The College Bulletin

News for Members of the College of the State Bar of Texas **Fall 2011**

From the Chair

Tamara Kurtz

WE KNOW THAT USING technology can make us more effective in our law practice. At the same time, a lawyer's use of technology, without taking reasonable steps, could open the door to ethical violations or legal malpractice claims.

Currently, the American Bar Association's Commission on Ethics 20/20 Working Group on the Implications of New Technologies is examining technology's impact on the legal profession. A full report is expected in early 2012. See www.americanbar.org.

Although the American Bar Association Model Rules of Professional Conduct and Texas Disciplinary Rules of Professional Conduct do not expressly require a lawyer's use of technology, the legal profession has largely embraced electronic mail and online legal research. By researching online, for example, a lawyer can access the most current case law that helps the lawyer comply with the ethical rule of competent and diligent representation. New technologies such as cloud computing — wherein computer applications and data storage are controlled by third parties — raise concerns about confidentiality and privacy. And yet these technologies may offer significant advantages and efficiencies.

To what extent, then, do lawyers have a duty to use new technologies in their law practice?

Judge Learned Hand's opinion in the negligence case *The TJ Hooper*, 60 F.2d 737 (2nd Cir. 1932) may offer some guidance. In *The TJ Hooper*, two tugboats that traveled into a 1928 storm off the Delaware coast without radio-receiving sets were held unseaworthy and the negligent boat owners were liable for the loss of two barges. Without having radios onboard, the tugboats were unable to receive early storm warnings that beckoned ships to seek safe harbor. Judge Learned Hand determined the tugboat owners failed to exercise "proper diligence" in preparing the ships for sea. They were held liable for not using the new radio technology, which was available at a reasonable cost, even though industry custom and statute did not require tugs to carry the radios onboard.

By analogy to the reasoning of *The TJ Hooper* case, it may be incumbent upon a lawyer to exercise proper diligence by adopting a new technology if the technology is readily available, affordable, and assists or enhances the lawyer's ability to practice law. Just as we know that technology can make us more effective in our law practice, it may also create new standards of care for the legal profession. ■

The State Bar College 13th Annual

Summer School *Success!*

The 2011 State Bar College Summer School Course was again a success. More than 250 Texas lawyers came together in Galveston for a series of outstanding CLE presentations, professional and social networking, and fun in the sun! During the program, the State Bar College honored the following individuals:

Pamela Stanton Baron of Austin received the **Franklin Jones Best CLE Article Award** for her article, "Texas Supreme Court Docket Analysis," written for TexasBarCLE's 24th Annual Advanced Civil Appellate Law Course held in 2010.

Sally L. Crawford of Dallas was recognized for her dedication and service on the Board of the College.

Claude E. Ducloux of Austin received the **Gene Cavin Award for Excellence in Continuing Legal Education.**

Paul N. Gold of Houston received the **Jim Bowmer Professionalism Award.**

Abraham Michael Khaleghi of Houston received the **Steve Condos Most CLE Hours Award for Initial Member 2010.**

E. Douglas McLeod of Galveston was recognized for his many years of work and support of the College.

Herman H. Segovia of San Antonio was recognized for his outstanding leadership and service as Chair of the Board of the College.

Hon. Tim Sulak of Austin was recognized for his dedication and service on the Board of the College.

We hope you will mark your calendars and plan to join us in Galveston for the next Summer School, to be held July 19-21, 2012. ■

State Bar President Bob Black
gave his State of the State Bar Address

Abraham Michael Khaleghi

E. Douglas McLeod

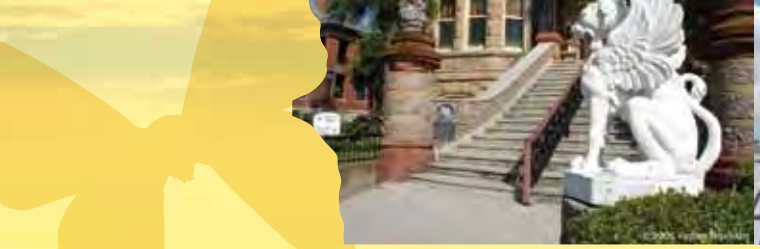

Photo Credit: Galveston.com/Vadim Troshkin

Pamela Baron

Sally Crawford

Tom Watkins and Claude Ducloux

Paul Gold

Herman Segovia and Tamara Kurtz

Hon. Tim Sulak

MYTHS About U.S. Immigration Law I Have Heard From Attorneys

By Natalie Fletcher

IN MY EXPERIENCE ATTORNEYS are frequently as misinformed about U.S. immigration law as the general public. Here are a few myths I have heard from attorneys (and a lot of regular folks as well).

Myth:

IT MUST BE OKAY *for him or her to be here because they are married to a U.S. citizen.*

Reality – Marriage to a United States citizen does not, in and of itself, convey legal status to any alien. While it is possible to become a legal resident of the U.S. based on a marriage to a U.S. citizen, there is still an application process that must be completed. And while there are some advantages that spouses of U.S. citizens have over other categories of applicants, there are still numerous reasons why such an application might be unsuccessful. Most aliens, even those married to U.S. citizens, who entered this country illegally have to return to their home country in order to obtain residency (except in the increasingly rare case where someone had filed a petition for you before April 30, 2001). Those who were in the U.S. illegally for more than one year and depart for their home country to obtain a visa or for any other reason have to apply for a hardship waiver, and, if the waiver is denied, they are barred from re-entering the U.S. for ten years. If they reenter the U.S. without permission after having been here for more than a year illegally, they are permanently barred from becoming residents of the U.S. until they have been outside of the U.S. for more than 10 years. Aliens who have crossed our border illegally multiple times since 1996 are usually barred by that provision from obtaining legal status regardless of whether their spouse is a citizen.

Myth:

THE GOVERNMENT *won't deport them because they have a child born in the United States.*

Reality – Aliens with children born here are deported every day. While it is true that in some situations having an immediate relative who is a U.S. citizen can be an advantage, having a U.S. citizen child does not in and of itself convey legal status to any alien, nor will it ordinarily prevent them from being deported.

Perhaps some people are confused on this issue because columnists and other pundits frequently bring up the subject of "anchor babies." The term anchor baby makes it sound like once the baby is dropped here the family is firmly anchored inside this country. Not true. What is true is that if an alien has a baby in the U.S. then ***twenty-one years later*** that baby – if he or she chooses – can file an application to sponsor their parents or siblings. Even then, however, that application does not automatically result in a "green card."

In fact, various previous immigration violations may preclude the beneficiary from obtaining legal status. For example, under current law, if you are a parent who entered the U.S. illegally and had a baby and you are still here illegally and that child is now 21 years old and wants

to sponsor you for residency, you nevertheless can not become a legal resident on the basis of the child's petition, alone. You would not be able to apply from inside of the U.S. because that type of application usually requires that the alien have entered this country legally (except in the increasingly rare case where someone had filed a petition for you before April 30, 2001).

And if you left to apply in your home country, you would have a long wait, because an alien who has more than one year of unlawful presence in this country and then leaves is barred for ten years from re-entering. Although there is a waiver for that bar, that waiver is not available to a parent or a sibling of a U.S. citizen.

Myth:

THE GOVERNMENT *won't deport them because they have been here so long.*

Reality – There is no length of time beyond which an alien becomes immune from deportation. Nevertheless, this myth endures and even attorneys have fallen for it. Consider last year's U.S. Supreme Court case *Padilla v Kentucky*. By now virtually every criminal defense attorney knows this case, even if they don't remember it by name. This is the case wherein the Supreme Court held that a defendant in a criminal proceeding is entitled to at least some accurate information as to how a conviction will affect his immigration situation. Exactly what this decision means in practice is still being worked out in the courts.

What may not be widely known is that this case went to the Supreme Court as a claim for ineffective assistance of counsel because Padilla's attorney told him (according to the Supreme Court's opinion) that he did not have to worry about his immigration status if he pled guilty to transporting a large amount of marijuana "since he had been in the country so long."

While it is true that the length of time an alien has been in this country can be a factor in the alien's favor in some deportation proceedings, it is only one, and perhaps the least important, of many factors. In other cases, including those that arise out of most drug trafficking convictions, deportation is mandatory and the alien's length of residence in the U.S. is irrelevant.

Myth:

HE OR SHE HAS BEEN *here so long they must be a citizen by now.*

Reality – This misconception may result from the widespread misunderstanding of the difference between being a legal resident and a citizen. For example, at least once a month some good hearted American contacts my office because they want to help their alien friend get his or her "citizenship" papers. Of course, what they really mean is they want to help their friend to become a lawful resident, or to use the vernacular, to get a "green card." Aliens who become residents may subsequently choose to apply for citizenship, but there is no length of time beyond which a resident alien automatically becomes a citizen. Moreover, not all residents choose to become citizens and there is nothing wrong with their making this choice. For example, some aliens choose not to become U.S. citizens because it could mean they would lose their citizenship status in their home country, which could affect their ability to maintain a relationship with their relatives back home. Or it may be the case that they intend some day to return to their home country. After all, there are thousands of U.S. citizens living and working abroad who choose not to become citizens of the countries they are living in.

Myth:

IF HE OR SHE WANTS *to live and/or work here they should just go ahead and file their papers and do it legally.*

Reality – I have actually run across people who believe that there are aliens who choose to live and work in this country illegally rather than take the time and expense to file the proper paperwork. The reality is, and the root of the misconception is, that with few exceptions, aliens can not apply for their own papers. Most aliens need someone to sponsor them. Aliens who do not have family members who can petition for their residency, or who want to come to the U.S. in order to work, need an employer to sponsor them even if they only want to work here temporarily. And there is no such thing as a stand alone work permit aliens can apply for. This means that most aliens (with some exceptions for degreed professionals and executives) can not enter the U.S. in order to look for employment. And in my experience, most small

businesses do not have the resources to recruit workers in foreign countries. While many businesses find alien workers already here that they want to sponsor, if the worker was not able to enter the U.S. legally in order to find that job then the employer may not be able to file the immigration papers regardless of how badly they need the worker.

Myth:

ALIENS SHOULD *just wait their turn in line to come to this country.*

OK, this is not a myth per se; nevertheless most people, including most attorneys who do not practice immigration law, have no idea of the length of the line they are referring to even though the information is available to the public in the visa bulletin published each month by the U.S. Department of State. Consider for example that out of the five family based preference categories (i.e. the five different lines aliens are waiting in based on their relationship with their family member "petitioner") for applicants from Mexico, one of the lines is fifteen years long, one is eighteen years long, and two are more than nineteen years long. Or consider the following: for employment based applications for professionals and skilled workers, for the five different chargeability areas (areas of the world which each have their own set of lines for aliens to wait in) the wait is approximately six to nine years. While it is true that it is sometimes possible to bring professionals in on a temporary basis while they wait for residency, the system is not particularly responsive to the needs of U.S. businesses competing in a global economy.

Myth:

THEY *(referring to an alien from a "thirdworld" country) can visit the U.S.; all they need is a tourist visa.*

Reality – Although every consulate is different and I have only dealt with a relative few, in my experience, if you are from a poor country then unless you are personally wealthy your chance of getting a tourist visa to come here is minimal. This is because there is built into our immigration law a presumption that every alien who seeks to enter the U.S. intends to stay here permanently. Try proving that you don't.

For example, I once had a client who owned a ranch in south Texas and had a ranch foremen who was a lawful resident. The foreman had worked on the ranch for more than twenty years. He would come up every spring and return to Mexico every fall. In his last year before retirement, he wanted just once to bring his wife up from Mexico to visit the ranch where he had worked to support their family for so many years. This man had a proven history of complying with our immigration law, he owned his own small ranch in Mexico, and he had numerous letters from reputable individuals testifying why his wife would come to the U.S. for a short visit and return to Mexico. We sent her to the consulate twice with a stack of documentation and she was denied both times.

When my brother-in-law married a woman from the Philippines (who was living in the U.S. as a lawful resident) her sister, a middle age woman with a long term professional career and property in the Philippines, traveled hundreds of miles to the U.S. consulate for a visitor visa to attend the wedding. She was refused with no explanation.

And I once assisted a U.S. citizen who wanted to sponsor a young man from Nigeria to come to the U.S. to get a college education. He had the financial resources to pay all of this young man's expenses and the young man had been accepted as a student by a Texas college/university. Here was a young man from a poor family in a poor country who had a tremendous opportunity that would have undoubtedly changed his life and the life of his family. He went to the consulate three times with documentation and was denied each time. He claimed – and based on my experience I believe him – that the consular official never even looked at the documents.

Conclusion

IMMIGRATION LAW IS COMPLEX, constantly changing, and currently the subject of widespread debate.. Many Americans come to this debate in much the same way poor hapless aliens arrive at a U.S. consulate -- with ideas and expectations that have been shaped more by myth than reality. As lawyers we should be especially careful not to fall into this trap. ■

NATALIE FLETCHER *is a solo practitioner in Tyler, practicing immigration, bankruptcy, criminal, and family law.*

Coming in January—
BIG
CLE Savings for College Members

From the Executive Director

Pat Nester

When you renew your College membership[1], you'll have two great new opportunities to save on CLE. You'll have the choice to sign up for the

Classic Membership—all the present benefits of College membership including unlimited free access to the State Bar's Online Library—for the usual $60.

Silver Membership—all the benefits of the Classic Membership **plus unlimited free access to the State Bar's Online Classroom**, including fully accredited video versions of all of TexasBarCLE's courses and live webcasts—all available at your desktop 24/7, pause-able, replay-able, with download privileges to your desktop, smartphone, and tablet. Silver Membership will be $395 per year. If you are presently getting all your required 30 hours from the Online Classroom and webcasts, you will save more than $800. You will select from 1,500 hours of the best CLE available developed by Texas lawyers for Texas lawyers, targeted to your practice. There will be no travel, lodging, food, and parking costs. Using the download feature, you will take your CLE when and where you want to—in your office, at home, in a car, in a plane, on the treadmill.

Gold Membership—all the benefits of Silver Membership **plus unlimited free attendance (and written materials) at any or all of TexasBarCLE's live and video replay programs**—the advanced courses, specialty courses, skills courses, strategies courses, the boot camps and 101's—more than 80 titles, more than 100 events[2], the gold standard of CLE[3]. Gold Membership will be $995 per year. Savings using the Gold Membership run quickly into the thousands but are essentially unlimited.

These benefits are available only to College members, lawyers who make the public commitment to keeping their knowledge and skills at a higher level. We hope that the new levels of College membership enable CLE to become a constantly available, even habitual, way to learn the evolving intricacies of your present practice and, as the need or opportunity arises, to master other subject areas as conveniently as humanly possible.

The College's main goal is to raise the standard of practice in Texas. College members know that CLE is the key. Unlimited CLE sets the bar as high as your aspirations fly. Just how good are you? Just how good can you be?

■ ■ ■

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[1] We anticipate a big demand for the new categories of membership. Please renew promptly to avoid repeated notices and delay in setting up your account with TexasBarCLE.

[2] Not included are CLE events at the State Bar's Annual Meeting and CLE events that are presented independently by a State Bar Section or other State Bar-related group not in affiliation with TexasBarCLE.

[3] Check out the full line-up at TexasBarCLE.com.

Meet the New *College Board Directors*

ERNEST ALISEDA is the Managing Attorney for the Loya Insurance Group of companies, a Municipal Judge for the City of McAllen, and a Major in the U.S. Army Reserves, Judge Advocate General Corps. He earned his bachelor's degree from Texas A&M University, where he was a member of the Texas A&M Corps of Cadets and where he earned the Distinguished Student Award and the Distinguished Academic Military Student Award. He later earned his law degree from the University of Houston Law Center.

Judge Aliseda has previously served as a State District Judge for both the 398th and 139th State District Courts in Hidalgo County. In 2008-09, Judge Aliseda was mobilized to active military duty as part of Operation Enduring Freedom and was stationed at Fort Bragg, North Carolina to augment the XVIII Airborne Corps, as the Chief of Federal Litigation. There he was tasked as a Special Asst. U.S. Attorney and lead prosecutor in charge of prosecuting misdemeanor and felony cases in the federal courts of North Carolina. He is a past State Bar Director for the South Texas region. In addition, he is also a past-President of the Hidalgo County Bar Association; past-President of the Hidalgo County Young Lawyers Association; past Board of Director, Texas Young Lawyers Association, State Bar of Texas; past-Board Member, Texas Rural Legal Aide; and current Fellow with the Texas Bar Foundation. He also serves as a Commissioner with the Office of the Governor on the Texas Military Preparedness Commission.

He is married to Debbie Crane Aliseda and they have five children, Cristina, Nicolas, Alexandra, Sofia and Natali.

WARREN COLE received a B.S. from St. Thomas University (1971) and earned his J.D. from the University of Houston Law Center (1974). He practices family law litigation in both property and parent-child disputes and enjoys an active mediation and arbitration practice in Houston.

He has served on both the Family Law Advisory Commission (past Chair) and the Family Law Exam Commission of the Texas Board of Legal Specialization and is a former Chair of the Family Law Section. He served as a Large Section Representative to the SBOT Board of Directors from 2006-2008 and as a director of the SBOT Board of Directors from 2008 through 2011.

He is a frequent author and speaker on various family law topics and written and presented over 140 papers on a state and national level.

He is listed in "Best Lawyers in America" (2005-2012) and was named one of the "Top 100 Lawyers in Texas" 2008-2010 and "Top 100 Lawyers in Houston" region 2008-2011 by Texas Monthly Magazine. Warren's professional awards include the Judge Sam Emison Memorial Award (2008), the Dan R. Price Memorial Award for outstanding contributions to the family lawyers of Texas (2007), the "Standing Ovation Award" presented by SBOT PDP/CLE as Outstanding Volunteer for 2007 and, the David A. Gibson Memorial Award for professionalism and excellence in Family Law (1991). Cole and his wife, Kathy, have three daughters, Amy, Abigail, and Elizabeth, four granddaughters, Molly, Cate, Lucy, Claire and a grandson, Jack.

THE HON. MECA WALKER is the Associate Judge for the 247th Family District Court of Houston, Harris County Texas. Prior to her current position, Judge Walker served as the Associate Judge in the 309th Family District Court.

Judge Walker is a member of the State Bar's Texas Pattern Jury Charge Oversight Committee and she is an active member of the Burta Rhoads Raborn Chapter of the American Inn of Court. Judge Walker is a member of the Supreme Court of Texas Permanent Judicial Commission for Children, Youth and Families and she is a Fellow of the Texas Bar Foundation.

Judge Walker is licensed to practice in the Supreme Court of the United States, she is a Lifetime Member of the Texas Family Law Foundation, she is an active member of her sorority, Alpha Kappa Alpha Sorority Inc., and she is a graduate of Leadership Houston Class XVII. Judge Walker received her Bachelor of Arts degree from Clark Atlanta University and she received her Juris Doctorate from Howard University School of Law. She is the proud aunt of Angelo and Armani, the cutest Yorkies you'll ever meet.

Meet the New *College Chair*

TAMARA KURTZ, a graduate of Texas Tech University Law School, is an Assistant City Attorney in the City of Austin Law Department. A past Chair of the Computer & Technology Section of the State Bar, she practices primarily in the areas of municipal law, procurement, contracts, ethics, and intellectual property.

During the 20 years that Tamara has served as a municipal attorney for the City of Austin, she has found her work to be both unique and rewarding. For example, she enjoys the fast-paced environment of City Hall and the variety of legal work. In addition, she has found her involvement in matters and projects that directly impact the community particularly gratifying. These attributes, as well as the commitment of the City Law Department to deliver high caliber legal services to City officials and staff, has created a rich environment in which to work and grow as an attorney.

Bar College Grant Helps Supreme Court Renovate

When Justice Paul Green was appointed to the Supreme Court of Texas, he was surprised by the shabby condition of the Supreme Court building. Green researched the original Supreme Court Courtroom at the Capitol and other historic sites and looked for ways to honor the history of the court while updating its facilities to accommodate new technologies. With the help of a grant from the State Bar College, the Court has a newly renovated courtroom, robing room, and conference room. Pictured, from left, in the new conference room, are **J. Morgan Broaddus** of El Paso; **Herman Segovia** of San Antonio; **Chief Justice Wallace Jefferson**; **Justice Green**; and **Tamara Kurtz** of Austin.

United States Supreme Court U • P • D • A • T • E

By Chad Baruch

The United States Supreme Court decided several cases during its 2010 term that have implications for Texas criminal, family, and general practitioners. What follows is a brief summary of a few of the more important decisions.

FIRST AMENDMENT

Snyder v. Phelps

No. 09-751 (March 2, 2011)

In an 8-1 decision, the Court held that a group had the First Amendment right to protest at the funeral of a soldier who died on active duty in Iraq. The Court upheld the broad right of protesters to express their opinions—no matter how offensive—on matters of public concern in a public forum, no matter how offensive.

Brown v. Entertainment Merchants Ass'n

No. 08-1448 (June 27, 2011)

The Court struck down a California law prohibiting the sale of violent video games to minors. Writing for the majority, Justice Scalia noted that video games are a form of expression protected under the First Amendment, and that minors have personal First Amendment rights. The majority held that the state failed to meet the strict scrutiny test necessary to survive constitutional challenge.

Arizona Free Enterprise v. Bennett

No. 10-238 (June 27, 2011)

The Court struck down an Arizona campaign finance law providing publicly-financed candidates with matching funds once a privately-financed opponent exceeds the initial public grant. The Court held that matching funds violate the free speech rights of non-participating candidates and the outside groups supporting them by independent expenditures.

Arizona Christian School Tuition Organization v. Winn

No. 09-987 (April 4, 2011)

The Court essentially held that there no longer is "taxpayer standing" to bring most Establishment Clause cases.

Borough of Duryea v. Guarnieri

No. 09-1476 (June 20, 2011)

The Court held that a government employer's allegedly retaliatory actions against an employee do not give rise to liability under the Petition Clause unless the employee's petition concerns a matter of public concern. The Court applied the same public concern test used in Speech Clause cases to challenges under the Petition Clause. Two additional points are noteworthy. First, the majority held that lawsuits can constitute "petitions" within the scope of the Petition Clause. Second, the Court explained that its decisions should not be read as meaning that the Speech and Petition Clauses are necessarily coextensive in all cases. Despite the Court's claim to the contrary, this represents a departure from its previous jurisprudence.

CRIMINAL LAW

Kentucky v. King

No. 09-1272 (May 16, 2011)

Traditionally, police cannot create an exigency and then rely on it to justify a warrantless search. This case involved the test for these "police-created" exigencies. The Court held that so long as the police do not gain entry by means of

an actual or threatened Fourth Amendment violation, any response to police conduct from inside the home is not considered a police-created exigency.

Davis v. United States

No. 09-11328 (June 16, 2011)

The Court held that the exclusionary rule does not apply when police conduct a search that is constitutionally permissible under binding judicial precedent even if that precedent is overruled while the case remains on direct review. According to the majority, the exclusionary rule exists largely to deter misconduct, and there cannot be any deterrent value when police are obeying the law in existence at the time of the search.

J.D.B. v. North Carolina

No. 09-11121 (June 16, 2011)

The Court held that the age of a child being questioned by police is relevant to determining whether the child is "in custody," because children are more susceptible to pressure and therefore more likely to believe themselves required to submit to police interrogation under circumstances where an adult would feel free to leave.

Michigan v. Bryant

No. 09-150 (February 28, 2011)

The Court held that statements by a dying shooting victim identifying the defendant were non-testimonial and could be admitted without violating the Confrontation Clause. The majority focused on the primary purpose of the interrogation, concluding the primary purpose was to respond to an ongoing emergency rather than to gather evidence for a criminal case.

Bullcoming v. New Mexico

No. 09-10876 (June 23, 2011)

The court held that a DWI defendant is entitled under the Confrontation Clause to cross-examine the lab technician who performed the blood alcohol test. In the Court's view, a blood alcohol test performed solely to gather criminal evidence is testimonial and therefore subject to Confrontation Clause protections. In reaching this result, the court rejected the state's argument that the report was admissible through the testimony of another technician from the lab. The Court reiterated that the sole exception to this rule is where (1) the person who performed the test is unavailable, and (2) the defendant had a prior opportunity to cross-examine.

Bond v. United States

No. 09-1227 (June 16, 2011)

The Court held unanimously that a criminal defendant had standing to raise a Tenth Amendment challenge to a federal law she was convicted of violating. The Court rejected the argument that only states can raise Tenth Amendment claims

EMPLOYMENT DISCRIMINATION

Kasten v. Saint-Gobain Performance Plastics Corp.

No. 09-834 (March 22, 2011)

The Court held that the antiretaliation provision of the Fair Labor Standards Act applies to oral complaints, rejecting an argument that the Act protects only written complaints.

Thompson v. North American Stainless

No. 09-291 (January 24, 2011)

The court ruled unanimously that an employer violates the antiretaliation provision of Title VII by firing the fiancé of an employee who filed a discrimination claim.

Staub v. Proctor Hospital

No. 09-400 (March 1, 2011)

The court ruled that an employer may be held liable for discrimination if a supervisor's discriminatory animus proximately caused the adverse employment action, even though the ultimate decision maker was not motivated by discrimination.

FAMILY LAW

Turner v. Rogers

No. 10-10 (June 20, 2011)

The Court returned to the issue of the right to counsel for indigent parties in family law proceedings. This case concerned a father held in civil contempt in a child support enforcement proceeding. The Court reaffirmed its earlier holdings that there is a presumption against a right to counsel in civil cases, even where a party may end up in jail as a result of the proceeding. Instead, the Court again instructed trial courts to perform a balancing test to determine the need for counsel under the particular circumstances of the case.

CHAD BARUCH *is an appellate attorney in Rowlett, and assistant principal of Yavneh Academy of Dallas.*

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The College Bulletin
DATED MATTER — PLEASE EXPEDITE!

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The Endowment Fund for Professionalism

The College of the State Bar of Texas P. O. Box 12487 Austin, Texas 78711-2487

As a member of the State Bar College for five consecutive years, I hereby accept my invitation to The Endowment Fund for Professionalism. Enclosed is my **tax-deductible** contribution of $1,000 to fulfill my commitment as an Honored Endowment Fund Scholar or my minimum initial contribution of $200 as an Endowment Fund Scholar (exact amount indicated below). I recognize that my gift supports professionalism of lawyers through education and contributes to the betterment of the legal profession in Texas.

Please make my **tax-deductible** contribution in ❑ honor of or ❑ memory of _____.

Amount of contribution: ❑ $1,000 ❑ $200 ❑ Other $_____

Payment by enclosed ❑ check payable to The Endowment Fund for Professionalism of The State Bar College.

Please charge my credit card ❑ $1,000 ❑ $200 now, and annually $200 for the next four years ❑ Other $_____

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College Members who wish to contribute or pledge less than $1,000 or who have not achieved five consecutive years of College membership and non-College members may make tax deductible contributions and become a Friend of the Endowment Fund for Professionalism by completing and returning this form.