are involved.

I have complained about this high dollar amicus racket since I started this newsletter. Three years ago, I exposed the fact that a few politically connected attorneys were making hundreds of thousands of dollars from appointments on CPS cases and sometimes billing over 24 hours in a single day. The result was the 2015 law that required random appointments in such cases and now things are much better. Unfortunately, Texas Government Code Ch. 37 on random selection of attorneys ad litem does not apply to the appointment of amicus attorneys in private cases. At least, the fees for appointments on CPS cases are easy to review because they are paid by the county, which provides complete and searchable reports on fees for court appointed lawyers in CPS cases. However, there is no way to track who is being appointed amicus attorney by which judge and how much is being paid to those appointees.

Now, the Harris County family judges say they are requiring a specific form to be used in all cases involving any payment for court appointments. This is a great start, but as explained below, it is clear this first step is not enough to clean up this particularly offensive problem.

[Click here](#) link to download in PDF the Harris County order that is now said to be required for all court appointees in family court.

All lawyers who are appointed to be amicus attorneys, ad litem in private termination or service by publication cases, or big money "Discovery Masters" and even those who serve as mediators need to understand how the judges want this form to be used.

[Click here](#) to download the complete article and read answers from Judges Farr and Prine to my pesky questions about how this form will be used. The full article also explains why this order form for appointment fees needs to be specifically required by new local rules or a standing order.

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Expect Delays Getting to the 15th and 16th Floors

Harris County voters in 2007 approved bonds to fund construction of a new family law center, but instead the family courts were moved to the Civil Courthouse. Suddenly, the number of visitors to the Civil Courthouse quadrupled. Worse, all but two of the family courts were put at the top of the building, on the 15th and 16th floors. Now, we are all going to pay the price for this poor planning for months because of elevator problems. Six elevators serve floors 8 - 17 and six elevators serve floors 2- 8. All public elevators and the one freight elevator serve the basement and the first floor. The one freight elevator goes to all floors. Judges and court staff have private elevators for their use.

Recently, three of the six public elevators that serve the upper floors (where most of the family courts are) have been out of operation. This week, even the freight elevator went out.

[Click here](#) to read the complete article, which includes the latest elevator news from Judge Farr. It may be that we face planned elevator outages for months.

Our staffs need to warn clients and witnesses about these delays. Lawyers might as well just call in late every time in advance if their court appearances at 9:00 a.m. are at the top of the Civil Courthouse. One alternative is to take the working elevators to the

8th floor and then take the stairs to the 15th or 16th. Opening an oxygen tank dispensary at the landing of the 11th and 14th floors is looking like a viable business opportunity.

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Automatic Child Support Increases Can Work

Court orders in Texas almost always provide for automatic decreases in the event one child turns 18, graduates high school, etc. A few cases have upheld automatic future INCREASES in child support. *In re D.S.*, 76 S.W.3d 512 (Tex. App. - Houston [14th Dist.] 2002, no pet.) approved a trial court's order which contained an automatic future INCREASE in the father's child support when he was due to complete his medical residency.

[Click here](#) to complete the full article which analyzes this little known case and which suggests other situations where clever lawyers and mediators might consider automatic future increases in child support.

Useful Links for Lawyers

[Harris County Family Court Chart](#)

[Harris County Vacation Request Form](#)

[HBA Family Section Summary of Harris County Family Court Procedures](#)

[List of Four Hour Parenting Classes for Divorcing Parents](#)

[Harris County Chart on Mediation Before Temporary Orders - to be revised](#)

[Galveston County Court Chart](#)

[Galveston County Vacation Request Form](#)

[Attorney General Contact Information](#)

[Enos Links for Family Law Attorneys](#)

[Texas AG Child Support Calculator](#)



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The International Journal on the Reform of Family Courts

The Mongoose

Published by Greg Enos

Issue: No. 74

June 1, 2017

In this issue

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This issue focuses on one very troubling story of political influence (or at least the appearance of it) in Harris County family courts.

I am a divorce lawyer now, but once I was a young father battling for custody of my two children. I still can feel the worry and dread such a court case creates. It seems to the parents that everything important to them in the universe is at stake. Parents in such situations feel helpless because so much rides on the lawyers and the judge and jury. No matter who "wins" or loses in a child custody case, both parents should at least leave the courthouse feeling they were treated fairly and that neither side had some sort of inside connection or political advantage. Lawyers and judges who allow it to appear that political clout is influencing a case are damaging the integrity and stability of the justice system we all work and believe in. I have spent many hours on this story and I have tried to be as accurate and fair as possible. I will publish any responses from those involved if they feel their side of the story needs to be told differently than what I have written.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and who actually personally visit their minor clients in their homes). Is that asking too much? Stay tuned.

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Was a Jury Verdict in a Million Dollar Child Custody Tossed Out Because of Politics?

Imagine if I have a critical hearing in a child custody case before a family judge who is a Democrat and on the front row of the courtroom sit some black preachers, union leaders and the president of an influential of Mexican-American Democratic Club. The special guests are well known to the judge as heavy weights in her political party and yet they do not testify. They talk to my client and to me before and after the hearing but they never say a word in the hearing. They just watch. Everyone in the courtroom knows who they are and how influential they will be when the judge runs for reelection. It is obvious they are on my side and friends with my client but their presence will not even be noted in the official record of the case. If that judge rules for my client, everyone is going to assume that the political spectators I brought to the hearing had something to do with her decision.

The judge in this scenario should be furious with me and my client because now the entire courthouse will think these political heavyweights were brought to court to influence the judge and that the tactic worked. The judge is placed in a very difficult position. She cannot order these people from the courtroom and yet she cannot pretend she does not see them or know who they are. Now imagine if my client fires me and hires lawyers who just happen to be former chairpersons of the Harris County Democratic Party, both of whom are very influential in who wins primaries. How does it appear to hire lawyers based on their political connections rather than their courtroom abilities? How obvious could it be to hire two former Democratic party chairs to present a case before a Democratic judge? My Republican friends would scream about the obvious political manipulation of the system and question the fairness of that court and its rulings.

Something like this happened in the 311th District Court as part of a child custody case where over \$1 million has been spent on attorney's fees and now a new trial has been granted after a jury trial and the parties have to start all over again. The only real difference between my "what-if" tale and reality is the political party involved. This twisted tale has a well known cast of characters: Gary Polland, Jared Woodfill, Bobby Newman, Robert Hoffman, Judges John Schmude and Alicia Franklin-York, and Republican kingpin Dr. Steven Hotze. The case involves allegations of child abuse, dramatic changes in custody, and motions to disqualify judges. There have been open threats to punish a judge for his rulings by running a primary opponent against him and even supposedly political pressure to have an associate judge fired. The case involves wealthy members of Second Baptist Church outraged that children would be taken from their "good Christian" mother and given to a "Muslim" father. A judge has ruled in writing that it is error to keep lawyers from discussing parents' religious beliefs in a jury child custody case, as if, for non-Christians, the Constitution has been suspended.

I was alerted about this case by an angry Republican judge who had nothing personally to do with the case but who has a lot of concern about the integrity of our judicial system. As a result, I showed up as an intrepid journalist to watch a hearing in this case in the 311th District Court where Judge Alicia Franklin-York presides. Even though the courtroom was suspiciously completely empty that Friday morning, when my presence was noted by the court coordinator, the hearing was moved into the judge's chambers so I could not see what happened. The judge took six lawyers back to her office to conduct a 50 minute hearing when her courtroom was empty except for the mother in the case and her friend/financial benefactor and me.

The whole mess stinks of politics and should upset anyone who cares about the fairness of our family courts. Justice for children and their parents is not a partisan issue and custody cases should be decided by the facts and the law and not by political clout or fear of losing an election.

The mother lost a jury trial despite the efforts of her very good attorney, Robert Hoffman. Then, the mother hired two former Republican party chairs, **Gary Polland** and Jared Woodfill, got the case moved to Alicia Franklin-York's court and brought to the critically important hearing Dr. Steven Hotze, the single most important endorser in local GOP politics. Miraculously, suddenly the mother won and the jury verdict awarding custody of the children to the father was tossed out.



Please join the Republicans and organizations who have endorsed me and have the same goal to make sure that I win on May 27th. I'm proud that my campaign has received the endorsement of Senate District 7 nominee Paul Bettencourt, Commissioner Steve Radack, State Rep. Allen Fletcher, Terry Lowry and the LINK Letter, Gary Polland and the Texas Conservative Review, P.O.L.I.C.E. Inc., Harris County GOP PAC, HPOU, C.O.P.S., Houston Retired Police Officers Union, Pasadena Police Officers' Union, Association of Women Attorneys – Houston, The Texas Conservative View, Texas Asian Republican Club, Texas Home School

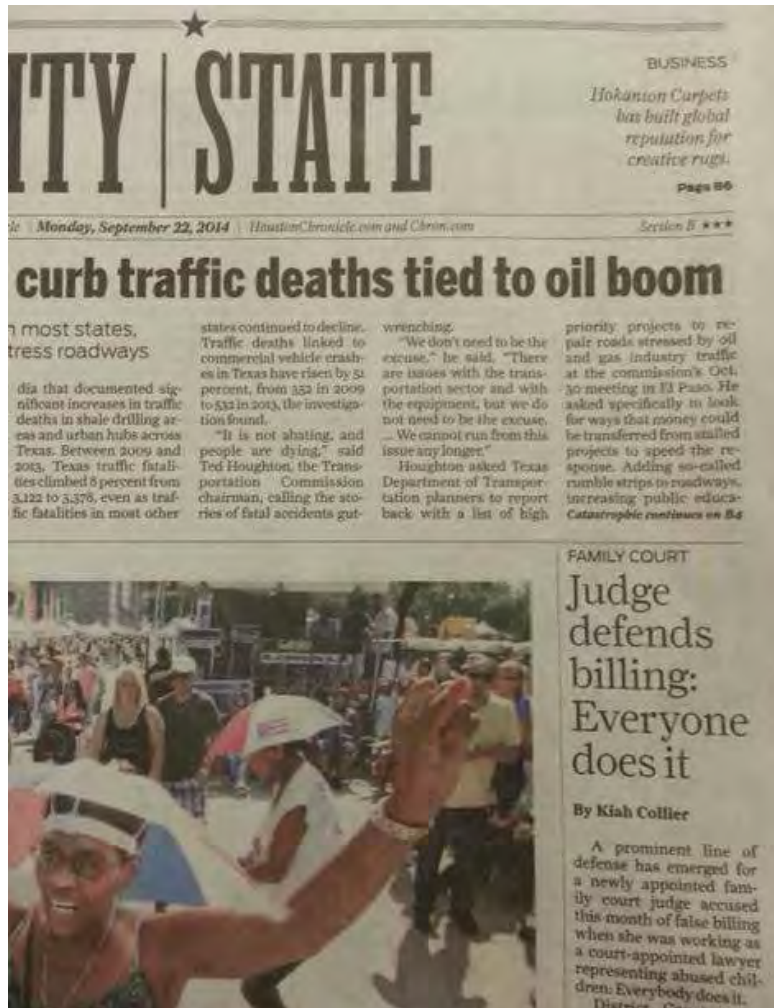
This story of what appears to be political influence in Harris County courts is highly disturbing, but it is not actually as bad as I originally thought. I was prepared to criticize Judge Alicia Franklin-York for her big ruling so far in the case. But, after hours of reviewing pleadings and doing my own legal research, I reluctantly came to the conclusion that one basis for her startling decision to grant a new trial in this case is justifiable. Not matter how stinky the surrounding circumstances, I hesitate to criticize a judge about a particular ruling and I almost never do that in this newsletter. However, I had to evaluate the soundness of the judge's legal ruling to determine if political influence played a role in her decision. I believe most judges would not have overturned the jury verdict in this case, but there was at least one reason given by Franklin-York for granting the new trial that some judges would have accepted. So, I will give Franklin-York the benefit of the doubt here, despite our troubled history. The judge's ruling that a parent's religious beliefs and national origin can be used against that parent in a child custody case is both wrong and very worrisome. Franklin-York's ruling on this point as a reason to grant a new trial ignores the Constitution and a century of appellate decisions in Texas and does make me wonder how much the presence of the arch-conservative and very religious Hotze that day in the courtroom influenced her ruling. I am sadly aware that such a ruling on religious freedom will actually be well received by many voters in a Republican primary.

[Click here](#) to read the full story I have written about this case, which is too long for a single e-mail.

While my opinion does not count for much, I think this case should be heard by a good, retired judge who does not need to worry about reelection or endorsements. If Judge Schmude can recuse himself because he cares about the appearance of fairness, so can Franklin-York (without admitting at all that she has done anything wrong). The parents in this case deserve at the end of the day to know a fair, impartial judge heard their case and that politics played no role in the judge's rulings.

I have previously made a criminal complaint (by writing the District Attorney) against Judge Franklin for work she did before becoming a judge, when as a lawyer on CPS cases, she billed the county 32.25 hours in one day (she apparently learned the art of billing in CPS cases from none other than Gary Polland, who also billed the county more than 24 hours in a single day). Nothing came of my complaints against Polland or Franklin under the administration of Republican District Attorney Devon Anderson.

[Click here](#) to read one of my 2014 stories about the CPS billing by Alicia Franklin when she was a lawyer that was part of a scandal involving politically connected lawyers and what they billed the county for court appointments.



[Click here](#) to read one of several stories about how Gary Polland got rich off CPS appointments from Republican judges and somehow billed more than is humanly possible for one person in one day.

How Gary Polland Earns Million\$ on CPS Appointments

Gary Polland was able to earn over \$1.9 million in court appointments since 2010 using this simple strategy: get appointed a LOT and bill a LOT of hours every day. Polland's political clout in Republican primaries prompted Judges Devlin, Phillips, Schneider, Pratt, Millard and Lombardino to appoint Polland hundreds of times. Over 90% of Polland's appointments came from those judges.

Once Polland got the appointments, he often billed more hours than a mere mortal could possibly work in a day. The following chart summarizes Polland's work on October 1, 2013. The hours Polland billed for CPS home visits are shown in one column and all other "out of court" hours he billed for that day are in the next column. Appointed attorneys are paid flat rates for court appearances and, on this day, Polland only had one court appearance.

Gary Polland
CPS Charges Submitted to Courts - October 1, 2013 only

Submit Date	Billing Date	Case #	Court	Home visit hours Visit Hours	Out of Court Hours	Court Appearances CPS Juvenile	Amount
10/01/13	10/01/13	11-04713J	313	5.00			\$ 200.00
10/01/13	10/01/13	13-04484J	314			1	\$ 125.00
10/01/13	10/01/13	13-00240J	313	5.00			\$ 200.00
10/02/13	10/01/13	12-0445J	315	5.00			\$ 375.00
10/02/13	10/01/13	12-06763J	313		2.00		\$ 100.00
10/03/13	10/01/13	13-54334	308		3.00		\$ 300.00
10/03/13	10/01/13	13-046330	313	5.00			\$ 250.00
10/09/13	10/01/13	12-05706J	313		2.50		\$ 125.00
11/14/13	10/01/13	05-54248	246		2.50		\$ 250.00
TOTALS				20.00	10.00	1	\$ 1,925.00

The CPS billing scandal I uncovered in 2014 lead to the Legislature in 2015 completely changing how attorneys are appointed by judges in cases where they are paid by the county. This little newsletter has made a difference on a few occasions in the past.

Alicia Franklin was appointed to be the judge of the 311th District Court only because Judge Denise Pratt resigned instead of facing criminal charges because of my investigation published in this newsletter. I finally found eyewitnesses to backdating of court documents and got them to the D.A. and that is why Pratt resigned and Franklin was then appointed. Several other lawyers bravely took on Pratt as well, but the publicity and evidence generated by this newsletter had a lot to do with Pratt resigning.

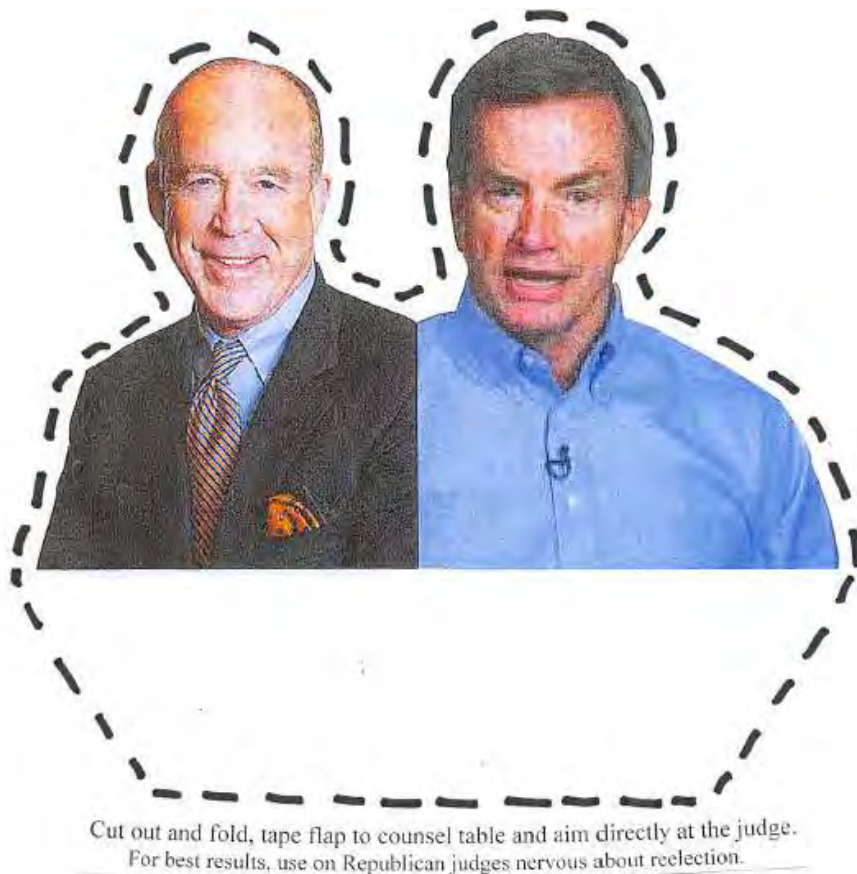
I am very proud of the many excellent REPUBLICAN family judges we have in Harris County, but I am willing to stand up against the rotten few who give all of us a bad name, even though I make my living as an attorney in those very courts.

For obvious reasons, I did not represent clients for a while in the 311th once Alicia Franklin became judge. She was married to Doug York after she became judge. This year I began to work before Judge Franklin-York (after making full disclosure to my clients). In court, Judge Franklin-York was totally professional and fair with me. As I watched her handle other cases, I was impressed by how efficient, courteous, concerned, reasonable and fair Judge Franklin-York was. I was planning to write something really complimentary about Judge Franklin-York and then I heard about this shocking case. Now, I presume I am back out of the 311th for a few more years.

This is a long, complicated story, so you need to click the link below to read the entire expose.

[Click here](#) to read the entire story.

However, as an added bonus, I am providing the following photo of these influential Republicans, Dr. Hotze and Edd Hendee (who play major roles in the unfortunate tale I am sharing with you). I suggest that you print this photo out in color, fold it over and then place this powerful talisman on the counsel table in certain courts. It is said by a few cynics that the mere presence of these two men staring at the judge greatly increases the chances of courtroom success. I prefer to believe judges are honest. I also believe in science and not supposition, so please report back to me whether this works and I will analyze the data to determine if big shot Republicans in the courtroom really do effect the outcome of hearings or trials. Of course, to be scientific, I will need to control for variables, such as the presence of former party chairs as counsel and the religious beliefs of the parties. I plan to write more about this case, so stay tuned for the results of my research.



Please note that both Mr. Hendee and Dr. Hotze are friends of the family of the mother in this case I am writing about and Mr. Hendee has provided over \$435,000 to bankroll the mother's legal team. There could be totally benign reasons why Hotze and Hendee sat on the front row in the courtroom when Judge Franklin-York had to decide whether to throw out a jury verdict for the father and grant a new trial. Keeping track of one's investments or showing support for a family friend's daughter in court are often what brings busy, political heavy weights to court to just watch and stare at the judge. I am sure Jared Woodfill and Gary Polland begged Hotze and Hendee not to be in court that day because of how unseemly and improper it would appear. I assume Jared and Gary told Hotze and Hendee that their presence would not sway the judge one tiny bit. I did e-mail Mr. Hendee to get his side of this story, but so far he has not replied to my request. I am 100% sure that Judge Alicia Franklin-York will say that her ruling had absolutely nothing to do with the presence of all these important Republicans in her court all on the side of the mother who happened to win big that day in her court.

[Click here to read the full story.](#) If you care about the fairness of our justice system, I recommend that you not read this story right after eating. This tale will nauseate you.

Again, I invite those involved with this case to send me their side of the story and I will publish verbatim what they send me. Jared Woodfill, who remains friendly to me despite our differences of opinion on almost every social issue facing mankind, had this to say in reply to my inquiries:

I represent regular folks who need help in their time of need. I am proud of the clients I have the honor to represent; a group that includes people with different work backgrounds and life experiences, including teachers, engineers, doctors, small business owners and many more. It is an insult to our good judges to suggest that any of them rule based on political considerations. If anything, many judges bend over backwards to avoid the appearance of any favoritism, even to lawyers with strong political beliefs like me.

Useful Links for Lawyers

[Harris County Family Court Chart](#)

[Galveston County Court Chart](#)

[Harris County Vacation Request Form](#)

[Galveston County Vacation Request Form](#)

[HBA Family Section Summary of Harris County Family Court Procedures](#)

[Attorney General Contact Information](#)

[List of Four Hour Parenting Classes for Divorcing Parents](#)

[Enos Links for Family Law Attorneys](#)

[Harris County Chart on Mediation Before Temporary Orders - to be revised](#)

[Texas AG Child Support Calculator](#)



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries. The Enos Law Firm serves clients in Galveston County, Brazoria County and Harris County, Texas.



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The International Journal on the Reform of Family Courts

The Mongoose

Published by Greg Enos

Issue: No. 75

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In this issue

PLEASE DISPLAY IMAGES ON THIS EMAIL

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- [New Texas Public School Rankings](#)
- [Judge Lonnie Cox Falsely Claims Victory After His "Yuge" Loss Before the Texas Supreme Court and Then Dismisses His Frivolous Lawsuit, Thus Wasting \\$1.3 Million Tax Dollars](#)

[Click here](#) to download a chart of Harris County family courts.

This issue discusses the imminent demise of straight ticket voting in Texas and how that will effect our judges. I also share the tale of the huge loss of Galveston County District Judge Lonnie Cox before the Texas Supreme Court and the deceptive spin he is giving the disastrous end to his lawsuit that cost the county over \$1.3 million in legal fees.

The "Practical, Real World Seminar" I put together for 113 of my best legal friends in May went very well. I will offer links to the papers from that seminar in my next issue. I received this e-mail from a Houston lawyer:

Greg, my staff loved your seminar and is already making me switch to some of your forms. I looked at the seminar book and I want to order myself a copy for easy reference. The paper on motions alone is worth the price of the seminar. Thanks for your work for the family bar! P.S. - I really appreciated your article about political influence in the family courts - everyone is talking about it.

In April, I took my ten-year old to Washington D.C. to participate in the March for Science on Earth Day and we had a blast. We marched with 60,000 other folks concerned that our government is now ignorant of, and hostile to, science. We also visited museums and toured the monuments. We had a great time and created memories we will cherish for our lifetimes. I highly recommend the Newseum if you go to D.C.





The many clever protest signs were some of the best parts of the March for Science.

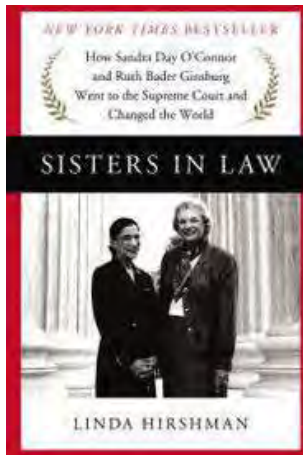


Book Reviews

I also have found some time to do some reading, all with a feminist theme.

Divorce and child custody law in the Houston area now seems to involve more female lawyers and judges than men. Everyone needs to occasionally appreciate how far the legal profession has evolved in the last 60 years. **"Sisters in Law"**

by Linda Hirshman (published in 2015) tells the story of two young women of roughly the same age, one who grew up on a lonely Arizona cattle ranch and the other on the bustling streets of Brooklyn. Sandra Day O'Connor was born in 1930 and Ruth Bader Ginsburg was born in 1933. Both women managed to get high quality educations, were married early, had children and then started legal careers at a time when courts and law firms were almost totally a man's world. Ginsburg was rejected for a Supreme Court clerkship by Justice Felix Frankfurter despite recommendations from leading law professors because Frankfurter said, "I'm not hiring a woman. O'Connor got her law license and was offered a job as a legal secretary at a big California law firm and was told, "our clients wouldn't stand for" being represented by a woman. Decades later, the two women sat together on the United States Supreme Court.



O'Connor was approved by the Senate 99-0 (one senator missed the vote). Ginsburg was approved 96 to 3. Don't we all miss those non-partisan days? Despite their personal political differences, the first and second women appointed to the Supreme Court became good friends. O'Connor retired in January 2006, at the age of 75, to care for her husband who was suffering from Alzheimer's disease. Ginsburg still hangs on to her seat on the court at age 84, presumably waiting for a Democratic President to select her replacement. This book, now out in paperback, is most interesting in telling the stories of the female justices' legal careers and their relationship with each other. This book should make any woman attorney today appreciate what a level playing field they now enjoy. I thank Golda Jacob for suggesting this book to me.

Oh, What Lawyers' Daughters Can Do!

I am half way through a very entertaining murder mystery written 120 years ago by a woman trailblazer of literature. "That Affair Next Door" was written in 1897 by Anna Katherine Green, the first famous and prolific female author of detective fiction in the United States. Her first novel, *The Leavenworth Case*, is considered the first American bestseller, selling a staggering 750,000 copies over a 15-year period. Green's influence and reputation were so great at the time that Arthur Conan Doyle (who published Dr. Watson's stories about Sherlock Holmes), made a point of seeking Ms. Green out during an 1894 visit to the United States. Born in 1846 in New York, the daughter of a prominent attorney (who was the source of her knowledge of legal and police matters), Green was college educated, which was rare for a woman of that time. She tried writing poetry, but found no success. She began working on *The Leavenworth Case: A Lawyer's Story* in secret and spent six years on the manuscript, an effort that resulted in overnight success and fame upon its publication. Green married and raised a family, but still managed to turn out more than three dozen more books over the next 45 years.



Ms. Green created the first female detective in American fiction. Her amateur spinster sleuth, Amelia Butterworth, was the inspiration for numerous women detectives to follow, including Agatha Christie's Miss Marple. Nosy, opinionated, and tenacious, Amelia Butterworth helped and competed with one particular male police detective, Ebenezer Gryce, throughout her stories. Green was the first author to develop the murder investigation as a battle between the sexes and to entertain with a rivalry between a professional police detective and the annoyingly observant amateur. *The Affair Next Door* is the novel that introduces the plucky and persistent Amelia Butterworth. [Click here](#) to download this book for free or you can order it in Kindle format from Amazon.



[Click here](#) to read the Wikipedia article on Anna Katherine Green, a trailblazing female author of detective novels.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and who actually personally visit their minor clients in their homes). Is that asking too much? Stay tuned.

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The End of Straight Ticket Voting in Texas

Straight-ticket voting was common in most states before the 1960s. Since then, however, it has dwindled to just eight states: Alabama, Indiana, Iowa, Kentucky, Oklahoma, Pennsylvania, South Carolina and Texas. Now, make that seven states. Governor Abbott signed a bill that stops straight ticket voting in September 2020. This change will be too late for Republican family judges running against an anti-Trump tide in 2018. [Click here](#) to read the new law that will end straight ticket voting in Texas.

In Michigan, the Legislature voted in 2016 to eliminate straight ticket voting, but a federal judge ruled that banning straight-ticket voting had a disproportionate effect on African-Americans. Michigan's appeal to the U.S. Supreme Court was denied. [Click here](#) to read the ruling of the federal trial judge and [click here](#) to read the opinion of the Sixth Circuit Court of Appeals refusing to stop the stay. I would expect similar litigation in Texas.

If straight ticket voting does end in Texas, it is going to mostly effect large urban counties like Harris County. Voting will take longer because of the dozens of judicial positions on the ballot. I am a politically involved lawyer and I do not know who the civil or criminal judges are and which ones are competent. How can a teacher or pipefitter anxious to vote for President or Senator possibly know which judicial candidates are best? Republicans assume their voters are more likely to keep voting all the way down the ballot for "R" after "R." I am not so sure that is a valid assumption. This move may actually help the sleazy slate mailers (Hotze, Lowry, Polland) make money even in general elections for a while until changing demographics doom them to obsolescence. The loss of straight ticket voting will help judicial candidates with "American" sounding names like "Roy Moore" or "David Farr" and hurt those with odd, foreign sounding names. Female candidates tend to do worse when voters choose based simply on names. This means that in large counties, we will be trading one nonsensical reason (party affiliation) to select a judge for another (how "American" their name appears).

Apparently, Republicans in the Texas legislature assumed that one more election with straight voting in a non-presidential election year will help their team. In Harris County, for example, the Republicans won the straight ticket voting in 2014 by a 54% to 45% margin in a non-presidential year whereas in 2016 the Democrats won straight ticket voting 53% to 45% in a presidential election year.

Straight Ticket Voting in Harris County

Party	2012		2014		2016	
Republican	404,165	49.43%	254,006	54.26%	401,663	45.28%
Democrat	406,191	49.77%	210,018	44.86%	472,030	53.21%
Top of Ticket	President		Governor		President	
Local Judges	Most Democrats Won		All Republicans Won		All Democrats Won	

My prediction is that the worry about and disgust with Trump, which drove so many to vote in 2016, will be even more intense in 2018 and change the normal dynamics of a non-presidential election year. I foresee that straight ticket voting in 2018 will be at best a wash and not give the Republicans an advantage one last time. That is bad news for our really good Republican family court judges who are up for re-election next year.

I simply do not see Republican judicial candidates winning in Harris County after 2020. They may all lose next year if the Trump disaster continues to tarnish the Republican brand and motivate voters disgusted by Trump to vote straight Democrat one last time. Thus far in the Trump presidency, Democratic candidates in special elections across the county for Congress and state legislatures have overperformed their historic percentage of the vote by over 14 percentage points. In other words, districts where Republicans usually win by 15% are being won by only 1% and districts that went for Republicans by 10% only last year are being lost to Democrats. [Click here](#) to read a statistical analysis on this trend. An fourteen point swing in Harris County in 2018 would result in a total Democratic sweep. This past week's news makes me think it is going to just get worse for Trump and the

GOP and unless Pence is President in November 2018, I am afraid we are going to lose some really good family court judges in Harris County.

Public School Rankings

Lawyers in child custody disputes often talk about which parent lives in a better school district. The most reliable and comprehensive ranking of Texas public schools has just been updated by Children at Risk. [Click here](#) to go to the 2017 school ranking home page then scroll down until you get to Houston and you will see links for rankings of Houston area elementary, middle and high schools (which includes Harris and surrounding counties). You can download data files which provide a large amount of information of each school, including number of students, standardized test results, racial composition, etc.



2017 Houston Elementary School Rankings

CAMPUS	DISTRICT	COUNTY	STATE RANK	HOU RANK	GRADE
BUCKALEW EL	MONTGOMERY COUNTY	CONROE ISD	7	1	A+
COMMONWEALTH EL	FORT BEND COUNTY	FORT BEND ISD	8	2	A+
CREEKSIDE FOREST EL	HARRIS COUNTY	TOMBALL ISD	10	3	A+
RIVER OAKS EL	HARRIS COUNTY	HOUSTON ISD	12	4	A+
CORNERSTONE EL	FORT BEND COUNTY	FORT BEND ISD	13	5	A+
SILVERCREST EL	BRAZORIA COUNTY	PEARLAND ISD	15	6	A+
HORN EL	HARRIS COUNTY	HOUSTON ISD	16	7	A+
POPE EL	HARRIS COUNTY	CYPRESS-FAIRBANKS ISD	23	8	A+
BESS CAMPBELL EL	FORT BEND COUNTY	LAMAR ISD	24	9	A+
DERETCHIN EL	MONTGOMERY COUNTY	CONROE ISD	28	10	A+
BUSH EL	HARRIS COUNTY	HOUSTON ISD	29	11	A+
ROBERTS EL	HARRIS COUNTY	HOUSTON ISD	32	12	A+
COLONY MEADOWS EL	FORT BEND COUNTY	FORT BEND ISD	34	13	A+
OAK FOREST EL	HARRIS COUNTY	HOUSTON ISD	38	14	A+
TOUGH EL	MONTGOMERY COUNTY	CONROE ISD	46	15	A+
BUSH EL	MONTGOMERY COUNTY	CONROE ISD	50	16	A+
SAMPSON EL	HARRIS COUNTY	CYPRESS-FAIRBANKS ISD	52	17	A+

Judge Lonnie Cox Falsely Claims Victory After His "Yuge" Loss Before the Texas Supreme Court and Then Dismisses His Frivolous Lawsuit, Thus Wasting \$1.3 Million Tax Dollars

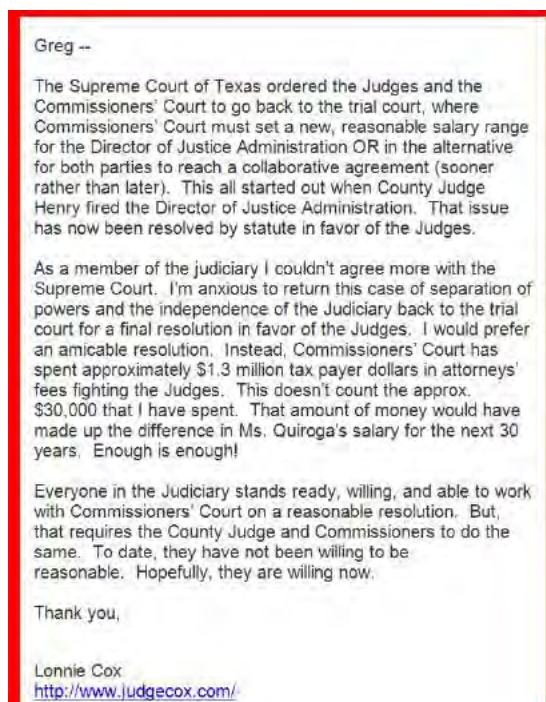
The lawsuit which has bitterly divided Galveston County government and cost tax payers \$1.3 million is now over. A unanimous, all Republican Texas Supreme Court just blew Galveston County District Judge Cox and his frivolous lawsuit against county commissioners out of the water. [Click here](#) to read the Supreme Court decision. Why do I call Cox's 2015 lawsuit against County Judge Mark Henry frivolous? First, the Texas Supreme Court ruled against Cox on every legal point. Second, Cox dismissed his case before the trial court could even reconsider the case after the Supreme Court ruling. After forcing the county to spend over \$1.3 million in legal fees to defend his lawsuit, Cox just suddenly dropped it after his total defeat before the Supreme Court. Any reasonable settlement to the entire dispute was fought by Cox long past the point of reason or fairness. The three county court at law judges made their own separate peace with the county even though Cox tried to prevent them. This is why I call the Cox lawsuit frivolous. Judges should not tolerate frivolous lawsuits and they certainly should not file them.

Judge Cox is now trying to mislead the public and pretend he won his case before the Supreme Court. It is as if a guy asked a woman to marry him on the Jumbotron screen at an Astros' game and the lady slapped him, screamed "hell no," spit in his face and dumped her tray of nachos on his head and then the rejected suitor sent out a mass e-mail thanking the woman, saying "as a man, I could not agree more with this heart-felt response."



This loss in the Supreme Court is absolutely not the result Cox desperately wanted and now he has the nerve to claim victory. Galveston County Republicans are far too smart to be fooled. **To be sure, I plan to mail a copy of this article to every household that voted in the last Republican primary.**

Cox sent out a mass e-mail right after the Supreme Court ruling exploded like a bomb shell at the county courthouse. Cox, to be polite, was not honest in his e-mail.



Cox's email gives the impression that he won. Instead, the Supreme Court concluded that Cox lost on all of his arguments. The Supreme Court ruled that Cox should have sued all of the county commissioners and that the trial judge was wrong to do as Cox asked and order the commissioners to rehire a court administrator at a specific (and very high) salary.

The case was sent back to the trial court as Cox said in his e-mail, but only after a total reversal, with instructions to try again and this time follow the law and do it right. The Supreme Court ruling was a complete loss for Cox and it is totally false for him to spin the decision any other way.

The most brazen falsehood in the Cox e-mail was this:

As a member of the judiciary I couldn't agree more with the Supreme Court. I'm anxious to return this case of separation of powers and independence of the Judiciary back to the trial court for a final resolution in favor of the Judges.

This is a truly amazing statement for Cox to make given that his legal position was totally rejected by the Supreme Court justices (who are also, of course, judges themselves). How could Cox truthfully say he could not agree more with the Supreme Court when they had just rejected all of his legal arguments? In fact the Supreme Court ruled that Cox had overstepped his constitutional authority, saying:

Here, the county's judicial branch encroached on the county's legislative branch, the Commissioners Court, which was performing a constitutionally and statutorily authorized function. Personnel is policy, as they say, and fiscal-policy decisions, including staffing, are a quintessentially legislative prerogative. Neither the Constitution nor the Government Code allows the judiciary to usurp a county's budgeting discretion by, for example, dictating specific salaries for county employees other than within the designated range, as the Code allows. County budgets are set by county budgeters. And while section 75.401(d) authorizes the "judges served" to determine ultimately what qualifies as "reasonable compensation," step one in the process, the salary range, is "set by the commissioners court."

In this case, the trial court [acting at Cox's request] lacked the authority-constitutional, statutory, inherent, or otherwise-to require County Judge Henry to reinstate a county judicial employee at a specific salary. At most, the trial court should have directed the Commissioners Court to reset the range. As it stands, however, the trial court lacked the authority to bind the Commissioners Court in the first place, because Judge Cox failed to name anyone but Judge Henry in the request for injunctive relief. The trial court thus erred in issuing the temporary injunction.

The Supreme Court clearly told Cox that he was trying to violate the separation of powers and overstep his authority. The case would have gone back to the trial court, but not to obtain a final order in favor of Cox. The trial judge was told to do it over and this time follow the law. The Supreme Court also strongly suggested that the district judges follow the example of the county court at law judges and reach a compromise.

Yet, within days of sending out his e-mail saying he looked forward to victory back before the trial court, Cox dismissed his lawsuit. **That's right, Cox lost before the Supreme Court after wasting \$1.3 million of tax payer dollars on the litigation, falsely claimed victory and then dropped his lawsuit which caused the entire mess in the first place.**

For Cox to claim victory in the face of this total legal defeat before the Supreme Court is a sorry attempt to mislead the voters. If Cox was so eager to get his case back before the trial judge, why did he dismiss his lawsuit after he lost before the Texas Supreme Court? Cox was probably worried a fair judge would make him repay the county for the \$1.3 million spent fighting his lawsuit.

Another disturbing issue arising from the mass e-mail Cox sent out is that he is being accused of using confidential juror information to add names to his e-mail database. One citizen posted this recently on Facebook:



The citizens who care enough to show up for jury duty should not be tricked into providing their e-mail addresses so a judge can send repeated political e-mails attacking a fellow Republican. This allegation needs to be investigated and I sure hope this is not what Judge Cox has done.

This lawsuit arose because in 2014, County Judge Mark Henry fired the county's Director of Justice Administration, Bonnie Quiroga. I talked to Lonnie Cox immediately after the Quiroga firing at a political function and he was not upset in the least that his judicial powers had been usurped. But, even on the day Quiroga was fired, Cox was spinning a conspiracy theory that Quiroga had been fired because she complained about video cameras in the jail that could have eavesdropped on defense lawyers and their clients. Cox was clearly hoping Quiroga would sue the county (and she did). I have known Bonnie Quiroga a long time and have worked with her closely on many projects and there was never any doubt that Quiroga served the various judges but she

worked for the County Judge and that Mark Henry had the power to fire her (her lawsuit claims otherwise now).

I also know that the county commissioners had in recent years made some "penny wise, pound foolish" budget moves which understandably aggravated the judges. I do think the Republican county commissioners should treat the elected judges of their county with respect and courtesy. Yet, almost everyone at the courthouse in 2014 was very aware of how much Cox disliked his fellow Republican Mark Henry. Cox managed to play on the friction between Mark Henry and the other judges and create a show-down over the Quiroga firing. Quiroga was merely a pawn in the battle between Cox and Henry. It can be argued that the lawsuit Cox filed served a limited purpose in the beginning because it forced the county commissioners to suddenly become much more reasonable with the judges. But nothing the commissioners did was good enough for Cox and he escalated the political tension and refused many reasonable offers to settle and make peace with his fellow Republican elected officials. Now, Cox has dismissed his lawsuit after the Texas Supreme Court rejected each and every one of his legal arguments.

Judge Cox grossly overstepped his judicial authority, created a painful disagreement between our elected Republican officials and wasted over \$1.3 million of tax payer dollars on his lawsuit. Cox showed that either he does not know what the law says or he does not care. The nine Republican Justices on the Texas Supreme Court do know the law and they made clear that the constitutional limits on judicial activism must be obeyed. The Supreme Court said, "the county's judicial branch [Judge Cox] encroached on the county's legislative branch, the Commissioners Court, which was performing a constitutionally and statutorily authorized function." I am reminded of a U.S. Senate hearing in 2015 when **Senator Ted Cruz** complained about the "judicial tyranny" of activist judges who overstepped their authority and ruled based on what they wanted instead of what the law or constitution says. Senator Cruz could have been talking about Judge Lonnie Cox when he proclaimed:

"So long as justices on the court insist on behaving like politicians ... they should not expect to be exempt from the authority of voters who disagree with their policy decisions."

I believe that as a citizen (who happens to be a lawyer), I have the right and the duty to criticize a politician who happens to be a judge. I am criticizing Cox for a mass email he sent out as a politician that spins his "Yuge" loss into a win based on "alternative facts" which insult the intelligence of GOP voters. I am criticizing Cox for pretending to fight for judicial independence when he was actually grossly overstepping judicial authority as part of a political vendetta against his fellow Republican, County Judge Mark Henry. This unanimous ruling against Cox by all nine Republican Justices on Texas' highest civil court came right after Cox announced he was running against County Judge Mark Henry in the GOP primary. This proves what so many political observers suspected all along -- this entire lawsuit (which has cost county tax payers over \$1.3 million) was simply a political power play and vendetta. Cox was not fighting for judicial independence as he claimed, he is simply out to get Mark Henry.

I am also criticizing Judge Cox for not knowing the law. We expect judges to know the law. The Texas Supreme Court unanimously said Cox was absolutely wrong on the law, writing, "Texas law provides a ready answer" to the dispute between Cox and the county and that answer is what our elected county commissioners and County Judge Mark Henry have said from the beginning. Me and others pointed out over a year ago that Cox could not just sue Mark Henry and that he should have sued all of the county commissioners to even qualify for the relief he was seeking. The commissioners, such as Ken Clark, are our elected officials who voted on the court administration position Cox was complaining about. A first year law student would have known that Cox had not sued necessary parties and the Texas Supreme Court agreed. Cox did amend his petition to sue all the county commissioners (although they were not served), but only after the trial court had ruled and the case was appealed, which was too late for the Supreme Court.

Twice, Judge Cox in this dispute over the firing of Ms. Quiroga issued his own court orders against Mark Henry even though there was no pending lawsuit. Stop and think how scary and un-American that is. A judge does not hire a lawyer and file a case to be heard in fairness by another judge, but instead issues his own orders against his political foes, which makes him his own judge in his own case. That is not something one expects in the United States and it clearly violates constitutional principles of fairness and due process. Finally, even Cox realized he need to proceed through normal legal channels and he filed the lawsuit against Mark Henry, which he has now dismissed.

I am not criticizing Cox for what he does in his own courtroom as a judge (except when he issues his own orders without a pending case that benefits himself), but rather what he has done as a petty, mean spirited, dishonest politician. I am criticizing Cox as a litigant for pursuing a frivolous claim that has convulsed county government and wasted so much in tax payer dollars. I may be a lawyer and Cox may be a judge, but I am confident I can call out "liar, liar pants on fire" when any politician tries to fool the public and excuse his ridiculous behavior with half-truths and distortions. [Click here](#) to read an interesting article on the constitutional right lawyers have to criticize judges (within certain limits).

I am also criticizing Cox for being a political bully. **I remember when Lonnie Cox ran for judge as a Democrat and spoke at black churches and union halls where he told his audiences what a good Democrat he was.** But, the political winds shifted and Cox was one of the first Republicans elected county-wide. Cox is now considered the "God Father" of local GOP politics (in a "don't dare cross Don Corleone" kind of godfatherly way). Cox cannot stand that some of his fellow judges have not gone along with his tactics and he has recruited primary opponents for some. For example, Cox has talked a young lawyer, who works in Houston and

who has ZERO criminal law experience, to run against Judge Patricia Grady (who hears important felony criminal cases) just because Judge Grady did not agree with Cox's fight against the county commissioners.



Judge Lonnie Cox and Judge Michelle Slaughter pose with former Houston mayoral candidate Bill King, whose daughter has been recruited by Cox to run against Judge Patricia Grady.

I am not the only person to have called Cox a bully. Here is what Friendswood Republican attorney Byron Fulk told the *Houston Chronicle* in 2012:

Chron Local US & World Sports Business Entertainment

Galveston County judge accused of profanity, abuse

By **Harvey Rice** Updated 10:54 am, Monday, October 29, 2012

The flare-up is not the first attributed to Cox, attorney **Byron Fulk** said. Fulk said Cox erupted in anger when he and an assistant district attorney presented a plea agreement in a similar case.

Like Aguilar, the defendant had violated probation after conviction on a drug charge, Fulk said. "The judge takes the bench, looks at the file and says, 'I'm not going to do this,'" he said. "Then he pounds his fist on the table and starts screaming at the client."

When Fulk tried to reason with the judge, he said, Cox "starts yelling at me, 'Step away from the bar, counselor, step away from the bar.'"

Fulk said he admired Clements for doing what other attorneys feared to do. Fulk, who supported Cox when he ran for office in 2008, said, "It's what we call in the legal profession, black robe disease," he said. "In my opinion he's a bully."

Mr. Fulk is a respected Republican lawyer who runs the Friendswood Community Prayer Breakfast. [Click here](#) to read the entire *Houston Chronicle* article on Cox.

Our three Republican county court at law judges, Barbara Roberts, Jack Ewing and John Grady, dropped out of the fight with county commissioners and made their own peace months ago so that they could focus on fairly running their courts and not picking wasteful political fights. In fact, Cox actually filed a motion with the Supreme Court to prevent Judges Roberts, Ewing and John Grady from cooperating with the county commissioners to create their own office of county court administration. [Click here](#) to read the motion filed by Cox to prevent the orderly and lawful cooperation among elected officials to partially resolve the dispute. [Click here](#) to read Mark Henry's reply to Cox's motion, which includes a letter signed by the three county court at law judges. The Supreme Court rejected Cox's motion, so the county court at law judges were able to proceed with their compromise with the county commissioners. These filings to stop a reasonable settlement by judges no longer willing to follow Cox's lead show Cox was only out to cause conflict and not really resolve the problem. Now that Cox has dismissed his lawsuit, the district judges can hopefully take advantage of the court administration department the county created for them and surely our elected leaders can agree on the salary for the head of that department.

A few judges are scared of Cox politically and a few think they owe their political careers to Cox. Now, over half of our elected, Republican judges in Galveston County are willing to not follow the misguided leadership of Judge Cox. It is time that everyone stood up to Cox. I am a lawyer who practices mostly in Galveston County, so calling out Cox for what he is doing may involve some risks for me, but it is something everyone who cares about honest, efficient, common-sense government should do.

My Republican neighbors in Friendswood, where I live now, and in League City, where I lived for so long and raised a family, should not be fooled by Cox's attempts to deceive them. Their elected County Judge and County Commissioners won this case, but only after being forced to spent about \$1.3 million of tax payer dollars to defend this frivolous lawsuit filed by Cox for the wrong reasons against the wrong defendant. The county's legal fees do seem high to me (I am a divorce lawyer who charges by the hour), but the county had to hire a high powered law firm to win a case before the Supreme Court (and boy, did their expensive lawyers kick ass!). None of those attorney's fees would have been incurred by the county if Cox had not filed his frivolous lawsuit which he has now dismissed after his big defeat before the Supreme Court.

The voters should read the words of their Texas Supreme Court and not believe the self-serving, misleading claims of Lonnie Cox. [Click here](#) to read the full Supreme Court decision, which easily resolved the dispute between Cox and Mark Henry just as Mark Henry and county commissioners suggested.

Meanwhile, the battle between Cox and Mark Henry will go on, since Cox is running against Mark Henry in the 2018 GOP primary for County Judge, even though Cox was just re-elected district judge last year. Judge Cox has decided he does not have to give up his bench to run against Mark Henry and now he is wearing two hats - sitting judge hearing cases and politician seeking election to run the county government. I am sure I will have more to say about that fight in future editions of this newsletter.

Disclaimer: I am friends with folks on both sides of this controversy, including the few judges who still support Cox, and the judges who disagree with him (and a few who are too scared to do so in public). I am friends with Bonnie Quiroga who was fired and also with Mark Henry who fired her (I have represented Henry in the past). Judge Michelle Slaughter, for example, still agrees with Judge Cox and I gave her the first big contribution of her original campaign to run for judge. I have helped the campaigns of most of our Republican judges and I agree with them on most issues. I just disagree as a person, a citizen and a lawyer with this mess Cox created and I am repulsed by his attempts to deceive the voters about what he has done.

Again, I am writing as a concerned citizen about a very important public policy issue that is now a political controversy. I am criticizing Lonnie Cox for what he has done as a litigant and a politician. Except for trying to issue his own order for himself against Mark Henry when there was no pending case, I am not attacking Cox for his actions in his role as a judge hearing cases in his own court. Until the voters or some other authority removes Cox from office, he is due respect when he puts on the black judge's robe and hears cases in his courtroom. I just know that Judge Cox in his own court would never tolerate for a second a litigant before him who filed a frivolous lawsuit, who tried to twist the facts and the law, who refused to settle, who caused the defense to spend \$1.3 million fighting the lawsuit and who then just dismissed the entire case as soon as he lost in the Supreme Court. That is lawsuit abuse plain and simple. Judge Cox would not put up with that behavior from a litigant in his court and neither should the voters of Galveston County. We should expect more from our judges.

Useful Links for Lawyers

[Harris County Family Court Chart](#)

[Harris County Vacation Request Form](#)

[HBA Family Section Summary of Harris County Family Court Procedures](#)

[List of Four Hour Parenting Classes for Divorcing Parents](#)

[Harris County Chart on Mediation Before Temporary Orders - to be revised](#)

[Galveston County Court Chart](#)

[Galveston County Vacation Request Form](#)

[Attorney General Contact Information](#)

[Enos Links for Family Law Attorneys](#)

[Texas AG Child Support Calculator](#)



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries. The Enos Law Firm serves clients in Galveston County, Brazoria County and Harris County, Texas.



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Issue: No. 77

November 28, 2017

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- [How Likely is a Democratic Sweep in 2018?](#)
- [Family Law Primer: Objecting to an Assigned Judge](#)

A Rant About Judges Who Do Not Show Up for Work

I work way too many hours for my clients, so it seems reasonable for me to expect judges to work at least 40 hours a week and show up for work every day on time. I am sick and tired of a few judges who consistently appear late or who simply do not come in and leave their clerks to tell the lawyers and parties that their cases will have to be reset after everyone but the judge has appeared in court. I have one case where my out-of-town client (who works a real job for not a lot of money) came to Houston FOUR times and each time we learned there in the courtroom that the judge could not hear us. Twice this happened because the judge just was not there and it was not because of illness (I checked). If the court staff and parties and witnesses and lawyers all can get up early, deal with traffic and get to court on time then so can the judge who is paid \$158,000+ a year for a full-time job.

Most of our family court judges are hard working (see discussion of Judge Roberts below), so I am only distressed over a few judges who are just taking their elected positions for granted. A timed photo showing when a judge is pulling into the reserved judicial parking area well after their docket call time or leaving their house at a time when their court is already full of citizens should help expose these slackers. I am ready to name names and I now know where judges park, what entrance they use to get to their parking and where these tardy slackers live just in case a photographic stake-out is needed. I helped convince a District Judge in a suburban county to not seek re-election just because word got out that I had hired a private investigator to document when he leaving and returning to his house on work days.



Judge XXX gets in her car at 10:42 am at home when her court is full of people who have been there since 9:00 am.

Please Evaluate Harris County Judges - You Have Two Days Left!

The Houston Bar Association's 2017 Judicial Evaluation Questionnaire is open, with a closing date of 5:00 p.m. on November 30. The Judicial Evaluation, conducted in non-election years, gives current HBA members the opportunity to evaluate sitting judges that they have personally appeared before - from federal judges to justice court judges - based on a number of criteria.

To participate in the Judicial Evaluation Questionnaire, members must have a valid email address on file with the HBA. Members access the Evaluation through emails they have received from BallotBoxOnline.com, the company that conducts the HBA's online judicial polls.

The email will be from: noreply@ballotboxonline.com. The subject line will be: 2017 HBA Judicial Evaluation Questionnaire Ballot

Once you open your BallotBox e-mail, click on the link "Vote." You will then select the judges that you wish to evaluate, based on personal, firsthand experience only, by placing a check in the box next to the judges' names. When you have selected all the judges you want to evaluate, hit continue and you will be automatically taken to an evaluation page for each judge you selected. When you have completed your evaluations, you will be able to review your responses and cast your Evaluation Questionnaire ballot. You will not need to set a password unless you want to save your questionnaire and return to finish it later.

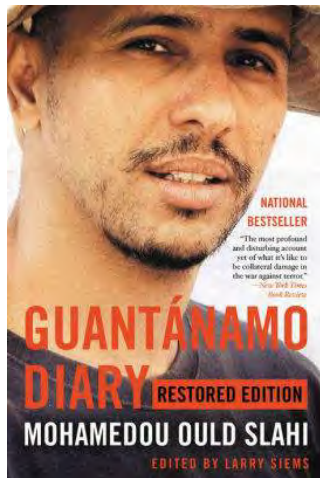
Book Reviews

Kushiel's Dart

If you liked the HBO series *A Game of Thrones*, then you should enjoy *Kushiel's Dart* by Jacqueline Carey. This 2002 fantasy adventure is set in the geography of Europe but with different nations, history (albeit similar) and religions spiced by strong doses of magic, violent iron age warfare and sex. The heroine is a courtesan whose mentor involves her in complex court intrigue. I have enjoyed the fantasy genre for 40+ years (I still have my 1968 *Dragonflight* by Anne McCaffrey) and this book is really one of the best. I am surprised but very happy that I just discovered this author and her three sets of trilogies (9 books in all) set in this same very interesting world. [Click here](#) to order from Amazon.



Guantanamo Diary - Restored Edition



Imagine being totally innocent and yet swept up in an international manhunt for terrorists, taken by a foreign country to a far away island prison for 14 weeks, tortured, deprived of human contact and cut off from the world. Imagine 14 months of such a horror. Now imagine being held for 14 years and then let go in your native country with no apology or explanation. This is what happened to this author, who happened to visit Canada from his native Mauritania. When he returned to his country, he was arrested and turned over to the Americans who took him to Jordan then Afghanistan and then to Guantanamo and held there for 14 years. No charges were ever filed against him. Slahi was one of two so-called "Special Projects" whose treatment Donald Rumsfeld personally approved - treatment that included extreme isolation, sleep deprivation, sexual molestation, frigid rooms, stress positions, and death threats against both Slahi and his mother. A heavily redacted version of his diary was published by his lawyers before his release and now Mr. Slahi has republished his diary with all of the redactions filled in. Slahi comes across as an intelligent man full of forgiveness and kindness. This is truly an amazing read. If you care about American ideals of justice and the rule of law, then you should read this book and be prepared to be infuriated and embarrassed. It should make us lawyers proud that attorneys and an American judge played important roles in freeing Slahi. His case is not one that makes me proud of President Obama however (even though I in general think he was a GREAT President).

[Click here](#) to buy the book from Amazon, which describes the book as follows:

When GUANTÁNAMO DIARY was first published--heavily redacted by the U.S. government--in 2015, Mohamedou Ould Slahi was still imprisoned at the detainee camp in Guantánamo Bay, Cuba, despite a federal court ruling ordering his release, and it was unclear when or if he would ever see freedom. In October 2016, he was finally released and reunited with his family. During his 14-year imprisonment, the United States never charged him with a crime.

Now for the first time, he is able to tell his story in full, with previously censored material restored. This searing diary is not merely a vivid record of a miscarriage of justice, but a deeply personal memoir---terrifying, darkly humorous, and surprisingly gracious. GUANTÁNAMO DIARY is a document of immense emotional power and historical importance.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and who actually personally visit their minor clients in their homes). Is that asking too much? Stay tuned.

Greg Enos

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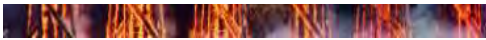
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E-mail: greg@enoslaw.com

Web site: www.divorcereality.com

Please forward this e-mail newsletter to everyone who cares about our family courts!

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The Mongoose.



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Judge Barbara Roberts Retires - Reflections on What Makes a Good Judge

I was distressed (but not surprised) when the Democratic Galveston County judges I knew and respected so much were defeated in 2010 by a Republican sweep. Barbara Roberts was elected to be Judge of County Court No. 2 and replaced my dear friend Trey Dibrell (who had the foresight to retire). Roberts had worked in municipal law but had very limited criminal law experience and almost no family law experience. On paper back then, it seemed to many that Roberts was not cut out to be a trial court judge who presided over civil, family and misdemeanor criminal cases. Now, eight years later, Judge Roberts has announced that she will not seek reelection and she provides a great example of how intelligence, a strong work ethic and a good, fair heart in a lawyer are more important than experience in making a really good judge. As we all assess who is running for judge next year, we should keep Judge Roberts in mind when we assess judicial candidates.



Judge Roberts works really hard and she pushes attorneys just as hard to move their cases. She does not play favorites and she is friendly and welcoming to everyone who appears before her. My clients leave her court KNOWING that someone who really cares heard their case. That makes a huge difference, even to those parties who lose their cases. Judge Roberts has learned the intricacies of my field, family law, and yet she knows enough to let lawyers educate her on legal issues she is not familiar with. I am praising Republican Judge Roberts even though I am personally a liberal Democrat because as a lawyer, I know that being a good judge has nothing to do with political party affiliation. A really good judge has those qualities Judge Roberts brings to the courthouse every day: a strong work ethic, efficiency, common sense, open mindedness, intelligence, kindness, fairness and the smarts to see through B.S.

Two Republicans are running to replace Roberts: Kerri Foley and Donnie Quintanilla. Foley served as the appointed Judge of County Court No. 3 after Chris Dupuy was removed. Foley was defeated in the GOP primary for that bench in 2014 by Donnie Quintanilla and Jack Ewing (Ewing won the runoff). Back then, Foley was working long hours to fix a screwed up court and did not spend as much time as her opponents on campaigning. This time, she has been campaigning for months and is focused solely on this election.



Donnie Quintanilla is running against Foley in the Republican primary to replace Judge Roberts as judge of County Court No. 2. He will have name recognition from his race in 2014 and the fact that his father, Roy Quintanilla, was a judge in Galveston

County (of County Court No. 2!).



New Judge for the 280th: Angelina Gooden

Governor Abbott has appointed Angelina Gooden to be the judge of the 280th domestic violence court. Gooden has practiced law since 1989 and she was an attorney with Aid to Victims of Domestic Abuse (AVDA) for 11 years, so she knows her way around protective orders. Lynn Bradshaw-Hull pleased the family law community by resigning as of October 2017. After Hurricane Harvey took away the 280th court room and after Bradshaw-Hull decided to resign and be a tour guide at the Noah's Ark theme park in Kentucky, the work of the 280th has been divided between the family law judges, with Judge Judy Warne handling most of the the protective order cases filed by the District Attorney's office. I personally feel very strongly that protective order cases with an associated divorce or custody case should be heard by the judge hearing the family law case, but I am told we will go back to the 280th hearing all protective order cases.

The 280th court will continue in operation in the 257th courtroom for the foreseeable future. To the extent the physical space becomes an issue, 257th cases may move to the 312th as needed, but all 5 judges impacted (Judges Farr, Gaffney, Warne, Patterson and Gooden) all believe that they will be able to share the four existing courtrooms (2 big courtrooms and 2 AJ courtrooms). The protective order docket call will continue to be heard in the 257th courtroom.

Judge Gooden will take office on December 1. Judge Gooden will be out the week of December 11 for the College for New Judges.



Gooden is being sworn in on December 1 and four days later she is throwing a campaign fund-raiser at Gloria's Latin Cuisine on December 5.



Democrats Barbara Stalder and Beth Barron are running for the 280th in the March primary for the right to oppose Gooden. I have heard mention of other Republicans who might run for the 280th, but so far none have filed.

Disclaimer: Okay, Bradshaw-Hull did not resign to go work as a tour guide at any theme park, but her bizarre, flat monotone speaking style in court always reminded me of a bored, robot-like tour guide reciting the same lines over and over in a creepy sort of way. Victims of domestic violence in Harris County are all better off with her off the bench.

Candidates: Send me info in your planned fundraisers and I will do my best to put the word out for you, regardless of what party you affiliate with. I know I have missed several in the last few months, but I do plan to publish diligently now.

Democratic Lineup for Family Courts - Part 1

Judge Judy Warne is retiring, so the GOP primary for the 257th will be a race between former judge Alyssa Lemkuil (supported by virtually ALL family law attorneys) and Melanie Flowers (supported by the "pay to play" "Big 3" Republican slate endorsers and mentored by her political Godfather, James Lombardino). In a low turn out GOP primary, you can guess who is likely to win.

We all know the family court judges in Harris County. Most do not know many of the Democrats running for family benches and we need to meet them, because in 13 months they may be our judges.

Court Republican

245th Roy Moore

Democrat

Tristan Longino



246th Charley Prine

Charles Collins



Angela Harrington

247th John Schmude



Janice Berg

**257th Alyssa Lemkuil
 Melanie Flowers**



Sandra Peake

280th Angelina Gooden



Barbara Stalder

308th James Lombardino



Beth Barron

309th Sheri Dean



Gloria Lopez



Linda Dunson



Kathy Vossler



310th Lisa Millard (Conrad Moren)

Sonya Heath



311th Alicia Franklin-York

Germaine Tanner



312th David Farr

Chip Wells



I am going to get back to publishing this newsletter on an almost weekly basis, so my next issues will include lengthy profiles of the Democrats running for family court benches in Harris County. I will also review the election line-ups for surrounding counties.

Again, my story above about Republican Judge Barbara Roberts should remind us all that IF the Democrats win in Harris County in 2018, some of these folks we do not know well may turn out to be really good judges. Tristan Longino or Janice Berg or even Chip Wells might become good jurists, but it is hard to imagine they can be as good as Judges Moore, Schmude or Farr. I have a lot of imagination, but I honestly do not think I can imagine a better judge than David Farr (no offense intended Chip). Despite one "flowery" case that I helped correct, Charley Prine is one of my favorite judges, but Mr. Collins or Ms. Harrington may be just as efficient and fair and good humored as Charley. But who knows? The carpenter who just wants to get his case heard and his child support obligation calculated so he can get back to work by the afternoon does not care about political

party or experiences or legal scholarship or even wisdom - he just wants a judge who shows up and rules fairly and quickly.

How Likely is a Democratic Sweep in Harris County in 2018?

I predict (and partially fear) that Democrats will sweep Harris County in 2018. The liberal part of me who was a convention delegate for Jesse Jackson back in the "Rainbow Coalition" days loves that prospect. The family lawyer part of me dreads the prospect of losing excellent judges like David Farr, Roy Moore or John Schmude.

Ed Kilgore wrote accurately in *New York* magazine recently:

Roughly once a decade we see a tidal wave election, almost always at midterm, in which an invisible hand seems to boost candidates of one party and drag down candidates of the other. Candidates who normally win big end up winning by smaller margins. Lawmakers who usually have competitive races often get sucked away by the undertow. Districts that should be safe are no longer safe. Strong campaigns lose to weak campaigns, underfunded campaigns topple well-funded campaigns.

The Cook Political Report, a nonpartisan election handicapper, sees a blue wave coming in 2018. Cook editor Amy Walter sees many similarities now to the run-up to the 2006 election, in which the Democrats took control of the House, Senate, and majority of the governorships.

In Harris County, a change of just 4% in votes would result in a Democratic sweep. In 2014, Judge Lisa Millard defeated Democrat Sherri Cothrun 53.54% to 46.46%. In election after election in 2017, we are seeing changes in vote totals from Republican to Democrat of far more than 4%.

For example, in a special election to replace a Republican State Senator in Tulsa, Oklahoma (a place much more conservative than Houston), Trump won the district in 2016 by 40 percentage points and the Republican Senator who resigned won his election last year by 15% against a well-known, very well funded Democrat. The district had not elected a Democrat in 21 years. Yet, three weeks ago, a married lesbian in an inter-racial marriage won against a much better financed Republican. Allison Ikley-Freeman, a mental health counselor, won by just 31 votes, but that is still a flip of 15% points from just a year ago.

So far in the Trump era, in 2017, there has been an average change in partisan voting in special elections of just over 14% in races for state legislatures. In other words, the average vote total for Republican candidates for state representative or senator has gone down by 14% on average in special elections. Elections for state legislators involve smaller districts and usually less money spent, so they are good barometers of public sentiment. Again, it takes just a swing of 4% for Harris County to go Democratic. Of course, special elections are not general elections and November 2018 is still a year away. It looks now like only the Beto O'Rourke - Ted Cruz at the top of the ballot could be competitive state-wide. A lot can happen in a year, but it is hard to imagine that Trump could suddenly become popular and indictments of his close aides and even family members could well come down in the next months. Each day it seems like Trump comes up with new ways to alienate all but his rabid base, who at most are 35% of the electorate. Democrats running for office in 2018 are praying that Trump keeps on doing what he does best without being impeached prior to mid-October.



This Godly woman just filed to run as a Democrat in 2018.

My advice to family lawyers is to get to know the Democrats running for judge and to appreciate the great judges we have now while we can. As noted above in my article on Judge Roberts in Galveston County, sometimes we luck out and a lawyer elevated to the bench in a partisan sweep year turns out to be really good.

Family Law Primer: Objecting to an Assigned Judge

Even hard working judges go on vacation, deal with family emergencies or get sick (although the chronically ill should do the right thing and resign so that the work of the court can go on, no matter how good the AJ is). Lawyers who find themselves

with an assigned judge instead of the elected, presiding judge, should be familiar with the procedures for objecting to an assigned judge.

Deadline. The objection must be filed before the date of the first hearing or within seven days after receiving actual notice of the assignment, whichever is earlier. Tex. Gov't Code Sec. 74.053(c). An objection is too late if the assigned judge makes any ruling in the case. *Perkins v. Groff*, 936 S.W.2d 661, 666-7 (Tex. App. - Dallas 1996, writ denied).

Wiley Old Lawyer Trick (if you want to keep the assigned judge):

Walk quickly to the bench and ask the assigned judge to order that the "rule" has been invoked before opposing counsel can speak or object to the judge. That is a "ruling" and it then is too late for the opposition to object to the judge.

Wiley Judge Trick:

The court should more than a week in advance, fax counsel in a case set for hearing or trial and notify them that Judge xxx will be a visiting judge that day and has been assigned the case. This notice triggers the seven day deadline to object to the assigned judge.

Form. The objection to the assigned judge must be in writing, but may be handwritten, and preferably should identify the assigned judge by name. Tex. Gov't Code Sec. 74.053(b). *Morris v. Short*, 902 S.W.2d 566, 569 (Tex. App. - Houston [1st Dist.] 1995, writ denied).

Example Form:

Objection to Assigned Judge

This Objection to Assigned Judge is brought by Tim Little, Respondent, who shows in support:

1. In accordance with section 74.053 of the Texas Government Code, Respondent objects to the assignment of Judge Roy Bean to hear this case.
2. Respondent received actual notice of the assignment of Judge Roy Bean on October 20, 2017. This objection, which is being filed no later than the seventh day after that date and before the first hearing or trial over which the assigned judge is to preside, is timely.

Who Can Be Challenged and How Many Times? An active judge assigned to a case cannot be challenged. Tex. Gov't Code Sec. 74.053(e). So, if a case from Judge Dean's court is sent down the hall to Judge Prine, an objection is not allowed. Each party in a case gets just one challenge to an assigned judge who is a retired, former or senior judge. Tex. Gov't Code Sec. 74.053(b). A former judge is a judge who served at least eight years but who is not retired and who was not defeated in his or her last election. Tex. Gov't Code Sec. 74.041(5). There is no limit on how many times a party can challenge an assigned judge who was defeated in his or her last primary or general election. Tex. Gov't Code Sec. 74.053(b)(d).

Objection is Automatic. A timely objection to an assigned judge is mandatory. Tex. Gov't Code Sec. 74.053(b).

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries. The Enos Law Firm serves clients in Galveston County, Brazoria County and Harris County, Texas.



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Issue: No. 78

January 9, 2018

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Did Judge Lonnie Cox Cross Ethical and Possibly Criminal Lines?

I must reluctantly write again that a Galveston County judge appears to have engaged in conduct that is improper, unethical and potentially criminal. I am requesting that the Galveston County District Attorney recuse himself and that a special prosecutor be appointed to investigate the facts I have uncovered, which are summarized below.

The last time I wrote these words, a special prosecutor was appointed and Judge Christopher Dupuy was removed, indicted and finally convicted of a crime (perjury involving this very newsletter and my newsletter articles). I exposed the behavior of Judge Denise Pratt in Houston and found witnesses to prove her behavior and that judge resigned in a deal with the District Attorney to avoid prosecution. I exposed billing abuse on a gigantic scale by a few lawyers appointed to represent children and parents in CPS cases and the Texas legislature completely changed how attorneys are appointed and paid in such cases. So, here I go again.

This article is based on these important, but easy to understand, principles:

- A judge must be fair and appear to be fair,
- It is not proper for a lawyer who is representing a judge to practice law in that judge's court, and
- A judge cannot accept gifts (including free or discounted legal services) from a lawyer who presents cases in that judge's court.

These basic rules are contained in the ethical rules judges and lawyers must follow and in the Texas Penal Code, which makes it a crime for a judge to accept a gift ("benefit") from a person with an interest in a case heard by that judge. This article presents evidence that makes it appear Galveston County District Judge Lonnie Cox may have violated these rules.



District Judge Lonnie Cox

I have uncovered evidence of potential ethical and maybe criminal violations by Judge Cox that concern me deeply because I care so much about the integrity and reputation of our justice system. I am a lawyer who has for 32 years practiced primarily in Galveston County and this article may effect my own cases, because some judges strongly support Judge Cox in his political feud with County Judge Mark Henry. To be fair, I must disclose that I have represented Mark Henry in the past (I charged Judge Henry my normal, full hourly rate), as I have represented other judges as clients. I have in the past supported Lonnie Cox and I have been to his house and consider him a friendly, affable man. I am a divorce lawyer, so I do not practice in Cox's court. But, I am aware of how politically powerful Cox is in Galveston County and how many judges either support or fear him. I have spent many dozens of hours on my investigation (time not spent with my family or working for my paying clients). This is very important to me and it should be to you.

I try my best in this article to be thorough and accurate and above all fair to all involved. I am a lawyer working in Galveston County and you can be sure I would not lightly suggest that a sitting Galveston County judge has violated the rules of ethics and possibly criminal laws. This is very serious business and if I am wrong, then I stand to get in trouble, get sued and even my law license could be in jeopardy. Sadly, I have documented facts and I am very sure I am not wrong about this disturbing situation.

These links will take you directly to specific parts of my article:

- [Introduction and Background Facts](#)
- [Summary](#)
- [Stevens Represented Clients Before Judge Cox While Stevens Was Representing Cox](#)
- [Stevens Represented Cox for a Ridiculously Low Discounted Hourly Rate](#)
- [Stevens Did Not Charge Judge Cox For A Substantial Part of His Legal Work](#)
- [Judicial Ethics: No Gifts to Judges and Judges Cannot Allow Their Lawyer to Practice in Front of Them](#)
- [In Texas, It is a Crime for a Judge to Accept a Benefit From Someone With an Interest in a Case Before the Judge](#)
- [Possible Campaign Finance Violations](#)
- [Conclusion](#)

I have filed a criminal complaint with the Galveston County District Attorney's office based on the facts described in this article. [Click here](#) to read my complaint which I filed with the District Attorney.

I sent rough drafts of this article to Judge Cox, his lawyer, Mark Stevens, and to County Judge Mark Henry and invited their comments and corrections. Henry and Stevens responded. Cox did not. The lengthy response from Mr. Stevens actually made things look much worse for Judge Cox in my eyes and caused me to suggest that a criminal investigation should be launched (by an independent prosecutor, not Jack Roady's office). [Click here](#) to read Stevens' response to my draft article.

All I want are judges who work hard, who are fair and ethical and who do not play favorites. I honor our many judges who meet these criteria and I have made it my somewhat risky hobby to go after those judges who do not. [Click here](#) to read a 2013 Houston Chronicle story about my pursuit of justice, entitled "Lawyer says his hobby is taking on bad judges."



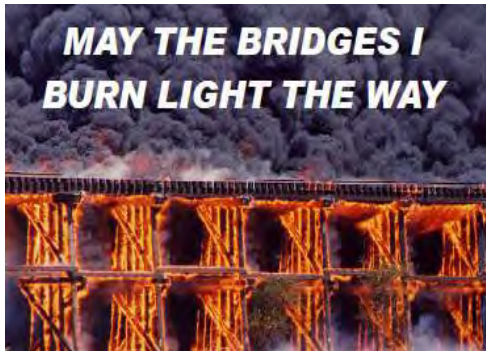
Originally, I was looking into the enormous legal bills paid by the county in defending the lawsuit filed by Judge Cox. As I was trying to figure out how the law firms representing Judge Henry and the county could charge \$1.3 million while Mark Stevens only charged Judge Cox \$17,587.18, I realized that Stevens had represented clients before Judge Cox while Stevens was representing Cox. That stunning discovery changed the focus of my research. My investigation has uncovered the following facts about Judge Cox and I have confirmed these facts with case documents and the people involved, including Judge Cox's

lawyer, Mark Stevens, and their opponent in their recently concluded lawsuit, County Judge Mark Henry. Most of the documents which support the facts below are hyper-linked in this article.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and who actually personally visit their minor clients in their homes). Is that asking too much? Stay tuned.

Greg Enos

The Enos Law Firm



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Introduction and Background Facts

Attorney Mark Stevens began representing Judge Lonnie Cox in September 2014 according to Stevens' bill for Cox. In October 2014, Stevens represented Judge Cox in a mandamus action. In June 2015, Stevens filed a lawsuit for his client Judge Cox against County Judge Mark Henry on June 9, 2015. That lawsuit was pending until Cox had Stevens dismiss the case in July 2017 after the Texas Supreme Court ruled in favor of Judge Henry. Judge Cox sued Judge Henry because Henry fired Bonnie Quiroga, a county employee who served as the director of justice administration. Cox (with Stevens as his attorney) initially won an injunction before a visiting judge but, on appeal, the Texas Supreme Court ruled for Henry's position and sent the matter back to the trial court. Judge Cox then dismissed his lawsuit. Judge Henry would say that Cox dropped his lawsuit because Cox faced near certain defeat after the Supreme Court ruling and the possibility that he might get stuck with the county's legal bills. Judge Cox has said that his lawsuit served its purpose because the county conceded the judges have the right to hire their justice administrator and now separate departments have been established that report to the judges. Others would argue that this dispute should have been resolved between fellow Republican elected officials outside of court and should never have become such a nasty legal and political battle.

Unfortunately for tax payers, Galveston County incurred \$1.3 million in legal fees defending and ultimately defeating Cox's lawsuit. I plan to write an article in the next few weeks about those enormous legal fees paid by Galveston County (which were 74 times what Mark Stevens charged Judge Cox for the same case and at least six times what I would have probably charged for the same work). After Judge Cox dismissed his lawsuit, he made very misleading statements about the case and I published an article that pointed out how he was trying to mislead the public. [Click here](#) to read that article. In my past articles, I criticized Judge Henry for how he treated our local judges and I criticized Cox for his lawsuit and how he turned a disagreement between elected officials of the same political party into World War III.

Summary

Mark Stevens was the lawyer for Judge Cox from September 2014 through July 2017. During that time, Mark Stevens represented civil and criminal clients in the 56th District Court and appeared as a lawyer before his client, Judge Cox. Cox even approved payment of fees to Stevens on criminal appointments while Stevens was representing Cox. That is simply not proper or ethical. However, unethical is not criminal. But, Stevens represented Judge Cox for a hugely discounted hourly rate and in effect was giving a gift to Judge Cox at the same time he was appearing in front of Cox as a lawyer. Stevens only charged Cox \$66 per hour instead of his usual \$150 per hour. Stevens billed Cox for 243 hours, which means that Stevens gave Cox a

discount of \$20,412 on the work he billed Cox for. Worse, Stevens simply did not even bill Judge Cox for a good bit of the work he did on Cox's case (and his own bills prove this). For example, Stevens on April 18, 2016 filed a 54 page "Response to Petition for Review" in the Texas Supreme Court. Yet, Stevens bill shows no charges at all between February 8, 2016 and June 19, 2016. There is no telling how many hours Stevens worked on that 54 page document he filed for Cox, but no charge is very different than a discounted rate. If a lawyer works for free and does not charge a client, he is clearly giving that client a gift that can be measured in dollars and cents. In other situations, it can be a good thing for a lawyer to donate free work. But, if the lawyer is representing a judge and also appearing on other cases in front of that judge, it is a very bad thing.

The ethics rules that govern judges' behavior make it very clear that a judge may not accept gifts from lawyers who practice before them. However, it is a crime under Texas Penal Code Sec. 36.08 for a judge to accept a "benefit" from a person the judge knows is interested in or likely to become interested in any matter before the judge. Case law says a "benefit" can be anything to which a price can be assigned. We all know that an hour of a lawyer's time is something to which a price can be assigned. It is not clear that the law would have been violated just because Stevens worked for Cox for free or at a reduced rate. But, the fact that Stevens appeared in front of Cox as a lawyer while representing Cox for free or at a discount is what makes me believe that Cox and Stevens may have crossed a line from unethical to something far worse. For Cox, the trouble does not stop there. Cox has told the public and local Republicans that he paid his lawyer, Stevens, "out of his own pocket." However, it turns out that Cox paid Stevens from his campaign account just this past June. A 2008 ruling from the Texas Ethics Commission involving a Texas Supreme Court justice said that by paying his lawyer with campaign funds, the judge violated the law by accepting a discount from his lawyers since the discount on legal fees paid with campaign funds was an in-kind political donation that was not reported and which exceeded the maximum donation amount allowed by law. It is a crime for a politician not to report a donation on his political campaign reports.

I was astounded when I realized what Cox and Stevens had done. I could not believe that a smart judge and a Harvard educated lawyer could do something so obviously improper. Surely, they knew they would be under close scrutiny. When Judge Cox sat in his black robe up on his bench and his lawyer, Mark Stevens, appeared in front of him on a civil or criminal case, why didn't Cox just stop everything and tell Stevens that the case had to be heard by another judge? Judge Cox knew he was getting legal work at an incredible discount. Stevens surely knew that he was simply not billing the judge for some of the work he was doing. Stevens tells me that he did insist that some of his cases had to go to other courts and be heard by other judges. Why didn't he follow that common sense approach on all of his cases to avoid getting his client, Lonnie Cox, in trouble? Doing the right thing some of the time is not a defense to doing the wrong thing a few times. A bank robber does not get off because he went to the bank several other times and did not pull a heist.

I can document at least one civil case and 10 criminal cases where Stevens appeared in front of Judge Cox while Stevens was representing Cox. Judge Cox appointed Stevens to represent criminal clients in Cox's court while Stevens was Cox's lawyer and Cox even approved payment of Stevens' fees by the county in those cases. What the hell were they possibly thinking?

My very conservative, Republican neighbors in Friendswood where I live can easily understand why judges should not accept gifts, including free or reduced price services, from those who appear before them or hear cases involving a lawyer who is representing the judge. How could Cox and Stevens not see that?

We expect judges to know and follow the law, to be ethical, to avoid even the appearance of crooked behavior and certainly to not commit crimes. Judge Cox simply should have known better and his behavior described in this article should make us all question his judgment and his basic character. Unless Judge Cox has some extraordinary explanation he has not shared with me, this all convinces me that Cox should not be a judge. Our justice system works only because citizens believe it is basically fair. This behavior by Cox, whether done out of ignorance or arrogance, damages that public trust in the judicial system and for that, he should be held accountable.

Stevens Represented Clients Before Judge Cox While Stevens Was Representing Cox

Mark Stevens apparently does most of his legal work on court appointments for criminal defendants. Stevens represented criminal defendants before Judge Cox during the same time that Stevens was working as the lawyer for Cox. Judge Cox appointed his lawyer, Mark Stevens, to represent defendants in thirteen criminal cases in his court during the period of time that Stevens represented Cox. [Click here](#) to see the notices of appointment when Cox appointed his own lawyer to handle criminal cases in his own court. Stevens was also allowed to keep working on another four other criminal cases that Cox appointed Stevens on before Stevens was Cox's lawyer but which were finalized during the time Stevens was representing Cox. Those cases were finalized after Stevens became the judge's attorney.

Mark Stevens Appointed Criminal Cases

9/25/14 Stevens began representing Judge Cox
7/14/17 Order signed dismissing Cox v. Henry where Stevens represented Cox

13 Criminal Cases Where Judge Cox Appointed Stevens

<u>Case No.</u>	<u>Date of Appointment</u>
14CR3398	11/14/14
15CR0207	2/4/15
15CR0515	3/2/15
15CR0534	3/3/15
15CR0560	3/6/15
14CR3551	4/17/15
15CR1936	8/3/15
16CR3164	11/23/16
16CR2850	12/13/16
16CR3489	12/27/16
17CR0936	4/5/17
17CR0753	4/15/17
17CR1414	5/24/17

4 Criminal Cases Where Judge Cox Appointed Stevens Before 9/25/14 but Which were Finalized Between 9/25/14 and 7/14/17

<u>Case No.</u>	<u>Date Finalized</u>
14CR1889	2/5/15
14CR2418	1/30/15
14CR2510	3/25/15
14CR2680	6/24/15

In one of those criminal cases, Cause No. 14CR1889, on July 16, 2014, Judge Cox appointed Stevens to represent a man accused with sexual assault of a child and other crimes. Stevens filed a motion to dismiss the sexual assault charge and on November 25, 2014, **AFTER** Stevens became Cox's attorney, Cox presided over a contested hearing between Stevens and the District Attorney's office. Contrary to what Stevens wrote me in his response to my draft article, Cox allowed Stevens to argue a contested motion before him. I have ordered a transcript of that hearing. Stevens billed the county on that case 1.5 hours on November 15, 2014 for:

11.25.14 1.5 Preparation and Hearing on Motion to Dismiss. Motion overruled except that Jude Cox grants reques to Seal the instrument filed 9.1.14.

[Click here](#) to see the actual bill which Stevens submitted, Judge Cox approved and the county paid on this case (note the heavy redaction by the county legal department on this document I obtained via a Public Information Act request). This billing by Stevens is very significant because it proves that Stevens presented a contested motion to Judge Cox at a time when Stevens was representing Cox.

I know that in twelve of those criminal cases, Judge Cox approved the fee requests submitted by Stevens.

GALVESTON COUNTY ATTORNEY FEE VOUCHER									
STYLE: State of Texas v. <u>Nicola R. MARION</u> Services Rendered: Beginning <u>11/23/16</u> through <u>1/11/17</u>									
County Court # <u>52</u>	Case#/Offense <u>16 CR 716-1</u>	Case#/Offense <u>Rose, CS</u>	Appearance Date: <u>1/1/17</u>	1/1/17	1/1/17	1/1/17	1/1/17	1/1/17	1/1/17
County Court #	Case#/Offense	Case#/Offense	Appearance Date:	1/1/17	1/1/17	1/1/17	1/1/17	1/1/17	1/1/17
VENDOR LEVEL: ☐ Felony 1 ☐ Felony 2 or 3 ☐ Capital Case or Parity ☐ Capital Case Death ☐ MIP Felony ☐ MIP ☐ MIP Trial ☐ Appeal ☐ Juvenile									
INCOMPLETE VOUCHERS WILL BE RETURNED TO THE COURT UNPAID									
Brief Description	Out of Court (check)	In Court (check)	Date	Number Hours	Rate (check)	Total			
<u>Attended</u>		☒	<u>Attended</u>	<u>1.0</u>	☒ \$65.00 ☐ \$75.00-F1	\$ <u>65.00</u>			
<u>Attended</u>	☒		<u>Attended</u>	<u>1.0</u>	☒ \$65.00 ☐ \$75.00-F1	\$ <u>65.00</u>			
					☐ \$65.00 ☐ \$75.00-F1	\$			
					☐ \$65.00 ☐ \$75.00-F1	\$			
					☐ \$65.00 ☐ \$75.00-F1	\$			
TOTAL 1						T1 \$ <u>130.00</u>			
Mileage, Plane/Travel, etc./Felon					Quantity				
List Case numbers at top of form					\$50.00	\$			
TOTAL 2						T2 \$			
Other Allowable Expenses					Date	Quantity	Cost	Total	
Brief Description									
TOTAL 3								T3 \$	
TOTAL MONIES/PAYMENTS RECEIVED FROM DEFENDANT OR THIRD PARTY (MINUS)						T4 \$			
TOTAL COMPENSATION AND EXPENSES REQUESTED FOR THIS CLAIM (T1 + T2 + T3) - (T4)						T5 \$ <u>130.00</u>			
IMPORTANT: The following attorney information is required and your claim will not be paid unless complete information is provided. If using a NEW ADDRESS, you must complete and attach a new W9.									
You must PRINT LEGIBLY									
PEID #: <u>194514</u>	PRINT NAME		ADDRESS		CITY		ST.	ZIP	
	<u>Mark W. Stevens</u>		<u>P.O. Box 8118</u>		<u>Galveston</u>		<u>TX</u>	<u>77553</u>	
	PHONE NUMBER		FAX NUMBER		TAXID/SSN		BAR NUMBER		
	<u>409.765.6306</u>		<u>409.765.6460</u>		<u>9356</u>		<u>19184300</u>		
ATTORNEY CERTIFICATION									
I, the undersigned attorney, certify that the above information is true and correct and is in accordance with the laws of the State of Texas. The compensation and expense claimed were reasonable and necessary to provide effective assistance of counsel. I further certify that I am/has been licensed by the State of Texas, during the time period these services were rendered, to practice as an attorney in the State of Texas.									
Attorney Signature: <u>[Signature]</u>				Date: <u>1-11-17</u>					
Signature of Presiding Judge: <u>[Signature]</u>				Date: <u>1/11/17</u>					
				AMOUNT					

[Click here](#) to see twelve of the approved pay vouchers signed by Cox for Stevens at a time when Stevens was representing Cox. This means that Cox appointed his own lawyer to handle criminal cases in his court and Cox approved his own lawyer's fees to be paid by the county at a time when Stevens was giving the judge discounted or free legal services. It would have been very easy for Judge Cox to have selected another lawyer when Stevens' name randomly came up in the computerized "wheel" and Stevens certainly could (should) have declined the cases as long as he was representing Cox.

Mark Stevens had this to say about the criminal cases he handled before Judge Cox when Stevens was representing Cox:

In Criminal Cases, I have routinely transferred any case out of Judge Cox's court if it appears to be contested beyond a plea bargain. If cases where a plea bargain is reached, I will present the plea bargain on the record with the court report, and inform all concerned, and especially the accused, of my representation of Judge Cox and the fact it will not be factor. In any such case, both the accused and the prosecutor lodge no objections.

First, that is simply not true. In Cause No. 14CR1889, Stevens did present a contested motion to dismiss to Cox in a criminal case. In any case, a criminal defendant in front of Cox is not going to complain that his lawyer is also the judge's lawyer. Does Stevens really expect a young assistant district attorney who spends his or her entire day in front of Judge Cox to object to Stevens representing the defendant? In the discussion of the ethical rules and criminal statute described in this article, it does not matter if the defendant or D.A. does not object to Cox letting his own lawyer practice in his court. Moreover, while I doubt it is true, if the assistant District Attorney in Cox's court agreed for the judge's lawyer to present criminal cases to Cox, then the District Attorney's office is partially complicit in the ethical misbehavior described in this article. That is another reason for Mr. Rody's office to be recused and an independent prosecutor appointed.

I am still researching whether Stevens did have criminal cases transferred out of Cox's court and I am requesting transcripts of plea bargains Stevens did present to Cox while Stevens served as Cox's attorney. It should be noted that judges can reject plea bargains, so a "deal" between a criminal defense lawyer and the D.A. is not always automatically accepted.

Stevens had this to say about the court appointment fees that Cox awarded Stevens while Stevens was also Cox's lawyer:

Recently, you advised of fee statements in five criminal cases in Judge Cox's court. If there was any benefit to me or other impropriety, I fail to see it. The amounts were trivial. Indeed, in four of the cases, the amounts were less than the \$196 (i.e., 3.0 hours at \$66 per hour) than an attorney may charge without documentation in a simple plea. The only case that exceeded that amount (\$323.40) was hardly munificent, and under the governing statute a judge has little or no discretion to reject or modify a fee request without substantial reason, such as genuine suspicion that the attorney is padding his or her claims of time spent.

First, it is presumably 17 cases, not five (13 where Stevens was appointed while representing Cox and another four that were finalized when Stevens was Cox's lawyer). Second, the ethics rules and criminal statute discussed in this article do not depend on how much a lawyer gets paid on a case before a judge the lawyer represents or has given a gift to. The relatively small fee amounts involved do not in any way excuse the fact that Judge Cox was ruling on fees for his own attorney or excuse the fact that Cox was receiving reduced fees or no charges for work that same lawyer was doing for him. Third, Judge Cox does sometimes reduce the fee requests submitted by lawyers he appoints for indigent criminals. Stevens' reply does not address the real issues this article raises about him working as a lawyer in front of Judge Cox while he represented Cox at a free or reduced rate. Cox could have easily asked another judge to review and approve Stevens' fee requests.

Cox Granted Stevens A Civil Judgment While Stevens Was Cox's Attorney

Judge Cox also heard and decided a civil case presented by Mark Stevens during the time that Mark Stevens was representing Judge Cox in his lawsuit against Judge Henry. Stevens began representing Cox at least by June 9, 2015, when Stevens filed the lawsuit for Cox against Judge Henry in Cause No. 15CV0583. On August 11, 2015, Stevens filed a lawsuit in Cause No. 15CV0829 that was assigned to the 56th District Court - Judge Cox's court. On April 19, 2016, Stevens filed a motion entitled "Motion for Default Judgment" in which he asked for his client to recover \$140,000 owed her on a promissory note and an extra \$28,000 for attorney's fees (which would presumably go to Stevens). Even though the case was pending in Cox's 56th District Court, Mark Stevens typed at the top of his motion that the case was in the 10th District Court. On April 28, 2016, Stevens filed a "Notice of Hearing" that says:

PLEASE TAKE NOTICE that hearing on Plaintiff's Motion for Default Judgment is set to be heard before the 56th District Court of Galveston County, Texas, 600 59th Street, Third Floor, Galveston, Texas 77551 on Thursday, June 2, 2016 at 10:00 a.m.

Stevens again typed at the top of this court document that the case was in the 10th District Court when it was really in Judge Cox's 56th District Court. Mark Stevens, in his written reply to a draft of this article, says that it was "probably a typo" that he kept putting the 10th District Court instead of the 56th District Court in the style of these pleadings and order he filed. [Click here](#) to see the pleadings filed by Stevens in this civil lawsuit before Judge Cox.

On June 2, 2016, there was a hearing and Judge Lonnie Cox signed an "Order Granting Default Judgment" which awarded Mark Stevens' client \$175,700. [Click here](#) to see that default judgment and [click here](#) to see the transcript from the court reporter for that hearing. At that hearing, Stevens appeared before his client, Judge Cox, and presented a case for his other client, who was awarded \$175,700 by Judge Cox. This was a default judgment, meaning that the defendant in California never filed an answer and was not in court to defend himself. Stevens did not say anything on the record about the fact Judge Cox was then his client and Judge Cox did not mention it either.

On June 2, 2016, when Cox granted the civil judgment for Stevens' client, Stevens was still representing Judge Cox in his lawsuit against Mark Henry.

Stevens says in his written response to this article that he waived attorney's fees on the record at the hearing on default judgment in the June 2, 2016 hearing (which is true). Stevens says Cox awarded Stevens' client, "solely the amount borrowed \$140,000, plus 5½% interest to maturity, plus contractual ten percent per annum thereafter on all unpaid sums." Stevens in his reply states, "The judge did not 'give' me or my client anything." Actually, Mr. Stevens, Judge Cox heard your case when he should not have and he awarded your client a substantial sum of money.

In fact, there is always plenty for a good judge to do at a default judgment hearing, even if one side is not present to present a defense. The judge still has to make sure that the defendant was properly served with the lawsuit, that the court has jurisdiction over an out-of-state defendant (the man Stevens was suing lived in California), that the deadline to file an answer has passed, that the proper forms have been filed (certificate of last known address, etc.), and that the proposed judgment is supported by the petition and by the evidence. The judge must still decide how much money to award.

Ethically, Cox should not have heard Stevens' case (see below). Legally, it is not clear that Cox should have awarded Stevens' client the amount he did. The promissory note in question was not dated, so how could Cox know the date to start imposing

interest? Also, it is not clear that Texas Law allows a note with 5.5% interest to charge a 10% late penalty. Tex. Finance Code Sec. 302.001(d) says a note that charges less than ten percent interest can only impose a "delinquency charge on the amount of any payment in default for a period of not less than 10 days in an amount not to exceed the greater of five percent of the amount of the payment or \$7.50." I do not do banking or collections work, but this law seems to suggest that the ten percent late penalty in this note that Judge Cox allowed exceeded the amount allowed by Texas law. Even if you do the math the way Stevens said he did, you get a different amount owed. The real point is the Judge Cox actually heard evidence, made a ruling and then awarded Stevens' client exactly what Stevens asked for in a situation where it is not clear at all that the amount awarded was correct. This might not be a big deal except for the fact that Stevens was at the time also serving as Judge Cox's lawyer and charging a big discount and doing some legal work for no charge; all of which probably triggers a criminal statute that is discussed at length below.

Stevens said this about this civil case in reply to a draft of this article I shared with him:

The Brady v. Howard case was a default judgment and thus was uncontested. When a defendant does not file an answer, all allegations - including those establishing liability - in the plaintiff's petition are deemed admitted except for the amount of unliquidated damages [citation omitted]. There was no contested issue about the attorneys fees or anybody's rate of attorneys fees because, as the transcript clearly shows at pp 6-7, attorney's fees were waived with the specific permission of the Plaintiff. Default motions are ministerial and the judge has no discretion.... The sums awarded were solely the amount borrowed \$140,000, plus 5 ½ percent interest on maturity, plus contractual ten percent per annum thereafter on all unpaid sums. The judge did not "give" me or my client anything.

I have routinely transferred all of my civil cases - which are usually contested by a defendant's filing an answer - out of the 56th to avoid any appearance of impropriety. Most recently, see 17CV0726, Dolores Howard v. Eddy Gorman, et al, which was transferred at my suggestion to the 10th District Court shortly after the case commenced.

Stevens is correct. Cause No. 17CV0726 was transferred by Judge Cox out of his court because of a "conflict of interest" on September 13, 2017 after Stevens was paid by Cox and stopped being Cox's attorney. On my own, I found another case, Cause No. 15CV0729, that Stevens filed in July 2015, a month after Stevens filed the lawsuit for Judge Cox. That case was transferred by Judge Cox to another court because of "conflict of interest." This is exactly what should have been done with the Brady v. Howard case discussed above. Default judgment cases may be "uncontested" in the sense that there is not someone on the other side in court, but not all default judgment requests are granted and the judge still has to decide how much in damages to award. It is still a court case that requires a judge's ruling. Most significantly, the ethics rules and criminal statutes discussed below apply whether or not a lawsuit is contested.

Stevens Represented Cox for a Ridiculously Low Discounted Hourly Rate

Mark Stevens charged Judge Cox \$66 per hour to represent Cox in the lawsuit against Judge Henry. This is what Stevens told me in his written response to a draft of this article:

I have often told people that Cox v. Henry was fun - and I mean that. True, I earn my living practicing law, but I long ago realized [it] was not my karma to make a fortune at it. If I had done the case pro bono and paid all of the out of pocket expenses I would have considered myself well compensated.

Stevens sent me a copy of his bill for his work to Judge Cox. This was never produced in discovery in the case against Judge Henry and I doubt I would have ever seen it if Stevens had not shared it with me. [Click here](#) to see Stevens' bill. Apparently, there was no written contract between Stevens and Judge Cox, even though the ethics rules for Texas lawyers strongly suggest there be a written contract in all cases where the lawyer does not customarily represent the client.

Stevens has on numerous occasions represented to Galveston courts that his usual hourly rate is \$150 per hour. For example, in cause no. 15CV0344, Stevens filed a sworn affidavit under penalty of perjury which stated, "I charge Mr. Wood on an hourly rate of \$150 per hour...I am familiar with the usual, customary and reasonable charges for attorneys fees in Galveston County, Texas and [I] believe that the rate of \$150 per hour is at or below the prevailing rate for an attorney of my experience." In at least three other cases in Galveston County, Stevens filed designations of expert witnesses in which he stated that his hourly rate of \$150 per hour is reasonable. [Click here](#) to see these documents where Stevens says his normal hourly rate is \$150 per hour. Recently, in the case where Bonnie Quiroga is suing the county and Mark Henry, Stevens told the court that he is charging Ms. Quiroga \$125 per hour. So, Ms. Quiroga gets a 16% discount from Stevens' normally hourly rate while Judge Cox was given a 56% discount.

I have been a lawyer for a few years less than Stevens and I charge my clients in civil cases \$400 per hour. I charge \$125 per hour for my paralegals and \$75 per hour for less experienced legal assistants and \$250 for my firm's newest attorneys. The \$66 per hour that Stevens charged Judge Cox is a small fraction of what lawyers in Galveston County normally charge per hour in civil cases.

Stevens Did Not Charge Judge Cox For A Substantial Part of His Legal Work

Mark Stevens' own itemized bill for his client, Judge Cox, proves that Stevens did not charge Judge Cox for a substantial part of the legal work Stevens did for Cox. There is a big difference between giving a client a discount on the lawyer's hourly rate and not charging at all for work done. Below, I provide five of many examples of work Stevens clearly did for Cox which are not reflected on the bill Stevens prepared for Cox.

Stevens represented Judge Cox in a very complex and unusual case. This was not a routine traffic ticket or uncontested divorce. The dispute between the judges and the county commissioners over control of justice administration staff involved unique constitutional and legal issues and there were no standard forms to make the lawyers' work easier. Stevens filed a lawsuit for Cox against Henry, got a temporary injunction, conducted an all day hearing, responded to petitions for mandamus and then appeals in the Court of Appeals and Supreme Court and filed a motion for contempt against Henry. The work Stevens did for Cox involved a ton of research and writing (and lots of meetings with Cox and other judges opposed to Mark Henry - before whom Stevens also practices). This is one reason why Mark Henry's attorneys charged \$1.3 million - this was an important, unusual and hard case.

Stevens did in fact bill his client, Judge Cox, for a lot of the work Stevens did on the case. For example, Stevens' bill for Cox shows this billing on two pleadings filed by Stevens for Cox with the Court of Appeals:

**7.21.15 3.9 Time responding w/Draft to Order of Mediation. Draft submitted to Judge Cox.
MWS to check w/sourc eon Henry's remark in court on July 6.**

8.4.15 2.0 File Response to Multifaceted Motion for "abatement" etc.

Stevens, on July 27, 2015, filed an "Objection to Referral to Mediation" and on August 4, 2015, Stevens filed an "Objection to Motion to Abate, etc." which match his billing on those two documents. That is how a lawyer's bill should be - if a document is prepared and filed with a court, the time spent by the lawyer on the document should be shown on the lawyer's bill to the client.

On August 20, 2015, Stevens filed for Judge Cox an "Objection to Second and 'Final' Motion to Extend Time and Renewed Motion to Enforce Temporary Injunction Under TRAPS 29.3 and 29.4." It does not appear that Stevens billed Cox for his work on this motion filed August 20, 2015:

7.18.15 3.0 Supplemental Motion in View of Emails showing origin of transmission of Henry's Memorandum.

7.21.15 3.9 Time responding w/Draft to Order of Mediation. Draft submitted to Judge Cox. MWS to check w/sourc eon Henry's remark in court on July 6.

8.4.15 2.0 File Response to Multifaceted Motion for "abatement" etc.

8.5.15 NC Note possible helpful case Finance Commission of Texas v. Norwood, 418 S.W.3d 566 (Tex. 2013) which may indicated that Courts can override even constitutional provisions to protect own jurisdiction & prerogatives.

AS of 8.08.15 60.0 Hours Plus Expenses above.

No charge for 8/20/15

9.11.15 2.0 Attention to Mootness Motion

9.12.15 4.0 Drafting on Reply to Mootness Motion

On January 18, 2016, Stevens filed with the Texas Supreme Court a "Reply to the Response in Opposition to Motion to Refer to the District Court Under TRAP 29.4." Again, it does not appear that Stevens included any work on this motion in his bill to Cox (but he did bill for a motion he filed on January 11, 2016 that had to be amended and re-filed the same day):

1.9.16 NC TC from Bill Henderson, atty w/Ed Emmett's office 713 922 0709 seems to be touting mediation as a way of resolving "reasonable" salary. Tried to inform him that there is much more to this case than BQ's salary.

1.11.16 2.8 Revise Filing per instruction from Sup Court Clerk's office. Add Exhibit N per additional Filing. Cost \$23.92 efilng.

1.11.16 *. * Research/Note Kentucky Case Hughes v. Meade, 453 S.W.2d 538 (Ky. 1970) re limits on atty client privilege where purposes of attorney are not for legal advice but other, e.g., anonymity or concealment.

No charge for 1/18/16

2 8 16 See American Type Culture Collection, Inc. v . Coleman, 83 S.W.3d 801 (Tex. 2002) re discussion of what amounts to a question of law for Sup. Jurisdictional purposes.

On October 25, 2016, Stevens filed with the Texas Supreme Court an "Objection to October 24 Request for Extension for Filing Reply Brief." Again, it does not appear that Stevens charged Cox for his work on that filing, which had to have been done on October 24 or 25 since he was responding to something Henry's lawyers had filed on October 24.:

9.14.16 5.0 10:00 am-6:00 pm I Continue. Into Section II. Note in particular that Spears was author of Vondy I and probably felt burned by what happened later, hence concurrence in Mays. Also note and preliminarily brief that simply ordering a "reasonable" salary is futile because of maneuvers like Vondy, and also because it is too vague to be enforced by injunction, mandamus or contempt following those actions

9.15.16 2.0 3:00—5:00 Continue on Brief, Sec III. "Single Commissioner" and in particular additionally noting that appearance and testimony of Henry, Dennard and Holmes constituted a general appearance by a quorum and majority of commissioners.

9.16.16 1.0 Early AM. Continue work on Section IV. Mootness and Statutory construction, noting from Vondy exposure to criminal prosecution under PC 39.01(a)(3).

9.24.16 6.0 Intense work on Brief.

**No charge for 10/25/16
for objection to extension
request**

9.25.16 4.0 Sunday/Conclude Brief

9.26.16 1.0 Final revisions/Pagination. File Brief. Receipt taken.

12.18.16 *. Work on Pleading due to plan to appoint cc administrator at cox150993121916

On April 18, 2016, when Mark Henry first appealed to the Texas Supreme Court, Stevens filed a 54 page "Response of the Hon. Lonnie Cox to Petition for Review." [Click here](#) to see this lengthy and (for Cox) very important filing that must have taken Stevens a long time to research and write. Stevens did not charge Cox for his work on this response, which must have taken many hours to prepare:

1.11.16 2.8 Revise Filing per instruction from Sup Court Clerk's office. Add Exhibit N per additional Filing. Cost \$23.92 efilng.

1.11.16 *. Research/Note Kentucky Case Hughes v. Meade, 453 S.W.2d 538 (Ky. 1970) re limits on atty client privilege where purposes of attorney are not for legal advice but other, e.g., anonymity or concealment.

No charge for 4/18/16

2 8 16 See American Type Culture Collection, Inc. v. Coleman, 83 S.W.3d 801 (Tex. 2002) re discussion of what amounts to a question of law for Sup. Jurisdictional purposes.

6.19.16 .8 research; note Tom Green County v. Proffitt, 195 SW2d 845 (Austin 1946 dism'd w.o.j.) Involving Court reporter salaries. H: Court Reporter Salaries are "incident for the functioning of the courts which the legislature [provides?] under [Tex. Const.] Art V, Sec. 1." Compare Court Reporters to Justice Admin director. See also Harris Co. v. Hunt, 388 SW2d 549 (Houston 1965) and Wichita Co. v. Griffin, 284 SW2d 253 Fort Worth 1955.

After oral arguments before the Texas Supreme Court, Stevens filed a post-submission brief for Cox on March 14, 2017. Stevens clearly did not bill Cox for the work on that filing:

3.9.17 4.0 Attend Oral Argument at Austin

Hotel \$ 169

Parking 25

No charge for 3/14/17

5.19.17 1.0 Receive judgment from Tex Sup. Court. Confer w/Judge Cox re same; read opinion and notes for research

At the very end of the case against Mark Henry, on May 23, 2017, Stevens filed a motion to dismiss for Judge Cox. Stevens did not bill for preparing that motion.

There is other legal work that Stevens did for Cox that Stevens did not bill for. Attorneys who receive a filing from the opposition, almost always bill their client for the time spent reviewing what the other side filed with the Court. This is actually important work because the lawyer must decide if he must file a response and decide how the new filing might affect the case. I certainly bill my clients for time spent reviewing pleadings and motions received from the other side and Judge Henry's lawyers did as well. Stevens simply did not include this work in his bill. Stevens also did not bill Cox for the approximate eight hours Stevens spent driving to and from Austin in March 2017 when oral arguments were presented to the Texas Supreme Court. Lawyers almost always bill clients for out-of-town travel. Stevens included the \$169 hotel charge and \$25 for parking in Austin but not for his travel time or travel expenses (air fare or gas).

In other situations, lawyers are free to not charge clients for some of their work and I certainly do that frequently. However, the fact that Stevens clearly did not charge Judge Cox for substantial amounts of legal work becomes very important because Stevens at the same time was appearing in front of Judge Cox on other cases and it is a crime for a judge to accept a "benefit" from a person the judge knows is interested in or likely to become interested in any matter before the judge.

Judicial Ethics: No Gifts to Judges and Judges Cannot Allow Their Lawyer to Practice in Front of Them

A judge should not hear a case presented by a lawyer (or law firm) who is at the same time representing the judge in a pending case. Imagine if you were getting sued by a neighbor and you showed up in court and realized that your opponent's lawyer is at the same time the lawyer for the judge who will decide your case. That would not seem fair and it would make you question the fairness and integrity of the judge, which is why the Texas Rules of Civil Procedure and the Texas Code of Judicial Conduct would require the judge to recuse himself and take himself off the case. That is exactly what happened in the case of *Monroe v. Blackmon*, 946 S.W.2d 533 (Tex. App. - Corpus Christi 1997)(orig. proc.). There, the judge was represented by a law firm in another case and that same law firm represented a railroad as a defendant before that same judge. The Court of Appeals granted a writ of mandamus and ruled that the situation was one where the judge's "impartiality might reasonably be questioned." Thus, Texas Rule of Civil Procedure 18a(2)(a) required the judge to take himself off the case so that he was not hearing a case presented by lawyers who were at the same time representing the judge in another case.

The Texas Code of Judicial Conduct states:

Canon 1: Upholding the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and should personally observe those standards so that the integrity and independence of the judiciary is preserved. The provisions of this Code are to be construed and applied to further that objective.

Canon 2: Avoiding Impropriety and the Appearance of Impropriety in All of the Judge's Activities

A. A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. A judge shall not allow any relationship to influence judicial conduct or judgment....

Canon 3: Performing the Duties of Judicial Office Impartially and Diligently

...B. Adjudicative Responsibilities.

(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required or recusal is appropriate.

Cox did not avoid the appearance of impropriety and he certainly did not promote public confidence in the integrity and impartiality of the judiciary when he allowed his own lawyer to practice in his court.

If I usually charge \$400 per hour and I agree to represent a judge for \$200 per hour, that is a "gift" to that judge, just as if I were to sell a house worth \$150,000 to a judge for \$66,000. If I give the house for no charge to the judge, I certainly have given the judge a gift. It surely was a "gift" for Stevens to do work on Cox's case that Stevens did not charge for.

The Texas Canons of Judicial Ethics in general forbid gifts to judges. Canon 4(D)(4) lists the gifts a judge may accept and this gift from Stevens is not one of the accepted categories. The rule states, "(4) Neither a judge nor a family member residing in the judge's household shall accept a gift, bequest, favor, or loan from anyone except as follows:..." None of the exceptions listed would apply to Stevens representing Judge Cox.

Texas Judicial Ethics Opinion 215 (1997) makes it very clear:

Canon 4D(4)(c) clearly states neither a judge nor his family may accept gifts from anyone whose interests have come or are likely to come before the judge. Therefore, **a judge may not accept gifts from lawyers or parties who have come or might come before the court.**

Texas Judicial Ethics Opinion No. 216 states as follows:

LAWYER HOSPITALITY

Opinion No. 216 (1997)

QUESTION: Would it be proper for a judge who is hearing a case out of county to stay in the lake house of a lawyer who often appears in his court? The lawyer has no connection with the out of county case. Would it make any difference if the county paid the attorney the same rate that would be paid if the judge stayed in a motel?

ANSWER: No, a judge may accept gifts or hospitality only under very limited circumstances as described in Proposed Opinion No. 215. This use of the lake home is specifically disallowed in Canon 4D(4)(c), i.e., **a judge may not accept the gift from a person whose interests have come or are likely to come before the judge.** If the county pays for the judge's stay, the judge could avoid ethical violation, but only if the payment is commensurate with the market value of the accommodations and the rental is done regularly and not just to the judge.

If a lawyer cannot let a judge stay in his lake house for free, how can a lawyer give a judge a fee reduction of over 50% or do legal work for the judge and not charge for it?

These ethics rules do not depend on the amount or value of the gift given to a judge. A \$75 pass to Top Golf is just as unethical as a \$75,000 Lexus if given to a judge by a lawyer who appears in that judge's court. Gifts to a judge are unethical no matter how long the lawyer has been friends with the judge if the lawyer is appearing in the judge's court.

In summary, Texas law makes it clear that a judge should not hear a case presented by a lawyer who is at the same time representing the judge in another case. In that situation, the judge should recuse himself. The ethical rules that control a judge's conduct require the judge to avoid even the appearance of impropriety. The ethical rules do not allow any relationship to influence the judge's conduct. The ethical rules say that a judge should not hear a case if "disqualification is required or recusal is appropriate."

In Texas, It is a Crime for a Judge to Accept a "Benefit" From Someone With an Interest in a Case Before the Judge

To be clear and fair to Judge Cox, there is no appellate case that specifically says that it is a crime for a judge to let a lawyer practice in his court who is at the same time representing the judge for a discounted or free rate. But, the Texas Penal Code does make it a crime for a judge to accept a "benefit" from any person the judge knows is interested in or likely to be interested in a case before that judge. It appears to me that a lawyer giving a judge his legal services for free or at a discount is a "benefit." This is what the law says:

Texas Penal Code

36.01(3) "Benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

Sec. 36.08. GIFT TO PUBLIC SERVANT BY PERSON SUBJECT TO HIS JURISDICTION.

....

(e) A public servant who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any matter before the public servant or tribunal.

....

(h) An offense under this section is a Class A misdemeanor.

Smith v. State, 959 S.W.2d 1 (Tex. App.-Waco 1997, pet. ref'd) discusses at length the meaning of "benefit" in Sec. 36.08, including the legislative history of this criminal statute. The court of appeals in that case concluded that a New York book store company provided a "benefit" to a Texas A&M official when the company paid for the official's air fare, lodging and entertainment on trips to New York City to negotiate an extension of the company's contract with the university. The court explained the definition of "benefit":

Black's Law Dictionary defines "pecuniary" in part as something "which can be valued in money." BLACK'S LAW DICTIONARY 1131 (6th ed. 1990). Webster's Collegiate Dictionary defines the verb "value": "to estimate or assign the monetary worth of...." WEBSTER'S COLLEGIATE DICTIONARY 1305 (10th ed. 1993). "Price" is a synonym for "worth." RANDOM HOUSE, ROGET'S THESAURUS 678 (2d ed, 1995). Thus, as opposed to Smith's proposed interpretation, a "benefit" could also be anything to which a price can be assigned.

If Mark Stevens provided Judge Cox an \$84 per hour discount, then that would seem to be a "benefit" as defined in this criminal statute because it is something to which a price can be assigned. If Stevens gave Cox free legal work that he did not even bill for, that would also be a "benefit." Even if you accept the number of hours that Stevens billed Cox for, he gave Judge Cox a discount of \$20,412 (\$150 normal hourly rate less \$66 he charged = \$84 x 243 hours billed by Stevens = \$20,412). It seems almost certain that Stevens did many more hours of legal work for Cox that he did not even charge Cox for. All of this is something to, "which a price can be assigned," so it would seem to meet the definition of "benefit" in the criminal statute.

If Stevens' work at a discount or for free was a "benefit", then the Texas Penal Code may apply if Cox knew Stevens was interested in any case before Judge Cox. Cox clearly knew Stevens was appearing in front of him when he appointed Stevens on at least 13 criminal cases. Stevens had a financial interest in those criminal appointments because his client, Judge Cox, approved his fees that were paid by the county. On November 25, 2014, Judge Cox clearly knew Stevens was his lawyer when Stevens appeared in front of him arguing the motion to dismiss for the man accused of sexual assault on a child. Cox would have known that Stevens would be paid for that work in his court and thus had a financial interest in the matter. In June 2016, Judge Cox obviously knew that Mark Stevens was his lawyer when he appeared in front of him in the above civil case where Cox awarded Stevens' client \$175,700. Stevens, at least in his client's petition and motion for default judgment, had a financial interest in the civil case he presented to Judge Cox because he was seeking an award of attorney's fees (although Stevens waived attorney's fees at the hearing).

Mark Stevens should have known that he could not provide a gift or benefit to a judge who hears his cases. Texas Penal Code Sec. 36.09 states:

Sec. 36.09. OFFERING GIFT TO PUBLIC SERVANT.

(a) A person commits an offense if he offers, confers, or agrees to confer any benefit on a public servant that he knows the public servant is prohibited by law from accepting.

(b) An offense under this section is a Class A misdemeanor.

In fairness to Cox and Stevens, Texas Penal Code Section 36.10(a)(2) provides a defense to prosecution where the "benefit [is] conferred on account of ... a personal, professional, or business relationship independent of the official status of the recipient." TEX. PENAL CODE ANN. § 36.10(a)(2). I expected Stevens to say that he gave the fee discount to Judge Cox because he was a fellow member of the bar or a long time friend. But, Stevens did not even try to make that argument in his lengthy written response to the draft article I shared with him. Stevens instead wrote that "the Cox v. Henry case was downright simple," and that he considered Judge Cox's financial circumstances (Cox makes over \$168,000 per year). No person who looks at all of the legal filings and briefs in the Cox v. Henry case could accurately say it was a simple case. Lawyers routinely charge their full hourly rates to clients who earn a lot less than Judge Cox. Stevens' response to the suggestion that criminal laws may have

been violated is weak, absurd and does not at all address the facts described above. [Click here to read Stevens' full response to me.](#)

Stevens' written reply to me should be important evidence if any criminal charges ever arise from this situation primarily because of what Stevens did not say. The decision whether to bring criminal charges, should be decided by a neutral prosecutor or judge or jury and not the current Galveston County District Attorney, who has an obvious conflict of interest because his office presents hundreds of cases in Judge Cox's case every year.

Possible Campaign Finance Violations

Judge Cox did not pay his attorney Mark Stevens "out of his own pocket" as Cox has repeatedly told local Republicans and *The Galveston Daily News*. In his most recent campaign finance report, Cox reported a payment of \$17,587.18 to Mark Stevens on June 9, 2017 for "legal services." [Click here](#) to see the campaign finance report.

1 Total pages Schedule F1: Sch: 4/5 Rpt: 7/8	2 FILER NAME Cox Jr., Obie A. (The Honorable)	3 Filer ID (Ethics Commission Filers) 00051818
4 Date 01/10/2017	5 Payee name Rotary Club of Texas City	
6 Amount (\$) \$150.00	7 Payee address; City; State; Zip Code P.O. Box 2699 Texas City, TX 77592-2699	
8 PURPOSE OF EXPENDITURE	(a) Category (See Categories listed at the top of this schedule) Event Expense	(b) Description ☐ Check if travel outside of Texas. Complete Schedule T. ☐ Check if Austin, TX, officeholder living expense Mardi Gras Gala Tickets
9 Complete ONLY if direct expenditure to benefit C/OH	Candidate/Officeholder name	Office sought Office held
Date 06/09/2017	Payee name Stevens, Mark W.	
Amount (\$) \$17,587.18	Payee address; City; State; Zip Code P.O. Box 16138 Galveston, TX 77552	
PURPOSE OF EXPENDITURE	(a) Category (See Categories listed at the top of this schedule) Legal Services	(b) Description ☐ Check if travel outside of Texas. Complete Schedule T. ☐ Check if Austin, TX, officeholder living expense Attorney Fees
Complete ONLY if direct expenditure to benefit C/OH	Candidate/Officeholder name	Office sought Office held

The problem for Cox is that by reporting his payments to Stevens on his political finance report, Cox probably should have reported an "in-kind" donation from Stevens because of the discount on his legal services. Texas politicians are required to report in-kind donations, which include discounted fees for services to a campaign. In 2008, the Texas Ethics Commission ruled that Supreme Court Justice Nathan Hecht violated the law when he paid lawyers from campaign funds and then those lawyers gave him a \$163,226 discount (34% off the full bill). The Ethics Commission ruled that the law firm's discount was an in-kind contribution that should have been reported and which exceeded the legal limits on contributions to a judge. Justice Hecht was assessed a \$29,000 civil penalty. Hecht filed a lawsuit to appeal the fine. Hecht's lawsuit was not pursued by the Republican Attorney General and it lay dormant for six years and then Hecht settled the case by paying \$1,000 without admitting he was at fault. [Click here](#) to read the ruling of the Texas Ethics Commission.

Just like Justice Hecht, Cox paid his lawyer from his campaign contributions. Just like Hecht, Cox received a big discount on his

legal fees. Like Hecht, Cox did not report the in-kind contribution from Stevens and the amount of the in-kind contribution exceeds the legal limit on how much can be donated to a Galveston County District Judge.

It appears that Judge Cox may have violated campaign finance laws in at least three respects: he accepted a campaign contribution that exceeds the \$2,500 per person limit for judicial races in Galveston County (Election Code Sec. 253.155); he accepted an in-kind campaign contribution outside of the period when a judge up for election in 2016 and 2020 can accept contributions (Election Code Sec. 253.153); and he failed to report the in-kind contribution of Stevens (Election Code Sec. 254.031). It is a crime (Class A misdemeanor) for an elected office holder to omit from his campaign finance reports contributions that he was required to disclose (Election Code Sec. 254.041).

Conclusion

My reputation and business as a lawyer working in Galveston County are on the line when I suggest that a politically powerful, sitting judge may have violated ethics rules and even criminal laws. I have spent over 100 hours researching and writing this article and I have tried to be as thorough, accurate and fair as I can be.

I invited Judge Cox to respond to a preliminary draft of this article but he did not do so. I will be happy to publish in full any response Judge Cox sends me after he reads this final article. Cox's attorney, Mark Stevens, did send me a written response and his letter actually convinced me that a criminal investigation should be launched.

In America, we usually do not use the police or army to make people follow and respect the rulings of judges. People may leave divorce court or criminal court or civil court not liking the outcomes of their cases but the vast majority still respect and follow the judges' rulings because the public in general respects the judicial system and feels it is fair and honest. Our entire system of laws will crumble if the public loses confidence in judges. This is why ethics rules tell judges to avoid even the appearance of misconduct. This is why it is not ethical or legal for people who appear in front of judges to give them monetary gifts. This is why a judge cannot hear a case presented by a lawyer who is representing the judge in another case. These common sense rules of fairness are meant to preserve public confidence in our judges. Lonnie Cox certainly knew all of these rules and yet he still allowed Mark Stevens to practice in front of him and he still accepted discounted or free legal services from Stevens. I bear no ill will toward Judge Cox and I still like him on an individual level. But, Cox has let us all down and his actions should be investigated by an independent prosecutor and the Commission on Judicial Conduct.

Judge Cox can be really hard in his court on criminal defendants who have broken the law. Cox deserves the same treatment he dishes out in his court if it is determined that he has broken the law.

District Attorney Jack Roady should recuse himself because his office has many pending cases before Judge Cox. That is exactly what Roady did when I filed a criminal complaint against Judge Dupuy and a special prosecutor was appointed. That is what should happen with Judge Cox. This matter should be investigated and resolved before the March 2018 Republican primary. If Cox has not committed any crime (and I actually hope that is the case), then a neutral prosecutor or grand jury should decide that and the voters should know before the election. If Cox is charged with a crime, then the voters also need to know that before election day.

I do not publish this story about Judge Cox without thinking of the consequences and how it may effect Cox and Stevens. I do not enjoy embarrassing these colleagues I have known for many years. I realize this is a very serious matter. But, I have done this before and twice now my criminal complaints and stories in this newsletter resulted in judges being removed, indicted or resigning.

I give Cox credit for standing up for local judges against some overreaching actions of the county commissioner's court, but that does not excuse what Cox did in this situation. If Judge Cox has an actual explanation or defense to what I have written in this article, then he should share it. Attacking me for being a Democrat or having been Mark Henry's lawyer in the past is not an answer to these very serious allegations. I have supported many Republican judges because they work hard, and are fair and ethical. I care about the integrity and reputation of our judicial system regardless of politics. I challenge Judge Cox to show he does as well.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries. The Enos Law Firm serves clients in Galveston County, Brazoria County and Harris County, Texas.



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The International Journal on the Reform of Family Courts

The Mongoose

Published by Greg Enos

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In this issue

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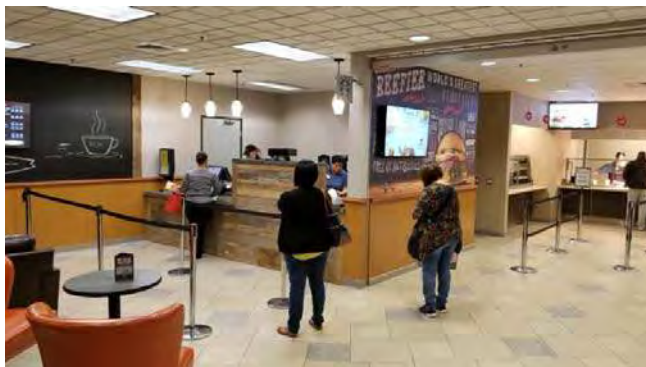
- [Judge Lisa Millard Should Resign](#)
- [Meet the Democrats: Tristan Longino](#)
- [Will a Democratic Tsunami Hit Harris County?](#)
- [The 507th is Rejecting Standard TRO's Straight Out of the Form Book](#)

Finally... Food!

The Harris County Civil Courthouse has been without a cafeteria for over six months. This past Wednesday, that sad situation changed with the opening of a Luby's/Fudrucker's and a Starbucks in the basement.



The Starbucks is not a full service operation and its employees do not make the esoteric coffee drinks, but it is open from 6:30 a.m. until 5:30 p.m.



Judge Dean Knows How to Conduct a Jury Trial

Judge Sheri Y. Dean and I have not always seen eye-to-eye on her legal rulings in some cases. But, after my trial with her weeks ago, I can certify that the woman really knows how to conduct a jury trial. Judge Dean may waste time at docket call chatting with lawyers before they start discussing their cases, but she runs jury trials with efficiency and she starts early and on time. Thanks to my days as a personal injury attorney, I have been involved in over 100 jury trials, so I can tell when a judge does not know what he or she is doing in a trial by jury. Judge Dean is friendly with the jury, firm with the lawyers and she knows the procedures. For example, she required the lawyers to provide an explanation even when we both agreed that a prospective juror should be struck for cause. She pointed out errors in our jury charge and then was willing to reword the *Pattern Jury Charge* question on the geographic restriction based on the testimony in our case. She immediately conducted the property portion of the divorce trial as soon as the jury went out to deliberate. Judge Dean was strictly neutral with the lawyers and she made no comments that could have made the jury suspect who she was for.

I often write to criticize judges, so it is only fair to share praise just as often. Judge Dean's staff, from the bailiff to the court reporter to the clerk, was just as efficient and highly skilled in how they handled the jurors and the lawyers. They were very friendly with the nervous parties and Delores Johnson definitely helped out the lawyers with the audiovisual equipment.

I am still in my second jury trial in two weeks (fifth trial in four weeks), which explains my delay in getting another issue of this newsletter out to you.

The Mongoose Effect

[Click here](#) to read the last issue of this newsletter which suggested Galveston County District Judge Lonnie Cox should be investigated for possible ethical and even criminal issues because Cox's lawyer in a civil case was allowed to practice in Cox's court, was appointed by Cox on criminal cases, his criminal fees were approved by Cox and then that lawyer gave the judge legal services for free or at a greatly reduced rate. My story was the top headline in the *Galveston Daily News* the next day.



The next day, another front page article in the newspaper quoted a legal ethics expert, who agreed with me:

Accepting reduced or free legal services from an attorney could be construed as a gift and give an appearance of impropriety, especially if the attorney providing those services continued to have cases in the judge's court, said James Alfini, a law professor and dean emeritus at South Texas College of Law who specializes in judicial ethics. "This situation has all sorts of ethical issues," Alfini said, prefacing that he couldn't speak to any criminal violations. "It seems to me there's enough here it would trigger an investigation pretty quickly."

A third article in the *Galveston Daily News* provided more details of my complaint and essentially said that Cox has misled the newspaper about how he paid his lawyer (my article revealed he used campaign funds to pay his attorney). The *News* wrote:

In interviews with The Daily News, Cox had not disclosed he was paying for the legal fees from his campaign fund and in a guest column Cox wrote and which appeared in the Jan. 18 edition of the newspaper, he said: "I paid the entire bill from my bank account."

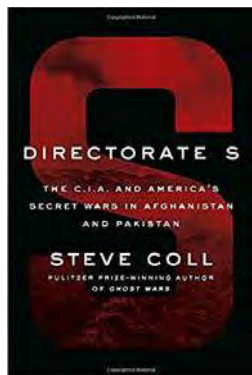
A lengthy editorial in the *Galveston Daily News* also discussed my allegations and questioned the timing of my article. [Click here](#) to read this editorial. I would explain to the editor of the *News*, whose reporters never do independent, in-depth investigative journalism that questions elected officials, that I published my article as soon as I discovered that Judge Cox had been appointing his own civil lawyer in criminal cases and only after I had spent a few weeks investigating and confirming facts.

District Attorney Jack Roady is properly recusing himself from investigating Cox and he has turned the matter over to the division of the Texas Attorney General's office which assists DA's in similar situations. The Attorney General is not taking any action before the March 6 primary and will not confirm or deny it is investigating Cox. Two sources confirm the AG has the case. It makes sense that the state prosecutors will start work after the primary election tomorrow where Judge Cox is running against County Judge Mark Henry. Of course, an investigation does not mean any crime was committed. Judge Cox hotly denies he did anything wrong, although his many e-mails about me fail to really respond to the 100% provable facts I outlined in my article. [Click here](#) to read one of several e-mails Cox sent out about my investigation. My newsletter story and my name are being mentioned a lot in advertisements and mass e-mails in this very nasty Republican contest. My investigation even plays a role in the political sign wars.



Book Reviews

Directorate S



Sherlock Holmes' lodge-mate, Dr. John Watson, an injured veteran of the Battle of Marawand, knew in 1881 that the world's most powerful military could regret invading Afghanistan. In fact, Britain invaded Afghanistan twice and each time experienced disaster and ultimate retreat. The Russians learned that lesson in the 1980's and now it is the turn of the United States. Our nation has spent over a trillion dollars on the longest war in its history and there is no end in sight to the conflict in Afghanistan. In fact, it appears that we are currently losing that war as the Taliban gains territory and wreaks havoc in the cities controlled by the corrupt government we support.

Steve Coll is the dean of Columbia's Graduate School of Journalism and he has won two Pulitzer Prizes. His second was for his 2004 book, "Ghost Wars," a history of conflict in Afghanistan from the 1979 Soviet invasion to the eve of 9/11. "Directorate S" continues that story from 2001 through 2016. The title, "Directorate S" refers to the arm of Pakistani intelligence that focuses on Afghanistan. One of the many mistakes made by the American military when it invaded Afghanistan, was to totally misread Pakistan's influence with, and plans for, the Taliban. Pakistan acted as if it was cooperating with the U.S. but it never stopped

helping the Taliban. While Washington paid subsidies to Pakistan amounting to hundreds of millions of dollars, the Pakistanis were still actively supporting the Taliban. Pakistan's military leaders were playing a double game, the U.S. military knew they were and yet could do nothing about it. Coll explains why Pakistan feels Afghanistan and the Taliban are so vital to its strategy to contain their foe India and to disrupt Kashmir. The wonder is that our military leaders were not able to figure out what Coll does such a great job of explaining in his book.

[Click here](#) to buy the book from Amazon, which describes the book as follows:

Today we know that the war in Afghanistan would falter badly because of military hubris at the highest levels of the Pentagon, the drain on resources and provocation in the Muslim world caused by the U.S.-led invasion of Iraq, and corruption. But more than anything, as Coll makes painfully clear, the war in Afghanistan was doomed because of the failure of the United States to apprehend the motivations and intentions of I.S.I.'s "Directorate S". This was a swirling and shadowy struggle of historic proportions, which endured over a decade and across both the Bush and Obama administrations, involving multiple secret intelligence agencies, a litany of incongruous strategies and tactics, and dozens of players, including some of the most prominent military and political figures. A sprawling American tragedy, the war was an open clash of arms but also a covert melee of ideas, secrets, and subterranean violence.

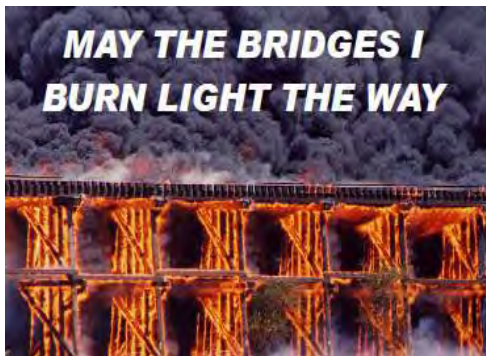
Coll excavates this grand battle, which took place away from the gaze of the American public. With unsurpassed expertise, original research, and attention to detail, he brings to life a narrative at once vast and intricate, local and global, propulsive and painstaking.

This is the definitive explanation of how America came to be so badly ensnared in an elaborate, factional, and seemingly interminable conflict in South Asia. Nothing less than a forensic examination of the personal and political forces that shape world history, Directorate S is a complete masterpiece of both investigative and narrative journalism.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and who actually personally visit their minor clients in their homes). Is that asking too much? Stay tuned.

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Judge Lisa Millard Should Resign

A woman who has litigated for years in the 310th District Court and gone to court over and over, sat in that court a few weeks ago with her lawyer waiting for their case to be called. The judge was on the bench, so the woman whispered to her lawyer, "What the hell was wrong with that poor judge's mother?" "What do you mean?," asked the confused lawyer. The woman replied in all sincerity, "What mother would ever name her son 'Lisa'?" The woman was looking at Associate Judge Conrad Moren sitting up on the bench in the 310th as he almost always does over the metal name plate that says, "Judge Lisa Millard." In all her years appearing in the 310th, that woman had never seen Judge Millard actually working in her own court. She really

thought that HE was Lisa Millard.



The sad fact is that Judge Millard is seldom at work in her courtroom. Harris County family attorneys all know and frequently complain about this situation, but no one is willing to stand up and say anything about it. Most of us attorneys genuinely like Judge Millard and consider her a really good judge when she is at work. We all have sympathy for her battles with cancer and the complications of her cancer treatments. But at some point, an elected public servant must think of the better good of the public and not her own situation. It is time for Judge Millard to step down after a great career as a jurist and allow a full-time judge to take her place. Millard can enjoy her excellent retirement after 22 years as a judge and still be covered by health insurance.



Judge Lisa Millard

Associate Judge Conrad Moren does an amazing job, largely running the court by himself. But, the litigants, witnesses and lawyers deserve more. We need two full-time, hard working judges in the 310th moving cases and dispensing justice.

I spent the last week in yet another jury trial in the 507th District Court. Each day I would step across the hall to peak inside the 310th and I never saw Judge Millard. It was always Judge Moren on the bench. While I did hear someone mention that Judge Millard had been seen briefly on Tuesday morning, it looked like a typical week in that court that we all have come to expect - no elected judge and an over-worked associate judge.

I had one divorce client who got screwed in arbitration and she was in arbitration only because her enforcement hearings and trials kept getting reset because Judge Millard was not present and the wily opposing counsel objected to the AJ hearing the case. Almost every day outside the 310th, I hear lawyers joking and speculating about whether Judge Millard will be in court. Sadly, most always assume she will not be there and they are usually right. Lawyers I know have seen Judge Millard about town during week day working hours while a few miles away, the 310th courtroom was almost certainly full of nervous parents and expensive attorneys waiting for their cases to be heard.

Someone has to finally say what everyone is thinking - Judge Millard should step down if she cannot or will not work full-time. At this point, after years of prolonged absences from the bench, it does not matter if it is illness or boredom that is causing Judge Millard to so seldom be at work. She is a public servant paid a large salary to work full-time to do very important and demanding work. Millard owes it to tax payers and the families whose lives depend on her court's rulings to step down if she

cannot start working all day every day like she did so well when she was first elected.

I hope Judge Millard is currently healthy and I will feel real bad if I learn she was home last week very sick. I like Judge Millard and consider her a smart, fair judge when she is actually at work. However, these prolonged absences have been going on for years. I was very disappointed to hear that she filed for reelection this year. I guess she assumed that she could glide through another election without anyone pointing out that she is usually not at work. If Judge Millard retires and steps down, she could still enjoy a career as a visiting judge and not worry about losing the general election this November, which would allow lawyers to freely object to her,

The sycophants who make a living off of sucking up to judges will surely attack me for this article, but we all know that the 310th needs a full-time judge and years of prolonged, frequent absences by Judge Millard are just not fair to the families stuck in divorces or custody cases.

I ask lawyers to email me each day starting today to let me know of any Judge Millard sightings in her court and I will keep a running tally of the days that it appears she is present or absent.

Meet the Democrats: Tristan Longino

Roy Moore is about as good as a judge can be in my opinion, but, he may be out of office in ten months if the Democrats sweep Harris County in the election this November (see story below). Attorney Tristan Longino is running unopposed for the Democratic nomination to oppose Moore to be judge of the 245th Family District Court.



Longino has been a lawyer for six years. He is board certified in Family Law as of last year. He currently works for Matt Skillern and in the past he worked for John Nichols Sr. and Chris Spofford. He graduated from the University of Houston Law Center in May 2011. His undergraduate degree was from the University of Richmond in business and he worked as a broker for Merrill Lynch for several years. Longino is married and has two children.

I urge you to look at Longino's campaign web site, as he has some pretty interesting ideas for running a court, including the very good suggestion to do away with docket calls and use that time to hear cases. [Click here](#) to see Longino's web site.

Lawyers should not just assume that a young attorney with limited experience will be a bad judge. Many thought that about John Schmude and he has turned out to be a great judge. We do know that Longino, if he is elected, will not be Roy Moore. At a minimum, things will be different and it will take us all a while to figure any new judges out and feel comfortable predicting how they will rule (which is a huge part of what lawyers do for their clients).

Logino reported in his January 2018 campaign finance report that he had received \$1,055.34 in contributions, spent \$499.64 from those contributions and also spent \$2,529.58 by credit card and \$5,609.58 of his own personal funds. In contrast, Roy Moore reported contributions of \$22,350 and expenditures of \$16,938.77. Moore had a massive \$206,318.57 cash on hand.

I have known Longino for a while and he seems to be a very intelligent, friendly guy. I urge you to take the time to get to know him and his fellow Democratic judicial candidates because 2018 looks to be a year when an anti-Trump, Democratic wave hits even in Harris County.

Will A Democratic Tsunami Hit Harris County?

I do not want to lose some of our really good incumbent judges in Harris County, but I truly think this may well be a Democratic sweep year. Here are a few reasons why:

2018 Will Be The Last Election With Straight Ticket Voting for Judges

The Texas Legislature changed the law and starting in 2020, voters in general elections cannot use straight ticket voting for judges. 2018 will be the last election that allows straight ticket voting for judges. A year ago, the legislature assumed that would help Republicans one last time in a non-presidential election year. Now, many think it will help Democratic judicial candidates in Harris County where Trump lost by 160,000 votes in 2016 (and he is even more unpopular now).

Democratic Turn Out in Early Voting Is Way Up

In the last mid-term election in 2014, 45,292 more people voted in the Republican primary than voted in the Democratic primary in early voting in Harris County. This year, the Democrats had 6,559 more voters participate in early voting. Put another way, the increases from 2014 to the 2018 primaries were as follows:

In Person Voting: Republican turnout increased 6% from 2014 and Democratic turnout increased 308%.

Mail In voting: Republican turnout increased 13.9% from 2014 and Democratic turnout increased 241%.

Total early primary voting: Republican turnout increased 8.14% from 2014 and Democratic turnout increased 292%.

That is an extraordinary increase and strong evidence of how enthusiastic Democratic voters are this year. This is from the *Off the Kuff* blog on the total number of voters in each primary for this year and the last two mid-term elections:

Year	Party	Mail	In Person	Total
=====				
2010	Dem	6,250	33,771	40,021
2010	Rep	12,399	50,250	62,649
2014	Dem	7,359	22,749	30,108
2014	Rep	17,628	57,772	75,400
2018	Dem	17,744	70,172	87,916
2018	Rep	20,075	61,462	81,537

The number of voters in the primary is an indication of the level of excitement and dedication each party will bring into the general election in November. This year's extraordinary primary turn out is a very bad sign for Republicans.

The President's Party Gets Pummeled in His First Mid-Term Election

Political scientists study congressional races and not local judicial races. However, it is reasonable to assume that if one political party gets pummeled in congressional races, its local judicial candidates will have a much harder time with re-election.

A CNBC article of August 8, 2017 explained:

In the 18 midterm elections since World War II, the president's party has lost an average of 25 House seats and 4 Senate seats. Then narrow that group to the midterm elections in which the president's party controls both houses of Congress, and therefore can't easily deflect responsibility for problems onto the opposition. In those nine mid-term elections, the president's party has lost an average of 33 House seats and 4.7 Senate seats.

In an overlapping group of nine mid-term contests, the president's approval rating in the Gallup Poll was below 50 percent immediately before Election Day. In those elections, his party did even worse, losing an average of 36 House seats and 5.8 Senate seats.

Seven modern midterm contests have combined both factors: unified control of both ends of Pennsylvania Avenue and presidential approval below 50 percent. And they paint an even more ominous picture for today's Republican majority in Congress. In those seven midterms, the president's party lost an average of 41 House seats and 6.4 Senate seats. In four

cases, control of the House flipped; in three of them, control of the Senate flipped, too. In ten months, we will face that latter situation: a very unpopular President of the party that controls both houses of Congress.

Historically, Republicans Have a Slight Edge in Mid-Term Elections (Unless the President is a Republican)

From the excellent 538 web site (fivethirtyeight.com):

Overall, in the 10 midterm elections since 1978, the average Republican turnout advantage has been about 3 percentage points. In other words, the GOP does about 3 points better, on average, among midterm voters compared with whatever their margin is vs. Democrats among all registered voters. In short, Republicans have a midterm turnout advantage.

There's a second important force at work during midterm elections, however. The Republican turnout advantage is either exacerbated or all but canceled out depending on which party controls the White House. Scholars have long shown a major loss of support for the president's party in midterm elections. With a Democrat in the White House, the GOP turnout advantage gets even bigger. With a Republican in the Oval Office, the GOP on average barely has any advantage at all.

[Click here](#) to read the entire article.

A Swing of Five Percent Would Elect Democratic Judges in Harris County

For example, in 2014, Sheri Dean got 54.54% of the general election vote and Kathy Vossler got 45.46%. A swing of 5% would have elected Vossler and every single Democrat running for judge in Harris County.

Democrats Are Kicking Ass Across the County in Special Elections

This is what Electoral-Vote.com just wrote:

Across 70 special elections in 2017, Democrats ran 10 points ahead of Hillary Clinton and 7 points ahead of Barack Obama's 2012 results. In the 12 races in 2018 so far, the numbers have gotten even better for the blue team, with their candidates running 23 points ahead of Clinton and 8 points ahead of Obama. It's not very likely that the Democrats can maintain that kind of average swing during the midterms, especially since many incumbents will be running. However, a swing of 5 points is very plausible (and may even be conservative)... [Remember: a swing of five percent in Harris County elects Democrats to all of the local benches].

There does seem to be a correlation between how a party does in special elections and how it does the next year in congressional elections. [Click here](#) for a nerdy article with charts and regression analysis.

Four examples from the superb electoral-vote.com website (where I go first every morning):

February 22 - Forty five point swing in Kentucky. Yet another Democrat has won a special election in a state House district that Donald Trump won by a huge margin. In this case it is KY-49, a district Trump won in 2016 by a margin of 72% to 23% over Hillary Clinton. In Tuesday's special election, Democrat Linda Belcher beat Republican Rebecca Johnson by a margin of 68% to 32%. Going from 23% to 68% is a gain of 45 points for the Democrats

February 13 - Twelve percent swing in Florida. Democrat Margaret Good who was running an anti-Trump campaign, won the state senate seat for Republican-leaning Florida District 72 by 7.4 percent. Trump carried the district by 4.6 percent, so that was a swing of 12 percent. Democrats at both the state and national levels are taking particular notice of Tuesday's win. The area covered by Florida 72 (Sarasota) has 10% more Republicans than Democrats, and was carried by Donald Trump by 4.6 percentage points. The Republican candidate was the son of the area's well known congressman. Further, the last two times that the seat was flipped by a Democrat-1992 and 2006-ended up being Democratic wave elections. Hence the reason that a fairly small local election is being described as a "bellwether."

February 8 - Thirty one point swing in Missouri - Democrat Mike Revis won a Missouri state house seat in a district that Trump won by 28 points. Since he won by 3 points, that's a 31-point swing. The GOP managed to prevail in the three other elections held in Missouri this year, but that's the end of the good news for them, as the point swings in those districts, relative to Trump-Clinton, were 18 points, 25 points, and a staggering 59 points, all in the direction of the Democrats. That's

an average swing, across the four races, of 33.25 points. Since Trump's inauguration, Democrats have flipped 35 contested seats in state legislatures while Republicans have flipped between one and three, depending on your standards (one definite flip in Massachusetts, one uncontested flip in Louisiana, and one flip of an officially nonpartisan seat in Mississippi).

January 18 - Twenty seven point swing in Wisconsin - Democrat Patty Schachtner defeated state representative Adam Jarchow (Republican) in a special election for a vacant state senate seat in rural Wisconsin Tuesday. The district, which borders Minnesota in the northeastern corner of the state, has been in Republican hands for decades. Donald Trump won the district by a resounding 17 points in 2016. Now, an unknown Democrat whose only experience in public office is being a member of a local school board, has knocked off a state representative in a deeply-red rural district by 11 points. Unlike the Alabama special election, where the Republicans ran a badly flawed candidate, Jarchow was a respected member of the state's lower house and he ran a good, well-funded campaign, but the energy on the Democratic side was enormous.

Harris County Demographics Trend Democratic

In 2016, Hillary Clinton beat Donald Trump in Harris County by more than 160,000 votes. In 2012, Obama won Harris County by just 971 votes. Voters with Hispanic surnames increased by 34% in Harris County in the 2016 general election compared to 2012. Each year, the percentage of the voting age population in Harris County that is white shrinks and there are fewer older voters (who tend to support the GOP).

People Are Much More Likely to Vote If They Are Mad

This November, anger against Trump will motivate people to vote even if he is not on the ballot. Political scientists have proven that we are far more likely to turn out if we cannot stand someone. That's one of the conclusions of an ambitious study of voter attitudes spanning a 24-year period led by Jon A. Krosnick, professor of psychology and political science at Ohio State University. The study, involving researchers from Princeton and Northwestern universities and the University of Chicago, builds upon data collected in face-to-face interviews with thousands of Americans over the course of many elections by the National Election Study. The ongoing study, which began at the University of Michigan in 1952, has been funded for the last 30 years by the National Science Foundation. Source: ABC News

The 507th is Rejecting Standard TRO's Straight Out of the Form Book

The defense of "this how is everyone does it" or "this is how it has always been done" should not work if what is being done is just wrong.

The judges in the 507th District Court in Harris County are rejecting standard temporary restraining orders (TRO's) even if they match verbatim with the State Bar form in the Texas Family Law Practice Manual.

It appears that Judges Maldonado and Evans may well be correct in rejecting TRO's using the standard form language.

The Family Code says:

Sec. 6.501. TEMPORARY RESTRAINING ORDER. (a) After the filing of a suit for dissolution of a marriage, on the motion of a party or on the court's own motion, the court may grant a temporary restraining order without notice to the adverse party for the preservation of the property and for the protection of the parties as necessary, including an order prohibiting one or both parties from:

(1) **intentionally** communicating in person or in any other manner, including by telephone or another electronic voice transmission, video chat, in writing, or electronic messaging, with the other party by use of vulgar, profane, obscene, or indecent language or in a coarse or offensive manner,
with intent to annoy or alarm the other party;

The TRO form in the Texas Family Law Practice Manual (and thus Pro Doc) says that the parties are enjoined from:

1. Communicating with the other party in person or in any other manner, including by telephone or another electronic voice transmission, video chat, in writing, or electronic messaging, by use of vulgar, profane, obscene, or indecent language or in a coarse or offensive manner.

The TRO leaves out "intentionally" and "with intent to annoy or alarm the other party." Associate Judge Evans told me that TRO's are being denied if they omit this "*mens rea*" language from the statute. *Mens rea* is a Latin phrase and refers to the defendant's state of mind and intent to commit the act. It was traditionally included in this Latin description of criminal liability -- "*actus reus non facit reum nisi mens sit rea*," meaning, "the act is not culpable unless the mind is guilty." The 507th takes the position that they can only issue a TRO in a divorce case if it complies exactly with what Sec., 6.501 authorizes, otherwise they do not have the power to grant the TRO unless it is supported by an affidavit.

These are all the provisions in Sec. 6.501 that have a "mens rea" component which is not included in the standard TRO language:

- (1) **intentionally** communicating in person or in any other manner, including by telephone or another electronic voice transmission, video chat, in writing, or electronic messaging, with the other party by use of vulgar, profane, obscene, or indecent language or in a coarse or offensive manner,
with intent to annoy or alarm the other party;
- (2) threatening the other party in person or in any other manner, including by telephone or another electronic voice transmission, video chat, in writing, or electronic messaging, to take unlawful action against any person,
intending by this action to annoy or alarm the other party;
- (3) placing a telephone call, anonymously, at an unreasonable hour, in an offensive and repetitious manner, or without a legitimate purpose of communication
with the intent to annoy or alarm the other party;
- (4) **intentionally**, knowingly, or recklessly causing bodily injury to the other party or to a child of either party;
....
- (6) **intentionally, knowingly, or recklessly** destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of the parties or either party with intent to obstruct the authority of the court to order a division of the estate of the parties in a manner that the court deems just and right, having due regard for the rights of each party and any children of the marriage;
- (7) **intentionally** falsifying a writing or record, including an electronic record, relating to the property of either party;
- (8) **intentionally** misrepresenting or refusing to disclose to the other party or to the court, on proper request, the existence, amount, or location of any tangible or intellectual property of the parties or either party, including electronically stored or recorded information;
- (9) **intentionally or knowingly** damaging or destroying the tangible or intellectual property of the parties or either party, including electronically stored or recorded information;
- (10) **intentionally or knowingly** tampering with the tangible or intellectual property of the parties or either party, including electronically stored or recorded information, and causing pecuniary loss or substantial inconvenience to the other party;

I guess we all need to modify our TRO forms to match the statute. I fear some divorce parties will see the word "intentionally" in a TRO and then cleverly decide they can get away with "accidentally" doing something the TRO forbids.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries. The Enos Law Firm serves clients in Galveston County, Brazoria County and Harris County, Texas.



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The Mongoose

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PLEASE DISPLAY IMAGES ON THIS EMAIL

Judge Millard Was At Work on Tuesday!

The *Mongoose* gets results! There was a brief sighting of Judge Lisa Millard on Tuesday after my article was published on Monday calling on for Millard to resign because she is so seldom at work. I was finishing my second back-to-back jury trial on Monday in Houston (my clients won them both!) and a lot of lawyers on the 15th floor came up to me with stories about how their clients were harmed because Judge Millard has repeatedly not shown up for work. Almost everyone seems to agree with my position that the 310th needs a full-time presiding judge. For once, I did not hear from a single person disagreeing with my opinion that Judge Millard should resign if she is unable or unwilling to work full-time after years of prolonged and frequent absences from the bench. [Click here](#) to read my last newsletter explaining why Judge Millard should resign.

One attorney e-mailed me:

I am more than happy to report any Millard sightings. I will be in that court in the morning, so it will be interesting to see if this article gets her motivated to show up. You should ask *** about the contempt case she has had to reset multiple times. Her client lives out of state, so it has been a real nightmare. I feel so bad for Conrad. He works his tail off, but can't sign a single order or make a single appointment. You have to wait months for orders to get signed even though she can do it from home. Poor Nidia has to answer the million dollar question multiple times a day - will Judge Millard be here today. Here is her rote answer. "We expect the judge every day." Hopefully, she will resign. Thanks for your hard work and strong backbone!

I can imagine the Democratic judicial candidates using Millard as the poster child for why they should all be elected. "HARRIS COUNTY DESERVES HARD WORKING, FULL-TIME JUDGES" could well be the slogan of their joint campaign. The really good Republican incumbent judges who do work so hard may have their own interest in seeing Judge Millard retire.

I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and who actually personally visit their minor clients in their homes). Is that asking too much? Stay tuned.

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2018 Primary Results

Harris County: Flowers and Gooden Win in GOP Races
Dem Nominees Will Be Stalder, Dunson, Oakes and Graves-Harrington

Galveston County: Foley Wins, Cox Loses By a Mongoose Whisker

The 2018 primary election results are in. In Harris County, Republican Melanie Flowers beat Alyssa Lemkuil with 64.2% of the vote to run for the post being vacated by the retiring 257th District Judge Judy Warne. Angelina Gooden won the GOP nomination for the 280th by defeating George Clevenger and Geric Tipsword with these results:

Gooden 53.24%
Clevenger 39.15%
Tipsword 7.61%

Gooden's win was a little suprising because George Clevenger was endorsed by two of the "Big Three" Republican "pay to play" slate endorsers.

In Democratic races in Harris County, Angela Graves-Harrington dominated the race for the 246th with 82% of the votes, Barbara Stalder beat Beth Barron for the 280th with 59.9% of the vote and Linda Dunson defeated Kathy Vossler for the 309th Court with 57.9% of the vote.

Natalia Oakes won the nomination for the 313th Juvenile District Couty with 52.5% of the vote.

The nastiest primary race in the Houston area had to be the Republican primary for Galveston County Judge. Incumbent Mark Henry narrowly defeated District Judge Lonnie Cox 51.81% to 48.19% with a margin of 842 votes. I heard from several local Republicans last night who thought my investigation that questioned whether Judge Cox may have stepped over ethical and legal lines may have tipped the electoral scales against him. Now, the Attorney General can step in for the recused District Attorney and investigate my concerns without regard for effecting an election.



Former Judge Kerri Foley is likely to be judge again as she won the Republican primary over Donnie Quintanilla with 53.29% of the vote. Foley will have a Democratic opponent in November but I do not see Galveston County electing Democrats again any time soon. Foley is almost certain now to replace retiring Judge Barbara Roberts in County Court No. 2.

Galveston County District Attorney Jack Roady easily won reelection with 64.5% of the Republican primary vote.

My next issue will have details on the family court judicial races in Harris County now that we know the nominees for both parties.

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries. The Enos Law Firm serves clients in Galveston County, Brazoria County and Harris County, Texas.



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Issue No. 83
April 4, 2018

PLEASE DISPLAY IMAGES ON THIS EMAIL

Just spend 3 minutes of your day and play this recording. Skip ahead on the recording to 4:18 and listen to Dr. Martin Luther King explain what he wanted said in his own eulogy as a way of highlighting his sermon about Jesus' teachings. Dr. King did not know when he gave this sermon that he would be soon be killed by an assassin's bullet 50 days ago today (April 4,1968).

[Click here](#) (and move to 4:18) to hear the recording, read the transcript and be inspired. This moving sermon will make you consider what your eulogy will say and what is really important in life. Those who call themselves "Christians" will hear in this speech a lot of what Jesus told his followers to do but too few actually do. Dr. King said how much he loved American but he did not speak of condemning certain lifestyles or telling people what they cannot do with their own bodies or how to vote. Dr. King instead talked about being remembered for doing things for others and making a difference. King explained that we all have the "drum major" instinct. He said, "We all want to be important, to surpass others, to achieve distinction, to lead the parade." King said he wanted to be remembered as a "drum major for justice."

We should all reflect on Dr. King's life today and then act as "drum majors for justice."



King's "Drum Major Instinct" sermon, given on 4 February 1968, was an adaptation of the 1952 homily "Drum-Major Instincts" by J. Wallace Hamilton, a well-known, liberal, white Methodist preacher. King encouraged his congregation to seek greatness, but to do so through service and love. King concluded the sermon by imagining his own funeral, downplaying his famous achievements and emphasizing his heart to do right. (Source: <http://kingencyclopedia.stanford.edu/>)

This is what Dr. King said about his own funeral:

Every now and then I guess we all think realistically about that day when we will be victimized with what is life's final common denominator—that something that we call death. We all think about it. And every now and then I think about my own death and I think about my own funeral. And I don't think of it in a morbid sense. And every now and then I ask myself, "What is it that I would want said?" And I leave the word to you this morning.

If any of you are around when I have to meet my day, I don't want a long funeral. And if you get somebody to deliver the eulogy, tell them not to talk too long. And every now and then I wonder what I want them to say.

Tell them not to mention that I have a Nobel Peace Prize—that isn't important. Tell them not to mention that I have three or four hundred other awards—that's not important. Tell them not to mention where I went to school.

I'd like somebody to mention that day that Martin Luther King, Jr., tried to give his life serving others.

I'd like for somebody to say that day that Martin Luther King, Jr., tried to love somebody.

I want you to say that day that I tried to be right on the war question. (Amen)

I want you to be able to say that day that I did try to feed the hungry. (Yes)

And I want you to be able to say that day that I did try in my life to clothe those who were naked.

I want you to say on that day that I did try in my life to visit those who were in prison.

I want you to say that I tried to love and serve humanity.

Yes, if you want to say that I was a drum major, say that I was a drum major for justice. (Amen) Say that I was a drum major for peace.

(Yes) I was a drum major for righteousness. And all of the other shallow things will not matter. (Yes) I won't have any money to leave behind. I won't have the fine and luxurious things of life to leave behind. But I just want to leave a committed life behind. (Amen) And that's all I want to say.

If I can help somebody as I pass along,

If I can cheer somebody with a word or song,

If I can show somebody he's traveling wrong,

Then my living will not be in vain.

If I can do my duty as a Christian ought,

If I can bring salvation to a world once wrought,

If I can spread the message as the master taught,

Then my living will not be in vain.

Yes, Jesus, I want to be on your right or your left side, (Yes) not for any selfish reason. I want to be on your right or your left side, not in terms of some political kingdom or ambition. But I just want to be there in love and in justice and in truth and in commitment to others, so that we can make of this old world a new world.

I may not win every case (even if in my heart I expect to). I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and who actually personally visit their minor clients in their homes). Is that asking too much? Stay tuned.

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Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries. The Enos Law Firm serves clients in Galveston County, Brazoria County and Harris County, Texas.



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Issue No. 84
May 30, 2018

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In this issue....

- Millard and the Mongoose Effect
- Changes to Harris County Security Passes
- New Attorney Portal for Galveston County District Clerk Website
- Democrat Judicial Candidate Profiles: Clinton "Chip" Wells

Please Support This Fundraiser this Saturday for Santa Fe

I am asking all my fellow attorneys and their families and employees to support this fundraiser this Saturday, June 2, in Santa Fe for the Santa Fe Strong Memorial Fund. It will be a fun time for a really good cause. Remember... this could have been the school any of our children attend.

[Click here](#) for information on how you can donate to the fund even if you cannot attend the event.





Some Thoughts on School Security

The Santa Fe High School shooting really hit home with me. I knew one of the adults killed and I know a teacher who was trapped in a closet with nine children right next to the art rooms where the killings occurred. Like every parent who sends children off to school each morning, I felt the dreadful terror of “that could be us!”

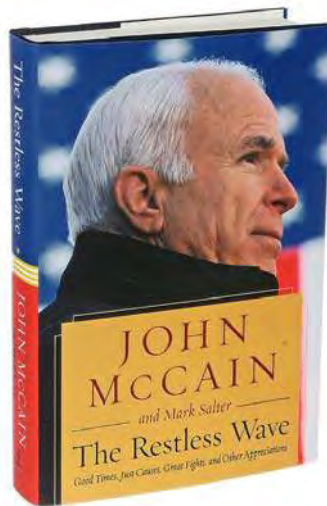
After this shooting, politicians flocked to Galveston County to be seen on television lamenting the tragedy. I was particularly bothered by Harris County Sheriff Ed Gonzalez (a Democrat), who appeared uninvited, snooped around long enough to get a little information and then went to address the assembled media frantic for any information before the actual officials in charge of things were prepared to address the media. [Click here](#) to see Sheriff Gonzalez (who had absolutely no business being in a different county well after the situation was under control) talk to the media. The Galveston County officials actually in charge at the scene were waiting to gather more information and for the Governor to arrive. They were furious that this interloper from another county jumped the gun and spoke to the media first. Eventually, Gonzales was pointedly asked to leave.

Another politician who high-tailed it to Santa Fe was Lieutenant Governor, Dan Patrick. He was widely made fun of for suggesting that the problem is not too many guns but rather too many doors on schools. As much as I disagree with Mr. Patrick on almost every policy issue, I do have to say he has a point on the architectural design of schools and security. I am old enough to remember going into courthouses that did not have metal detectors, x-ray machines or even deputies at the entrance. In the late 1980's, a series of courthouse shootings across the country prompted Texas courts to implement the now familiar security procedures. Before those security changes, most courthouses had several entrances everyone used. Now, lawyers and the public are funneled through just a few entrances with security screening and armed deputies.

When a new elementary school was built in Sandy Hook, Connecticut after the school massacre there, one of the features was restricted access and a main entrance with security features. The problem is that it would cost hundreds of millions of dollars to remodel every school in Texas to limit access and provide adequate security. Imagine a high school with three thousand students and calculate how many security guards it would take to get students and staff searched and through metal detectors every morning. Of course, if a school really was secure and safe, a crazy person could shoot dozens in the parking lot and if the parking lot was secure then it would be the shopping mall or grocery store. So, it turns out that while we do need to make our schools safer, the State of Texas, which does not spend near enough on public education as it is, is simply not going to be able to make every school a secure fortress. So, it does go back to guns, access to guns, mental health, bullying and a culture of violence that teenage boys absorb through their video games, and, of course, good old fashioned parenting. At least Lieutenant Governor Patrick had the decency to not blame this school shooting on transpeople or the sanctity of women's restrooms.

Book Review - "The Restless Wave"

Every American who cares about our democratic values and leadership in the world should read Senator John McCain's "The Restless Wave." Some of McCain's self-mythologizing needs to be taken with a slight grain of salt (he did oppose the first President Bush's tax cuts and then vote to extend them, and he did promise to repeal Obamacare but then cast the deciding vote not to), but McCain shares a perspective and wisdom that is all too lacking in today's political discussions.



McCain accomplishes his goals in this book - to tell the truth without worrying about the consequences and to help shape his final legacy. Free of worries of reelection and battling brain cancer, McCain writes about Trump, Palin, Obama, torture and what has become of his Republican party. McCain writes that he is a proud Reagan Republican. He writes that he is, "Not a Tea Party Republican. Not a Breitbart Republican. Not a talk radio or Fox News Republican. Not an isolationist, protectionist, immigrant-bashing, scapegoating, get-nothing-useful-done Republican. Not, as I am often dismissed by self-declared 'real' conservatives, a RINO, Republican in Name Only."

This is what *The New Yorker* wrote about this book and a related HBO documentary "For Whom the Bell Tolls":

"Maybe I'll be gone before you hear this," McCain says in the audio version of "The Restless Wave." His voice is clear, wry, determined. "My predicament is, well, rather unpredictable. But I'm prepared for either contingency or, at least, I'm getting prepared. I have some things I'd like to take care of first—some work that needs finishing and some people I need to see. And I'd like to talk to my fellow Americans a little more, if I may."

Similarly, the documentary, which airs this weekend on HBO, begins with characteristic pride and self-recrimination: "I have lived an honorable life, and I am proud of my life," he says. "I have been tested on a number of occasions. I haven't always done the right thing." Imagine any of these sentiments coming out of the mouth of Donald Trump. A sense of honor. Self-reflection. Apology. It is impossible to conceive.

McCain proudly admits to passing the Steele dossier on Trump and Russia to James Comey, then FBI director. McCain writes: "I did what duty demanded I do ... I discharged that obligation, and I would do it again. Anyone who doesn't like it can go to hell." Words spoken like a true Maverick. McCain observes that Russia and Putin are engaged in an "information war" that targets "the foundation of our democracy – free and fair elections." McCain calls Putin an "evil man," and admits hating him. McCain also observes, "Trump seems to vary from refusing to believe what Putin is doing to just not caring about it." McCain also says, "And some House Republicans investigating Russian interference seem more preoccupied with their own conspiracy theories than with a real conspiracy by a foreign enemy to defraud the United States."

McCain remembers working with Democrats like Ted Kennedy (who died of the same brain cancer McCain is now fighting) and he discusses several big mistakes he made, like Sarah Palin.

Most fundamentally, McCain reminds us that, "We are citizens of a republic made of shared ideals forged in a new world to replace the tribal enmities that tormented the old one."

While I voted against Senator McCain the one chance I had as a Texan, I will always respect him for, among other things, his bravery as a POW and his willingness to correct a woman who called Obama "an Arab" at a Republican town hall in Minnesota. McCain corrected the woman and was actually booed by the audience. McCain told her, "No, ma'am. He's a decent family man and citizen that I just happen to have disagreements with on fundamental issues and that's what this campaign's all about. He's not an Arab." McCain was a Republican of the sort we now miss, a politician willing to work with Democrats when they agreed and who would not pander to ignorance and prejudice and who would even stick up for his opponent. This is a must read for all those who care about the future of our nation and politics.

I may not win every case (even if in my heart I expect to). I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who zealously look after children (and who actually personally visit their minor clients in their homes). Is that asking too much? Stay tuned.

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Millard and the Mongoose Effect

In physics, the observer effect is the theory that simply observing a situation or phenomenon necessarily changes that phenomenon. I am very aware that this little newsletter can affect the behavior of the judges and lawyers I write about. Sometimes I can affect things by simply investigating and thinking about writing about a situation. For example, a judge in a suburban county decided to not run for reelection after he learned I was staking out his house to prove he never showed up to work in his court.

This week, I saw a very powerful and concerning example of the "Mongoose Effect." It bugs the hell out of me that Judge Millard so seldom shows up to do her job as a family district judge. I have been looking into one particularly egregious example where Millard's absences have prevented a mother owed child support from getting a hearing on her enforcement action she filed in January 2016 . To check my facts, I sent a DRAFT of my article to the lawyers representing the mother and the father and asked them to inform me of any errors or needed corrections before I published the story. Within hours of me sending my emails to the lawyers and letting them know I was going to write about their case, Judge Millard's Court Coordinator called the lawyers and suddenly told them they are now set for a jury trial in their modification case on June 12, in just two weeks (when lawyers on both sides have vacation letters on file). Millard just allowed the prior amicus to withdraw last week and she appointed a new amicus attorney. That means that Millard is suddenly expecting a brand new amicus in a heated custody case to go to a jury trial in two weeks with no advance notice.

Trial of the modification case has been set in January 2016, May 2016, August 2016, November 2016, February 2017, September 2017, May 2018 and (until this week) on September 25, 2018. Now, Millard has moved up their trial by three months to June 12.

Final hearings on the mother's child support enforcement action were set on February 22, 2016, April 4, 2016, August 8, 2016, July 24, 2017, August 21, 2017, November 6, 2017, February 12, 2018, March 19, 2018 and May 7, 2018. Many of these hearing dates had to be rescheduled because Judge Millard was not at work and the father objected to the associate judge hearing the final enforcement hearing.

When the District Clerk's website says "JM Out" it means "Judge Millard is out." When the screen refers to an objection to AJ it means Judge Millard was also not at work that day and the respondent objected to the associate judge presiding over the final enforcement action, which required a new court date. Each time a court date is reset, lawyers must charge even more to prepare for court and travel to and attend court. It also means the parents and witnesses must again take off from work, battle traffic, park, wait for elevators, wait in court and then be told their time has been wasted again and they must return on a future date and do it all over again.

JM OUT =
Judge
Millard is
out

AM	310		Show Cause Docket (Family)	MOTION TO (TRCP 143)	Re-Set	JM OUT
5/07/2018 10:00 AM	310	1	Show Cause Docket (Family)	WITHDRAWAL OF ATTORNEY OF RECORD	Re-Set	JUDGE OUT
	310		Show Cause Docket (Family)	MOTION FOR ORAL HEARING	Re-Set	JM OUT
	310	2	Contempt Docket (Family)	MOTION FOR CONTEMPT	Re-Set	JM OUT/OBJ TO AJ
4/04/2016 09:00 AM	310	2	Contempt Docket (Family)	ENFORCE DECREE MOTION TO	Re-Set	OBJ TO AJ & 507TH
2/12/2018 10:00 AM	310		Contempt Docket (Family)	MOTION FOR CONTEMPT	Re-Set	OBJECTION TO AJ
11/06/2017 10:00 AM	310	2	Contempt Docket (Family)	MOTION FOR CONTEMPT	Re-Set	OBJ TO ASSOC JDGE

Now, suddenly on the same day the lawyers learn I am going to write about this case and how Judge Millard is not bothering to show up for work, Judge Millard suddenly moves up the trial date by three months and schedules a jury trial in just two weeks when two of the lawyers have vacation letters on file. That is an extraordinary coincidence and it seems very reasonable to assume that someone tipped off Millard about my investigation and she rushed to set a trial date because of me (not because of justice or fairness or what these parents or children need and deserve or what the lawyers agreed to). I do not think for a second that any of the fine lawyers currently in this case did anything improper, but someone got my email and apparently got word to Millard.

Reportedly, Judge Millard was informed of the vacation letters on file and she still decided to go with a June 12 trial date. Now, she is forcing the lawyers in this case to file a motion for continuance and possibly ruin their vacations just to be in court to argue for the continuance that

clearly must be granted on a trial date that never should have been set. What judge in their right mind does this to people?

Also, suddenly today, I am no longer able to see this case's docket sheet or the section for judgments/events on the District Clerk's website. That is very odd since I have been looking at both of those records on-line to research this case as recently as yesterday. It is almost as if someone has restricted the public's ability to look up information on this case now that I am writing about it.

If someone did tip off Millard about my impending story about how this case has been affected by her continued absences and she suddenly decided to move up their trial date in response, then such a foolish move only makes Millard look worse, not better. It certainly does not make Millard look smart, fair, judicious or wise to do this. It simply reveals her for what she is.

The best thing for Millard to do is just resign and stop taking tax payer money for not working. The next best alternative is for Millard to suddenly start coming to work every day like our other honest, hardworking judges do. Millard should worry about how she is harming families and children and the reputation of our justice system and not what I might write about her.

Changes to Harris County Security Passes

Harris County has made big changes to its Frequent Courthouse Visitors (FCV) program. All 2017 FCV ID Cards will expire on September 15, 2018 and you will not be able to bypass the metal detectors and X-Ray machines with a 2017 FCV ID card after September 15, 2018.

The FCV online application process is now very different. Lawyers are required to complete the entire FCV process within 60 days from the day you submit your Online Application, including the Online Payment, scheduling appointment, and picking up your FCV ID Card. All FCV participants, including active 2017 badge holders, are required to complete the entire registration and application process. If you delay in making your online payment, or scheduling and completing any portion of the ID Card process, it could result in the process exceeding the 60 day period. If the process is not completed within the 60 day time frame, you will be required to start a new Online Application and submit a second Online Payment. Your Online Application will be reviewed by Customer Service and Harris County Law Enforcement; the longer you wait to submit your Online Application, the longer it could be delayed by the review process.

Changes to the FCV Program include:

- National background check performed by Harris County Law Enforcement
- One visit to Customer Service via scheduled appointment
- FCV ID Cards will expire 12 months from the date of issuance
- Non-refundable \$75 fee Online Payment
- 60 day deadline to complete the process
- Turn in 2017 FCV ID Card if applicable during scheduled appointment for a new card

[Click here](#) if you would like to apply for the FCV program.

New Attorney Portal for Galveston County District Clerk Website

Harris County lawyers are spoiled by our District Clerk's website, which allows attorneys of record to view even documents marked "contains sensitive data." That is not possible in many other counties, which means we cannot see most court documents.

Brazoria County is the worst as its District Clerk does not allow ANY court documents to be viewed on line. The only way to see court filings is to drive to Angleton, go to the 5th floor, and sit at one of two computers in the corner of the District Clerk's office.

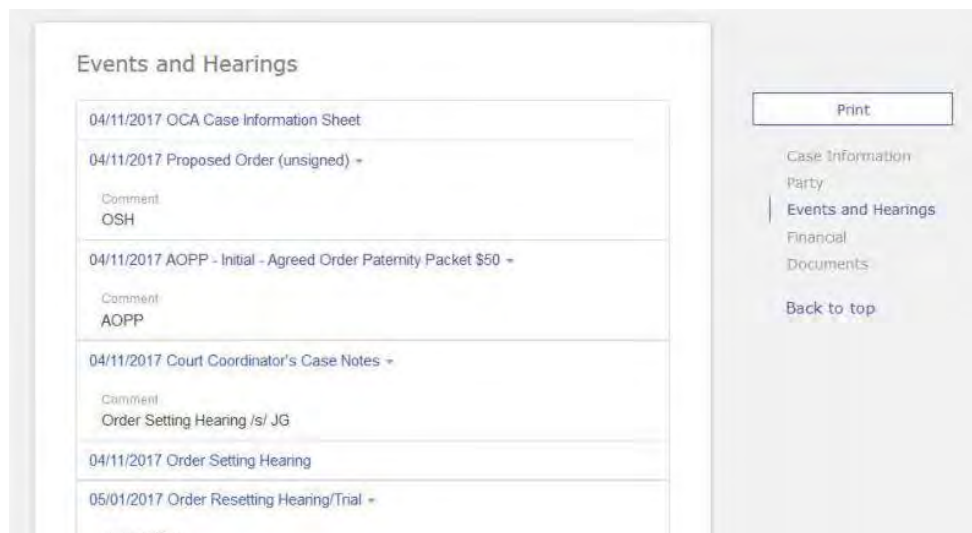
I have been bugging Galveston County District Clerk John Kinard about this issue for years and now he has come through big time. Galveston County has a new portal for attorneys that allows us to see "sensitive" documents if we are the attorney of record. Attorneys first need to register, a process that can take 24 hours. [Click here](#) to go to the registration page.

Click on the REGISTER link to begin the registration process.



Once the registration is accepted (usually within 24 hours), the attorney can access ALL documents on a case, although the visual screen format is a big space waster.

This is what part of a sample page in the new system looks like:



Master, IV-D
05/02/2017 AG Citation - Issuance - Work Product \$8
05/02/2017 AG Hearing Notice - Precept Issuance - Work Product \$8 -
View Document AG Hearing Notice - Precept Issuance - Work Product
05/02/2017 AG Citation - Issuance - Work Product \$8
05/02/2017 AG Hearing Notice - Precept Issuance - Work Product \$8 -
View Document AG Hearing Notice - Precept Issuance - Work Product
05/16/2017 Citation Returned Unexecuted

This is what the same case looked like in the old system:

OTHER EVENTS AND HEARINGS	
04/11/2017	OCA Case Information Sheet
04/11/2017	Proposed Order (unsigned)
	OSH
04/11/2017	AOPP - Initial - Agreed Order Paternity Packet \$50
	AOPP
04/11/2017	Court Coordinator's Case Notes
	Order Setting Hearing /s/ JG
04/11/2017	Order Setting Hearing
05/01/2017	Order Resetting Hearing/Trial (Judicial Officer: Master, IV-D)
05/02/2017	AG Citation - Issuance - Work Product \$8
05/02/2017	AG Hearing Notice - Precept Issuance - Work Product \$8
05/02/2017	AG Citation - Issuance - Work Product \$8
05/02/2017	AG Hearing Notice - Precept Issuance - Work Product \$8
05/16/2017	Citation Returned Unexecuted
05/16/2017	Precept and Return Unexecuted
05/18/2017	Citation and Return
05/18/2017	Precept and Return
07/10/2017	Order Resetting Hearing/Trial (Judicial Officer: Master, IV-D)
08/02/2017	Proposed Order (unsigned)
	Order Setting Hearing
08/03/2017	Order Setting Hearing
08/07/2017	Request for Service
	reissue of service
09/07/2017	AG Citation - Issuance - Work Product \$8
09/07/2017	AG Hearing Notice - Precept Issuance - Work Product \$8
09/25/2017	Order for Non Suit - Final - OCA (Judicial Officer: Master, IV-D)
09/26/2017	Citation and Return
09/26/2017	Precept and Return

The old system took up a lot less screen space and for complex cases, it was a lot easier to scroll through the case. I also think the items should be listed in reverse chronological order. If it is a 2018 modification of a 2015 order changing a 2011 divorce decree, all of which was heavily litigated, I should not have to scroll through page after page to find the notice of hearing that was just filed last week.

Still, this is a big improvement and I thank John Kinard and his excellent staff for finally getting this done. Now, I need to get Brazoria County to join the modern Internet era.

**Democrat Judicial Candidate Profiles:
Clinton "Chip" Wells**

I am profiling each Democrat running for a family district court in Harris County. This profile is more like a movie review than a biography. I urge you to meet these candidates yourself and form your own opinions.

Clinton “Chip” Wells is the Democrat nominee running against Judge David Farr for the 312th Family District Court. He was raised in Houston before graduating from the University of Texas in 1973, and then he went on to graduate from South Texas College of Law in 1976 and was licensed in June, 1977 (the year before I graduated high school and I am 58). Wells has raised two step-children and has a child with his wife of 23 years, Lilly. Wells became a grandfather late last year. He has dealt with children of divorce and knows how difficult the job being a step-parent is. Wells has the number one qualification for being a family court judge - he knows children and the challenges of raising them. He spent almost two decades at the ball field with kids playing baseball. Wells now spends most weekends at his little ranch in the country.



Wells says that although he has not been in the family courts every day, he has engaged in the practice of family law for more than 40 years, a fact I have confirmed. I checked the Harris County District Clerk’s web site using Well’s bar number and I found 33 family law cases where Wells was the attorney of record in the last 20 years (since 1998). That is an average of one and a half family cases per year over the last two decades. The only protective order case I found Wells had handled was in 1991. In contrast, Wells’ opponent, Judge Farr, presides over more than 33 family cases in a single day. Wells, it is fair to say, has occasionally handled a few family law cases but instead has primarily worked in personal injury and civil litigation.

Wells is currently a partner in his law firm with John McDowell with whom he has practiced law for almost 28 years. The web site for their law firm focuses mostly on eminent domain and personal injury cases, although it does mention that Wells handles family law cases.





Wells ran in 2010 as the Democratic candidate against Bonnie Hellums and then against John Schmude in 2014, losing with 46.7% of the vote. I got to know Wells back in 2014 and I have stayed in touch with him. He mediated a difficult tort case arising from a family law case for me and he did a darn good job. I have concluded that Wells is a very intelligent man, who is thoughtful and deliberate, as well as an entertaining story teller and a real Democrat concerned about racial, economic and sexual orientation equality. I have absolutely no doubt that Wells' heart is in the right place and he is not going to play favorites if he is elected. All that is exactly what I want in a judge. As a fellow liberal Democrat, I should be thrilled with his candidacy. The only problem is that Wells is running against the person I consider the best family judge on the planet – David Farr. Wells may turn out to be a darn good judge if he wins, but he will not be a judge like Farr, who knows the Family Code inside and out, and who we have seen works his docket with fairness and efficiency.

Wells, like all the Democrats should they win, will face a huge initial learning curve. That learning curve for a new "Judge Wells" might be steeper than for others because of his limited family law experience. On his first morning on the bench, Wells may face legal and procedural issues ranging from giving the proper warning to a respondent facing contempt, a UCCJEA jurisdiction dispute over which state's court should hear a custody case, calculating over-guideline support, valuation of a family business with a buy-sell agreement, and what to do with a four-year-old who has made a vague statement that could be interpreted as improper sexual behavior by a step-father. A Democratic sweep would give us all the chance to see if Mr. Wells can master all these subjects and more, but it would rob us all of an excellent judge in David Farr, whom all acknowledge already knows how to handle all of the above situations.

Judge Farr will look a lawyer in the face without cracking a law book and ask in that direct, clipped manner of his, "Counsel, are you telling me this affidavit meets the requirements of Section 156.102(b)?" Any new judge would have to be told by the opposing counsel where to look in the Family Code for the specific requirements for an affidavit supporting a modification of primary custody within one year, whereas Farr is already very familiar with that law. I am not saying that a possible "Judge Wells" would not reach the correct conclusion if lawyers guide him on the applicable law or in time know most of the quirks of the Family Code. I just know that Judge Farr already is there. I also know that Judge Farr provided incredible leadership after the disasters of Denise Pratt and Hurricane Harvey. In an ideal world, judges would be selected on merit alone. However, we still insanely elect judges in Texas based on party affiliation, and a Blue Tidal Wave in Harris County could give everyone strong incentive to get to know Chip Wells.

If we do end up with a Judge Wells, I am very sure that he will do his best to be fair and treat all lawyers with respect and courtesy and cut us some slack if we miss a deadline or are running late for court. Wells promises he will remember the practicalities of being a solo lawyer or in a small firm because that is what he has done for 41 years.

[Click here](#) for Chip Wells' campaign website. In fairness, [click here](#) for Judge Farr's campaign web site. In the last campaign finance reports filed, Wells showed total contributions of \$2,000, \$7,050 in expenditures, cash on hand of \$1,000 and outstanding loans of \$7,200. In contrast, Judge Farr had \$104,959.56 cash on hand and no outstanding loans.

Wells told me this to share with lawyers worried that he might replace Judge Farr:

I am not going to be David Farr and I am going to be different. But, I will match my experience of service in the private sector against David Farr's experience any time. I offer a clear and distinct opportunity for change. I am not going to say anything negative about David Farr but his whole life experience is different than mine. I have never worked for a government institution in my life but I have spent 41 years in the legal trenches serving regular families. I expect to be as equally effective and as well thought of as David Farr is, just different.

Thinking of Wells conceivably beating Farr reminds me of how I felt when all my Democratic friends were defeated as judges in Galveston County a few years back. I was heart sick at first but eventually I realized the new judges were good too, just different. Not all change is bad, it is just change. One thing democracy gives us on a regular basis is change in government.

I just wish Wells was running against Judge Millard. I am very confident Wells will actually show up for work.

Thank you for your support! Together We Can Make Our Profession Better and Our Courts More Fair

Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries. The Enos Law Firm serves clients in Galveston County, Brazoria County and Harris County, Texas.



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