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The College Bulletin

News for Members of the Texas Bar College • Spring 2016

Enhancing Professionalism: The Judge's Role

The Supreme Court of Texas created the Texas Bar College to enhance professionalism among attorneys. While the College's principal means of doing so is continuing legal education, its actual mandate remains raising the overall level of professionalism in legal practice.

In recent years, the decline (real or perceived) in lawyer civility and professionalism has created growing concern—even alarm—in the legal community. The College remains committed to fulfilling its role in promoting professionalism. But, of course, real progress requires a team effort across the Bar and beyond.

The effort to enhance professionalism involves, first and foremost, professional responsibility and self-discipline by lawyers themselves. In a self-indulgent era, each of us must accept responsibility and accountability for our own actions—good and bad. Of course, real progress involves a team approach. Law schools must continue to teach professionalism. Our Supreme Court, State Bar, local bar associations, and legal organizations must continue their efforts to promote and reward professionalism.

All of these efforts are important. But there is another potent tool in the professionalism campaign: the ability of local trial court judges to promote professionalism. As the most accessible and visible members of our judiciary, trial judges have the opportunity almost every day to promote professionalism. And most of them do. But some, unfortunately, do not.

The best way for trial judges to promote professionalism is to be professional

From the Chair



Chad Baruch

themselves, and serve as role models for exemplary conduct in the profession. But that is not enough. We need our trial judges to stop ignoring unprofessional behavior in their courtrooms.

Too often over the years, I have watched in dismay as lawyers act disrespectfully, rudely, and unprofessionally during motion arguments at the bench—and the judge says nothing. When a lawyer interrupts opposing counsel, makes personal attacks, uses vulgar language, or laughs or gestures dismissively at another lawyer, this behavior should be addressed from the bench. The judicial response need not be extreme; gentle admonishment may be enough. But silence—almost certain to be taken as approval—is not an option.

Again, improving professionalism starts with personal accountability and self-discipline. It continues with education, and efforts to reward lawyers who demonstrate exceptional professionalism. But we should not underestimate the very real power of trial court judges to assist in this effort both by recognizing and praising instances of exemplary professionalism, and admonishing lawyers who behave like louts. Our profession will be better for the effort.





Haters Gonna Hate:

Ethical Issues in Responding to Negative Online Reviews

By John G. Browning

And I don't give a damn 'bout my bad reputation. Oh no, not me.¹

With all due respect to Joan Jett and the Blackhearts, lawyers have to care about their online reputations more than ever. Gone are the “good old days” when dealing with an unhappy client meant fielding a few angry phone calls or responding to a curt letter informing you that your services were no longer needed. In today’s digital age, where everyone is just a few clicks away from the opportunity to air grievances to the world, comments posted on lawyer rating sites like avvo.com and lawyerratingz.com or consumer complaint sites like yelp.com and ripoffreport.com can live online forever and pop up in response to Internet searches for your name. Moreover, the Web has become increasingly important in terms of generating referrals for legal services. According to a 2014 survey by findlaw.com and Thomson Reuters Corp., the Internet is now the most popular resource for people in need of legal representation. Thirty-eight percent of respondents indicated they would first use the Internet to find and research a lawyer, while 29 percent would ask a friend or relative first, 10 percent would rely on a local bar association, and only 4 percent would use the Yellow Pages.² And research by the marketing firm Hinge shows that more people view a firm’s website or conduct an online search (81 percent and 63.2 percent, respectively) to find and evaluate a lawyer than those who ask friends and colleagues or talk to references.³

¹ *Bad Reputation*, Joan Jett and the Blackhearts.

² The Internet is Now the Most Popular Way to Find and Research a Lawyer, Says FindLaw Survey, Press Release, Apr. 17, 2014, <http://thomsonreuters.com/press-releases/042014/internet-lawyer-search-survey>.

³ Sherry Karabin, *Marketing Legal Services in a Brave New Internet World*, Law Technology News (Mar. 31, 2014), <http://www.lawtechnologynews.com/id=1396262346123/Marketing-Legal-Services-in-a-Brave-new-Internet-World>.

So what can a lawyer do when his or her professional reputation is attacked online by a client or former client? As with any criticism, there's a right way and a wrong way to respond – and the wrong way can land you in front of the disciplinary board. Chicago employment attorney Betty Tsamis learned this lesson the hard way in January 2014, when she received a reprimand from the Illinois Attorney Registration and Disciplinary Commission for revealing confidential client information in a public forum.⁴ Tsamis had represented former American Airlines flight attendant Richard Rinehart in an unsuccessful quest for unemployment benefits (Rinehart had been terminated for allegedly assaulting a fellow flight attendant). After firing Tsamis, Rinehart posted a review of her on avvo.com. In the post, Rinehart expressed his dissatisfaction bluntly, claiming that Tsamis “only wants your money,” that her assurances of being on a client’s side are “a huge lie,” and that she took this money despite “knowing full well a certain law in Illinois would not let me collect unemployment.”⁵ Within days of this posting, Tsamis contacted Rinehart by email, requesting that he remove it; Rinehart refused to do so unless he received a copy of his file and a full refund of the \$1,500 he had paid.

Sometime in the next two months, Avvo removed Rinehart’s posting. But Rinehart posted a second negative review of Tsamis on the site. This time, Tsamis reacted by posting a reply the next day. In it, she called Rinehart’s allegations “simply false,” said he didn’t reveal all the facts of his situation during their client meetings, and stated, “I feel badly for him, but his own actions in beating up a female coworker are what caused the consequences he is now so upset about.”⁶ According to the Illinois disciplinary authorities, it was this online revelation of client information by Tsamis that violated the Rules of Professional Conduct, as well as the fact that her posting was “designed to intimidate and embarrass Rinehart and to keep him from posting additional information about her on the Avvo website,” which constituted another violation of professional conduct rules as well as conduct that tends to “bring the courts or the legal profession into disrepute.”⁷

In a similar situation in Georgia, attorney Margrett Skinner’s petition for a lesser sanction of voluntary discipline was rejected by that state’s disciplinary authorities. According to *In re Skinner*, after being fired and replaced by new counsel, the lawyer responded to negative reviews “on consumer websites” by the former client by posting “personal and confidential information about the client that Ms. Skinner had gained in her professional relationship with the client.”⁸ The court didn’t go into detail about the exact comments posted, however, and

specifically noted that the record didn’t reflect “actual or potential harm to the client as a result of the disclosures.”⁹

And in an unpublished 2013 California opinion, *Gwire v. Bloomberg*, a disgruntled former client anonymously posted comments about lawyer William Gwire on complaintsboard.com, accusing Gwire of committing “a horrific fraud” and including a “partial summary of Gwire’s incredibly unethical history.”¹⁰ Gwire responded with a post calling the client “unreliable,” “a proven liar,” and “mentally unbalanced,” and made references to his divorce file and previous business failures.¹¹ When Gwire then sued the client for defamation and trade libel, the former client tried to have the lawsuit dismissed under California’s Anti-SLAPP statute. The trial court allowed the defamation claims to go forward (which was affirmed by the appellate court), and the appropriateness of Gwire’s response to the online remarks wasn’t raised as an issue on appeal.¹²

An even more recent case serves as a cautionary tale of how not to respond to a negative online review. Colorado attorney James C. Underhill, Jr. was retained by a married couple to help with the husband’s ongoing post-divorce decree issues with his ex-wife. When the clients had problems paying his full fee, Underhill threatened to withdraw unless paid in full in two business days. When the clients terminated the representation, Underhill failed to refund a “filing fee” (nothing had been filed). The clients posted complaints about Underhill on two websites. He responded with postings of his own that, according to Colorado disciplinary authorities, “publicly shamed the couple by disclosing highly sensitive and confidential information gleaned from attorney-client discussions.”¹³ As if that wasn’t bad enough, Underhill then sued the couple for defamation, and even though he was aware that they had retained counsel, he continued to communicate with them ex parte despite being instructed not to by their lawyers. Underhill’s lawsuit was dismissed, but he then brought a second defamation suit in a different court, concocting an unfounded tale of further internet postings by his former clients that Colorado authorities found to be frivolous. Among the myriad disciplinary breaches by Underhill, he was also found to have violated Colorado Rule of Professional Conduct 8.4 (d) (“a lawyer shall not engage in conduct that prejudices the administration of justice”). As a result of his misconduct, Underhill received an 18-month suspension effective October 1, 2015.¹⁴

Occasionally, a defamation suit might prove successful. In

⁹ Id.

¹⁰ *Gwire v. Bloomberg*, 2013 WL 5493399 (Cal. Ct. App. 2013) (unpublished opinion).

¹¹ Id.

¹² Id.

¹³ *People v. James C. Underhill, Jr.*, Colorado Attorney Disciplinary Proceeding 15PDJ640 (August 12, 2015) 2015 WL 4944102

¹⁴ Id.

⁴ In the Matter of Tsamis, Commission No. 2013PR00095, available at <http://www.iardc.org/13PR0095CM.html>.

⁵ Id.

⁶ Id.

⁷ Id.

⁸ *In re Skinner*, 740 S.E. 2d 171 (Ga. 2013).

a recent Georgia decision, *Pampattiwar v. Hinson et al.*, the appellate court upheld a \$405,000 trial verdict in favor of divorce lawyer Jan V. Hinson, who sued her former client Vivek A. Pampattiwar over negative reviews he allegedly posted online.¹⁵ Hinson represented Pampattiwar in a divorce proceeding until a series of disagreements ensued over the representation and billing and she stopped representing him. Approximately six weeks later, Hinson Googled herself and found a sharply negative review that Pampattiwar had posted on a professional services review site, kudzu.com. Among other comments, he allegedly described Hinson as “a CROOK lawyer” and an “Extremely Fraudulent Lady” who “inflates her bills by 10 times” and had “duped 12 people i[n] the last couple of years.”¹⁶ Although the comments were posted under the screen name “STAREA,” an investigation would reveal that STAREA’s IP address matched the IP address used by Pampattiwar to send several emails to Hinson.¹⁷

Hinson sued for fraud, breach of contract over the unpaid legal bills, and libel per se, and she added a count for invasion of privacy and false light after a second pseudonymous review was posted on kudzu.com, accusing Hinson of using her office staff to post “bogus” reviews.¹⁸ The appellate court rejected Pampattiwar’s argument that Hinson had shown no actual damages from the defamatory postings, finding that applicable Georgia tort law allows recovery for “wounded feelings,” a form of personal injury to reputation.

In a recent Florida appellate decision, attorney Ann-Marie Giustibelli’s \$350,000 defamation verdict over a former client was affirmed.¹⁹ The former client had posted negative reviews of the lawyer on Avvo.com and other sites that included what both the trial judge and the appellate court deemed “demonstrably false allegations” that Giustibelli

had falsified a contract.²⁰ The verdict, incidentally, consisted entirely of punitive damages. However, as another recent decision illustrates, it’s one thing when you know who’s smearing you online, but what about when you don’t? Courts in many jurisdictions are hesitant

to unmask anonymous commenters, and websites like Avvo.com, Yelp.com, and others enjoy broad protections under the law. Tampa attorney Deborah Thomson found this out first-hand when she filed a defamation suit against an anonymous reviewer on Avvo.com and asked courts in Seattle (where Avvo is based) to enforce a subpoena for information unmasking her critic. Both the trial court and the appellate court denied her motions.²¹

Besides the ethical risk of revealing confidential client information when responding to a negative

online review, there is another equally disturbing way for an attorney to get in trouble over reviews on websites: by posting false testimonials, both negative and positive. In 2013, an attorney was publicly reprimanded by the Minnesota Supreme Court for “falsely posing as a former client of opposing counsel and posting a negative review on a website.” In Dallas, a pending lawsuit brought by one law firm accused a rival firm of a campaign of false postings while posing as unhappy ex-clients. And in August 2013, Yelp took the extreme step of suing the McMillan Law Group, a San Diego bankruptcy firm, for allegedly “gaming the system” through the “planting of fake reviews intended to sway potential clients with false testimonials.”²²

With the Internet assuming an ever-increasing marketing importance for lawyers, legal analysts are starting to pay more attention to a lawyer’s options and risks in addressing online reviews.²³ Others have pointed to



¹⁵ *Pampattiwar v. Hinson et al.*, 2014 WL 943230 (Ct. App. Ga., Mar. 12, 2014).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Blake v. Ann-Marie Giustibelli, P.H.*, 2016 BL 1940, Fla. Dist. Ct. App. 4th Dist., No. 4 AD14-3231, Jan. 6, 2016.

²⁰ *Id.*

²¹ *Thomson v. Doe*, 356 P. 3d 727, 31 Law Man. Prof. Conduct 421 (Wash. Ct. App. 2015).

²² *Yelp, Inc. v. McMillan Law Group, Inc.*, Case No. CGC-13-533654 (Sup. Ct. Cal., Cnty. San Fran., filed Aug. 20, 2013).

²³ See, e.g., Debra L. Bruce, *How Lawyers Can handle Bad Reviews and Complaints on Social Media*, 75 Tex. B.J. 402, 403 (May 2012); Josh King, *Your Business: Someone Online Hates You*, *The Recorder*, Aug. 16, 2013; Laurel Rigertas, *How Do You Rate Your Lawyer? Lawyers’ Responses to Online Reviews of Their Services*, 4 St. Mary’s J. Legal Mal. & Ethics (2014).

cautionary examples from the medical profession, in which physicians' attempts to restrict patients from posting online reviews through the use of nondisclosure agreements have led to litigation, bad publicity, and accusations of everything from censorship to unconscionability to violations of medical ethics guidelines.²⁴ But surprisingly little guidance on the issue has come from bar ethics authorities around the country. To date, only a handful of ethics opinions have emerged that deal squarely with the question of whether an attorney may respond to a client's negative online review.

In December 2012, the Los Angeles County Bar Association issued Formal Opinion No. 525, which dealt with the *Ethical Duties of Lawyers in Connection with Adverse Comments Published by a Former Client*.²⁵ In the scenario discussed in this opinion, the adverse comments posted by the client did not disclose any confidential information, nor was there any pending litigation or arbitration between the lawyer and the former client. (If there had been, so-called "self-defense" exceptions to discussing a client's confidential information, analogous to those in legal malpractice or grievance context, might apply.) The LA Bar Association committee concluded that an attorney may publicly respond as long as he or she does not disclose any confidential information, does not injure the client with respect to the subject of the prior representation, and is "proportionate and restrained."²⁶

In January 2014, the Bar Association of San Francisco weighed in on this subject as well.²⁷ Like its Los Angeles counterpart, it addressed a scenario with "a free public online forum that rates attorneys," in which the negative review by the ex-client did not disclose any confidential information.²⁸ And like its fellow association, the San Francisco Bar reasoned that while an attorney "is not ethically barred from responding generally" to such an online review, the ongoing duty of confidentiality would prohibit the lawyer from disclosing any confidential information. In addition, it concluded, if the matter previously handled for the client was not over, "it may be inappropriate under the circumstances for [the] attorney to provide any substantive response in the online forum, even one that does not disclose confidential information."²⁹



Other state ethics opinions have come to similar conclusions. In October 2014, the New York State Bar issued Ethics Opinion 1032, in which it stated that "A lawyer may not disclose client confidential information solely to respond to a former client's criticism of the lawyer posted on a website that includes client reviews of lawyers." The Pennsylvania Bar agreed, and like its California counterparts held that the "self-defense" exception to preserving client confidentiality did not apply where online reviews were concerned. In Opinion 2014-200 (2014), the Pennsylvania state bar ethics committee opined that an online disagreement about the quality of a lawyer's services is not a "controversy" and that no "proceeding" is pending or imminent just because a client impugns his lawyer in an online review. It did, however, propose the following generic response to a negative online review:

"A lawyer's duty to keep client confidences has few exceptions and in an abundance of caution I do not feel at liberty to respond in a point-by-point fashion in this forum. Suffice it to say that I do not believe that the post presents a fair and accurate picture of the events."

So just what *is* the best approach for dealing with negative online reviews, where posting a rebuttal that's too specific may result in a trip to the disciplinary board and a defamation suit is chancy at best? Lawyer-coach Debra Bruce of Houston recommends refraining from lashing out. Instead, she says, ask happy clients to post their own positive reviews, and consider "addressing the comment with a gracious apology or regret for their dissatisfaction, appreciation for the feedback, and an invitation to address the matter with the complainant personally."³⁰ This advice is echoed by Josh King, general counsel to Avvo, who calls negative commentary "a golden marketing opportunity."³¹ King says:

By posting a professional, meaningful response to negative commentary, an attorney sends a powerful message to any readers of that review. Done correctly, such a message communicates responsiveness, attention to feedback, and strength of character. The trick is to not act defensive, petty, or feel the need to directly refute what you perceive is wrong with the review.³²

This is sound advice. After all, when responding online to a negative posting, you're not just responding to one former client but to a reading audience of many potential clients.

²⁴ See, e.g., Sean D. Lee, "I Hate My Doctor": Reputation, Defamation, and Physician-Review Websites, 23 Health Matrix: J. Law-Medicine (Fall 2013).

²⁵ LA Cnty. Bar Assoc. Professional Responsibility and Ethics Comm., Formal Opinion No. 525 (Feb. 2013)

²⁶ Id.

²⁷ Bar Assoc. San Fran. Ethics Opinion 2014-1 (Jan. 2014), http://www.sfbabar.org/ethics/opinion_2014-1.aspx.

²⁸ Id.

²⁹ Id.

³⁰ Bruce, *supra* note 23, at 403.

³¹ King, *supra* note 23

³² Id.



Stark Phase V Creates New Exceptions & Regulatory Changes

By Richard Cheng

Late last year, the Centers for Medicare & Medicaid Services (“CMS”) published the most dramatic changes to the physician self-referral law (“Stark”) regulations in over seven years. Because this is the fifth major change to Stark, it is commonly known as Stark Phase V.

New Stark Exceptions

Chances are the new exceptions under Stark have garnered the most attention. First, under the new Stark Phase V time share exception, a health care provider (e.g. hospital) may structure an arrangement with a specialist on a limited or as-needed basis. Under this arrangement, the specialist is provided with space and equipment to provide its services. Because time shares do not provide for exclusive use, the arrangement cannot satisfy the exclusive use requirement of the rental of office space exception under Stark. This new exception has several conditions, including the fact it is limited to timeshare arrangements between certain physicians, physician organizations (“POs”) and hospitals. Also, and more importantly, the timeshare arrangement must be predominantly for the provision of evaluation and management (“E&M”) services to patients.

Another new exception created under Stark Phase V is compensation assistance provided for non-physician practitioners (“NPPs”). This exception will allow hospitals, federally qualified health care centers (“FQHCs”) and rural health clinics (“RHCs”) to provide remuneration to physicians in order to assist the physicians in compensating NPPs. Like many of the other exceptions under Stark, this arrangement must a signed writing, the compensation must be fair market value and not conditioned on or take into account referrals or other business generated between these parties. The exception must also be limited to situations where “substantially all” of the NPPs services are for primary care services or mental health care services. Lastly, the NPP may not have, within one year of the commencement of the compensation arrangement, practiced in the geographic area.

Compliance Changes

A writing requirement exists in a number of Stark exceptions, e.g., the space and equipment lease and personal services and management contracts safe harbors. However, it is ambiguous what is exactly required for a “writing.” Healthcare providers are regularly advised to reduce the writing to a single formal written contract. Stark Phase V clarifies that a single formal written contract is not required and contemporaneous documents evidencing the conduct between the parties may be sufficient to satisfy the writing requirement. The duration of the arrangement must last, as a matter of fact, for at least one year, but Stark Phase V eliminates the need for a formal agreement specifying a one-year term.

Assuming the other necessary criteria exist, the office space rental, rental of equipment and personal service arrangement exceptions previously allowed “holdover” arrangements for up to six months after the expiration of an arrangement. However, under Stark Phase V, these Stark exceptions include a perpetual holdover period, assuming other conditions are met.

Temporary noncompliance with a Stark exception’s signature requirement has been allowed. If non-compliance was inadvertent, parties had up to ninety days to obtain signatures; if not inadvertent, the parties only had thirty days. Stark Phase V eliminated this distinction and healthcare providers have ninety days to obtain the necessary signatures in all cases. Moreover, Stark Phase V clarifies that not every document in a collection of documents is required to have the signature of one or both parties.

Historically, under Stark’s stand-in-the-shoes (“SITS”) rule, only physicians with an ownership or investment interest in their physicians organization (“PO”) (more than mere nominal ownership) were deemed to SITS of their PO. There has been ambiguity as to whether only physicians with ownership or investment interests in the PO are used in a SITS analysis of Stark exceptions, or whether the analysis must include all other physicians in the PO (e.g., employees). Stark Phase V clarifies that CMS did not intend to narrow the scope of referrals and other business generated when SITS applies. Stark Phase V also provided further clarification by revising the definition of “locum tenens.” Specifically, Stark Phase V removed the phrase “stand in the shoes” associated with locum tenens to eliminate confusion with the SITS rule.

Remuneration Redefined

Under Stark, remuneration means any payment or other benefit made directly or indirectly, overtly or covertly, in cash or in kind.¹ Previously, items, devices, or supplies that were “used solely” to collect, transport, process, or store specimens for the entity providing the items, devices, or supplies, or to order or communicate the results of tests or

¹ 42 CFR § 411.351.

procedures for such entity were exceptions and were not considered remuneration. But there were questions as to whether the exceptions applied if an arrangement involved one or more of these specified uses, but no other purpose? CMS reiterated its policy that as long as the arrangement is used for “one or more” of the exempt purposes, but solely for these purposes, the exception still applies. Stark Phase V also clarifies “split bill” arrangements, emphasizing that CMS does not view such arrangements as involving remuneration between the parties because neither party receives any benefit.

Other Changes

The aforementioned information captures the highlighted changes in Stark Phase V. Beyond the highlighted portions, Stark Phase V also revised language to (1) provide more clarity to the “take into account” standard used in most Stark exceptions, (2) clarify the publicly traded securities safe harbor, (3) clarify restrictions on physician owned hospitals, (4) clarify the geographic areas served by federally qualified health care centers and rural health clinics, and (5) clarify the calculation of physician retention payments for certain safe harbors.



Five Fun Facts about a Texas Bar College Member

By Caren Lock



This is a new article profiling members of the Texas Bar College.

We are starting off with our Chair, Chad Baruch, who has graciously agreed to be the guinea pig.

1 Most fun you had on a case?
Having pre-mediation breakfast with a member of the Navy SEAL team that conducted the Captain Phillips and Bin Laden raids.

2 Last time you were starstruck?
When I took Michael Moriarty, the original star of *Law & Order*, shopping for a dress shirt at Northpark.

3 Favorite Supreme Court Justice?
Chief Justice John Marshall. How could I choose anyone else???

4 Best meal you ever had?
Any one of the many meals I had growing up at Karl Ratzch’s in Milwaukee. Recently, Geronimo’s in Santa Fe.

5 Wish somebody had told me this before I argued my first appellate case.
It’s all about the conversation....

Now you know...!

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Thursday

7.25 hours including 1.75 ethics

8:00 **Registration**
Coffee and Pastries Provided

8:40 **Welcoming Remarks**
Course Director
John C. Grace, *Lubbock*
Assistant City Attorney
City of Lubbock
Secretary, Texas Bar College

8:50 **Texas Bar College Update**
(No MCLE Credit)
Patsy Yung Micale, *Dallas*
Dept. of Homeland Security, USCIS
Vice Chair, Texas Bar College

9:00 **State of the State Bar Address**
.25 hr
Roland K. Johnson, *Fort Worth*
Harris Finely & Bogle
State Bar President 2009-2010

UPDATES

9:15 **U.S. Supreme Court Update** .5 hr
Daniel L. Geyser, *Dallas*
Stris & Maher

9:45 **Update on Expert (and Lay Witness) Testimony** .5 hr
Hon. Harvey G. Brown, Jr., *Houston*
Justice, First Court of Appeals

10:15 **Break**

10:30 **Court of Criminal Appeals Update**
.75 hr
Hon. David Newell, *Austin*
Judge, Texas Court of Criminal Appeals

Hon. Kevin P. Yearly, *Austin*
Judge, Texas Court of Criminal Appeals

CONSUMER

11:15 **Fair Debt Collection** .5 hr
John Mayer, *Houston*
Ross Banks May Cron & Cavin

11:45 **Deceptive Trade Practices Act Update** .5 hr
Steven C. James, *El Paso*
Steven C. James Attorney PLLC

12:15 **Break - Lunch Provided**

ETHICS

12:30 **Luncheon Presentation: The Information of Things - Gathering Case-Related Intelligence from Unexpected Places** .5 hr (.25 ethics)
Aaron Hughes, *Kingwood*
Vidoc Razor

1:00 **Break**

1:15 **Socially Unacceptable: Ethical Issues in Using Social Media** .75 hr ethics
John G. Browning, *Dallas*
Passman & Jones

2:00 **Ethical Fee Agreements and Proving up Attorney Fees** .75 hr ethics
Chad Baruch, *Dallas*
Johnston Tobey Baruch

Coyt Johnston, Jr., *Dallas*
Johnston Tobey Baruch

IMMIGRATION

2:45 **Immigration Myths and Facts** 1 hr
Moderator
Kenneth James Harder, *Houston*
Dunbar Harder, PLLC

Panelists

Rehan S. Alimohammad, *Sugar Land*
Alimohammad & Zafar

Patsy Yung Micale, *Dallas*
Dept. of Homeland Security, USCIS

3:45 **Break**

EMPLOYMENT

4:00 **Social Media Issues in Employment Law** .5 hr
Kimberly S. Houston, *Dallas*
Christiansen Davis

4:30 **Hot Topics in Employment Law** .75 hr
Katrina Grider, *Cypress*
Katrina Grider & Associates

5:15 **Adjourn**

7:00 **Party By the Pool!**

Bring your family
for food and
refreshments.





Friday

8.25 hours including 1.75 ethics

7:00 **Coffee & Pastries Provided**

7:55 **Morning Announcements**

REAL ESTATE

8:00 **From Drought to Flood: Currents in Water Law** .5 hr

Mark McPherson, *Dallas*
McPherson LawFirm

8:30 **Challenging Your Client's Property Valuation with the Appraisal District** .5 hr

John Brusniak, *Dallas*
Brusniak Law

9:00 **Statutory Notices in Real Estate Sales Contracts** .5 hr

Sara E. Dysart, *San Antonio*
Sara E. Dysart, PC

9:30 **Beyond Cows and Plows: Emerging Legal & Policy Issues for Texas Farms and Ranches** .5 hr

James D. Bradbury, *Fort Worth*
James D. Bradbury, PLLC

10:00 **Break**

ETHICS

10:15 **The Top 10 Ways to Avoid a Meeting with the State Bar of Texas CDC** .5 hr ethics

Mark T. Murray, *Houston*
Stevenson & Murray

10:45 **Emerging Standards of Competence When Dealing with Protected Information** .75 hr ethics

Judy Kostura, *Austin*
Judge, Kostura & Putman

Mitzi S. Mayfield, *Amarillo*
Riney & Mayfield

11:30 **Break - Lunch Provided**

11:45 **Luncheon Presentation: Ten Tips for Lawyers Dealing with Stress, Mental Health, and Substance Use Issues** .5 hr ethics

Allan K. Dubois, *San Antonio*
President, State Bar of Texas

12:15 **Break**

CRIMINAL

12:30 **Overview of the Unlawful Carry Law in Texas** .5 hr

Larry P. McDougal, *Richmond*
Law Office of Larry P. McDougal

1:00 **Domestic Violence** .5 hr

Jaime Esparza, *El Paso*
34th Judicial District Attorney

1:30 **DWI: The Law and the Impact of Missouri vs. McNeely** .5 hr

David Schulman, *Austin*
The Law Office of David A. Schulman

2:00 **Texas Bar College Awards**

2:10 **Break**

LITIGATION

2:15 **The Vanishing Jury Trial** .5 hr

Jim Parsons, *Palestine*
The Law Office of Jim Parsons

2:45 **Supreme Court Cases Important to Trial Lawyers** .5 hr

Jay Jackson, *Houston*
Abraham Watkins Nichols Sorrels
Agosto & Friend

3:15 **Summary Judgments and Declaratory Judgments** .5 hr

Dustin M. Howell, *Austin*
McKool Smith

3:45 **Break**

ESTATE PLANNING AND PROBATE

4:00 **Estate Planning and Probate Basics** .5 hr

Arielle Prangner, *Houston*
Davis & Willms

4:30 **Non-Probate Transfers** .5 hr

Tina R. Green, *Texarkana*
Capshaw Green

5:00 **The Will Execution Ceremony as Inexpensive "Will Insurance"** .5 hr

Professor Gerry W. Beyer, *Lubbock*
Governor Preston E. Smith Regent's
Professor of Law
Texas Tech University School of Law

5:30 **Adjourn**

Saturday

3.75 hours including .25 ethics

7:30 **Coffee and Pastries Provided**

7:55 **Morning Announcements**

FAMILY LAW

8:00 **The Supreme Court's Marriage Equality Decision – Obergefell v. Hodges and Its Effect on Texas** .75 hr

Karen J. Langsley, *Dripping Springs*
LangsleyLaw

8:45 **Juvenile Case Law Update** .5 hr

Hon. Patrick J. Garza, *San Antonio*
Associate Judge, 386th District Court

9:15 **Family Law Case Update** .5 hr

Georganna L. Simpson, *Dallas*
Georganna L. Simpson, PC

9:45 **Break**

10:00 **Modification** .5 hr (.25 ethics)

Stephen J. Naylor, *Fort Worth*
Law Office of Stephen J. Naylor

10:30 **Contempt** .5 hr

John Bo Nichols, *Houston*
Bo Nichols Law Firm

11:00 **Post-Divorce Enforcement** .5 hr

Joseph Indelicato, Jr., *Houston*
Joseph Indelicato, Jr., PC

11:30 **The ABC's of CPS** .5 hr

Hon. Meca L. Walker, *Houston*
Associate Judge, 311th District Court

12:00 **Adjourn**



Galveston Island Attractions

Schlitterbahn Waterpark Directly across the parking lot from the Moody Garden Hotel is the Schlitterbahn Waterpark. Open year round, it is the first climate controlled in-door park in Texas. There is something for everyone! Man-made beaches, hot tubs, three different kids's areas and three speed slides. Free parking, free inner tubes, and picnics welcome. A heated pool with a swim up bar for the adults and a dozen water slides for everyone.

Historic Pleasure Pier - It's back! For decades, the historic Pleasure Pier served as a catalyst for stimulating tourism to Galveston's Seawall Boulevard and Gulf beaches. Originally built in the late 1940s as a recreational facility for the military, the Pier was turned over to the city after World War II and named Pleasure Pier. The Pleasure Pier operated as an iconic family destination until 1961 when Hurricane Carla damaged the property. In 1965, the Flagship Hotel opened on the site and was severely damaged by Hurricane Ike in 2008.

Moody Gardens This tropical destination is ideal for families and groups alike. You can experience life at the Rainforest Pyramid®, featuring exotic and endangered plants and animals from the rainforests of the world. Explore the Aquarium Pyramid® where you can meet a real penguin in our Penguin Encounter. Tour travelling exhibits at the Discovery Museum and immerse yourself at the MG3D, 4D and Ridefilm theaters. Enjoy beautiful Galveston Bay on the Colonel Paddlewheel Boat and a little summer fun on the new lazy river at beautiful Palm Beach. Finally, take a swing at the Moody Gardens Golf Course and escape to the four-diamond Moody Gardens Hotel, Spa & Convention Center. Visit Moody Gardens and prepare to experience life.

Schlitterbahn Waterpark



Photo Credit: GICVB

Pleasure Pier

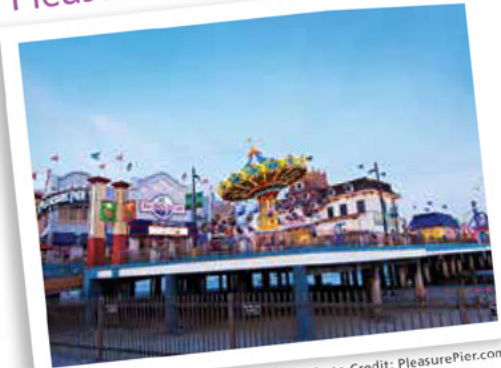


Photo Credit: PleasurePier.com



Moody Gardens

Reserve Your Hotel Room Early

Hotel rooms have been blocked at special rates on a space available basis. To make a reservation, tell the hotel that you will be attending this State Bar of Texas course.

GALVESTON ISLAND

Moody Gardens Hotel,
Spa and Convention Center
Seven Hope Boulevard
Galveston Island, TX 77554
888-388-8484

\$168 for a single/double

Deadline: June 21, 2016

Register online: <http://tinyurl.com/jlpgoln>

Group Code: SUMMER16



Visit TexasBarCLE.com to view the course brochure or register!

Click on

**Live Courses /
Video Replays,**

then search for the keywords
"summer school."

Or call TexasBarCLE

M-F 8a-5p at 512-427-1574.





Great CLE Articles from TexasBarCLE.com's Online Library

FREE access to these and many more is included with your College membership. Check 'em out!

The basics you need to know about employment law are covered in **Employment Law 101: 2016**. (9 great articles!)

Pleading in Employment Cases - Plaintiffs Perspective

<http://www.texasbarcle.com/CLE/AABuy0.asp?sProductType=AR&lID=181813>

Pleadings in Employment Discrimination Litigation: Introduction & Update

<http://www.texasbarcle.com/CLE/AABuy0.asp?sProductType=AR&lID=181697>

The First Thirty Days - What Your Client Needs to Know from the Beginning - Defense Perspective

<http://www.texasbarcle.com/CLE/AABuy0.asp?sProductType=AR&lID=181696>

The First Thirty Days: What Your Client Needs to Know from the Beginning (Plaintiffs Perspective)

<http://www.texasbarcle.com/CLE/AABuy0.asp?sProductType=AR&lID=181695>

Overview of Discrimination Statutes

<http://www.texasbarcle.com/CLE/AABuy0.asp?sProductType=AR&lID=180994>

Handling Unemployment Issues

<http://www.texasbarcle.com/CLE/AABuy0.asp?sProductType=AR&lID=178586>

The Myths of Employment Law

<http://www.texasbarcle.com/CLE/AABuy0.asp?sProductType=AR&lID=178576>

FLSA - The Basics

<http://www.texasbarcle.com/CLE/AABuy0.asp?sProductType=AR&lID=178574>

Overview of Employment Law

<http://www.texasbarcle.com/CLE/AABuy0.asp?sProductType=AR&lID=178570>

Learn from Coyt Randal Johnston and avoid malpractice. His **Top Ten Ways to Avoid Malpractice: Knowing Where The Ice is Thin** is always timely (no matter what season it is).

<http://www.texasbarcle.com/cle/OLViewArticle.asp?a=180701&t=PDF&e=14099&p=1>

With so much attention on the vacant U.S. Supreme Court seat, brush up Chad Baruch's article on **The Roberts Court and the Bill of Rights** so you can banter with your esteemed colleagues on the nomination.

<http://www.texasbarcle.com/cle/OLViewArticle.asp?a=174091&t=PDF&e=13935&p=1>

Watch "Criminal Minds" on CBS if you want mindless fluff but read **Newly Minted Criminal Laws** by The Honorable Elsa Alcala if you want both entertainment and substance.

<http://www.texasbarcle.com/cle/OLViewArticle.asp?a=175636&t=PDF&e=13894&p=1>

After The Texas State Legislature convened in 2015, get the latest and the greatest on **Legislative Update 2015: Family Law** by Warren Cole.

<http://www.texasbarcle.com/cle/OLViewArticle.asp?a=179702&t=PDF&e=14431&p=1>

THE ENDOWMENT FUND FOR PROFESSIONALISM has been established by the College to underwrite projects and services that contribute to higher standards of education and performance among lawyers. For example, some proceeds for the fund will be used to establish free access for all College members to the State Bar of Texas' Online Library, which provides immediate, word-searchable access to more than 20,000 CLE articles written by experienced members of the bar. Many lawyers find that beginning their research in the Online Library gets them the practical information and analysis they need more quickly and more thoroughly.

Membership in the Fund is by invitation of the Texas Bar College. After five continuous years of College membership, a lawyer becomes eligible to join the Fund. Levels of membership vary according to the lawyer's financial commitment. Choose your membership level:

Endowment Fund Scholar

The Scholar commits to at least a \$1,000 contribution which may be paid out at \$200 per year.

Honored Endowment Fund Scholar

The Scholar has reached the \$1,000 contribution level.

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The Honored Scholar continues to make annual contributions of at least \$200 per year.

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Non-qualifying Texas Bar College members or non-College members may contribute to the Fund.

Members of the Fund and Friends of the Endowment Fund will be acknowledged by the College. Remember, the Fund will achieve its goals with your commitment. Consider joining the Fund today!



The Endowment Fund for Professionalism

Texas Bar College P. O. Box 12487 Austin, Texas 78711-2487

As a member of the Texas Bar College for five consecutive years, I hereby accept my invitation to join 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 _____.

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Payment by enclosed ☐ check payable to The Endowment Fund for Professionalism of the Texas 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.