



# Denton County Lawyer

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[www.dentonbar.com](http://www.dentonbar.com)

## Meet Erin Manley!

We're sure that you've heard the buzz by now, but just in case you haven't, we have a new Executive Director! Erin Manley just started working with the Denton County Bar Association in January, and we're extremely pleased to have her on board. If you haven't met Erin at a Bar event yet, here's a little bit about her and what she plans to bring to our Bar Association.

Erin is originally from Greenville, Texas. She moved to Denton in 2007 when she transferred from Texas A&M University to the University of North Texas (UNT), and she quickly fell in love with the area. During her time at UNT, she worked with the DCBA as an administrative assistant, scheduling mediations for DCAP, helping out the Executive Director, and attending DCBA/DCAP events. She graduated from UNT in 2010 with, as she phrases it, "a degree in Communication Studies and a passion for people."

After graduation, Erin left Denton for Austin, where she worked for the Client/Attorney Assistant Program for the State Bar of Texas. She later moved to the Texas Criminal Defense Lawyers Association as their Seminar Planner, where she worked with both speakers and course directors for each seminar and even created CLE programs. And now, Erin has moved back to Denton to take on the challenging, yet exciting role of

Executive Director for the DCBA.

"I always loved DCBA when I worked up front as an assistant to DCAP and the Executive Director," Erin reflected. "I was thrilled to be offered the job and come back to the Association and work with the attorneys and boards behind the scenes to create such amazing events and programs, as well as assist with ADR, which is such an amazing program for Denton County."

Now that she is back with the DCBA, as the woman-in-charge instead of an assistant, she has been diving into as many committees as she can to try to get up to speed with everything DCBA is involved in and offers. Even though she has hit the ground running with very little time to really catch her breath, she feels that the most important part of her job is to take the time to become the face and person that the members feel comfortable with.

"[I want to be] Someone they can come to with anything they feel is important to them, because they make up this association, and if they feel it's important, I want to be there to help them in any way possible," Erin emphasized.

In fact, it's talking with and working with the members that Erin loves most about her job. She loves that she already knows most of the Board from her previous stint, and she's incredibly



excited to be a part of all of their ideas for the rest of the year. She's also just as eager to get to know the new faces who have joined the Bar since she left in 2011.

When Erin isn't soaking up all the information the Bar has to offer or going out of her way to meet all of the Bar members, she enjoys spending time outdoors and playing sports. When she was in Austin, she camped

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# From the President

## Avoid the Drama Triangle

Attorneys are often looking for positive affirmation to feel good about what we do. As a result of being the butt of jokes and suffering from low job satisfaction, attorneys I know go out of their way to help people, make positive changes in their community, all in an effort to go home at night feeling better about what they do every day.

This need, which is a part of all professions, but can be stronger, in my opinion, in those professions tainted by a negative public image, often leads to attorneys going above and beyond to be the proverbial Knight on the White Horse for their clients. While trying hard is admirable, it often leads to unanticipated consequences.

In 1968, Dr. Stephen Karpman published *Transactional Analysis*, an article in which he discussed what has come to be known as the Karpman Drama Triangle. He used fairy tales to exemplify how, when participants immerse themselves in drama, often things don't end up the way they planned.

The archetypal participants in the Triangle are the VICTIM—PERSECUTOR—RESCUER.

Every one of us has experienced the client who comes into our

office as the Victim. In my field, family law, it's usually a spouse, whose "Persecutor" husband or wife has somehow abused or taken advantage of them. At that point, the client is looking for a Rescuer and, very often, the attorney sitting across the desk from them jumps at the chance to fill that role.

Don't do it!

The problem with the Karpman Triangle is that, to create the "drama," roles change during the story. This means that, at some point, the Rescuer (that could be you), becomes the Persecutor, and then, worst case scenario, the Victim!

I know this will be hard for most of you to imagine, but let's say you take on the Rescuer role, file those strongly-worded pleadings, prepare, prepare, prepare, then go into Court and get the relief your client (the "Victim") wanted. Home Run, right? However, at some point, the client



*Duane L. Coker, President*

### DCBA Officers

**President,** Duane L. Coker  
**Immediate Past President,**  
Dena A. Reecer  
**President-Elect,**  
Theodore D. Ogilvie  
**Vice President,** Amie Peace  
**Treasurer,** Travis Biggs  
**Secretary,** Vicki Isaacks  
**CLE Director,** Julia Kerestine

### DCBA Directors

Leah Harbour, Brent Hill, Fon Laughlin, Andrew M. Lloyd, Virginia Moore, Jill O'Connell

### DCBA Committee Chairs

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**Library Board of Governors,**  
Andrew M. Lloyd  
**Social Committee,** Brent Hill  
**CLE Committee,** Julia Kerestine  
**Communications Committee,**  
Andrew M. Lloyd and  
Jill O'Connell  
**Fee Dispute,** John Rentz  
**Pro Bono,** Cynthia Burkett and  
Vicki Isaacks

### Membership,

Travis Biggs  
**Awards,** Dena A. Reecer  
**Planning Committee,**  
Duane L. Coker  
**Local Rules,** Theodore D. Ogilvie

### DCBA Sections

- Trial Lawyer's Association
- Family Law Section
- Greater Denton County Young Lawyers Association
- Real Estate, Trust, and Probate Law Section
- Criminal Law

### DCBA Membership

**Your DCBA Membership includes**

- Free and discounted CLE programs
- Monthly luncheon & happy hour
- Networking opportunities
- Listing on the bar website, including photo, two practice areas, and a link to your website.

For more information see our website: [www.dentonbar.com](http://www.dentonbar.com).

and opposing party start talking, work things out, and, ultimately, minimize or resolve their differences. The only problem is, at that point, you've charged them \$10,000.00 for your services. Now you're the Persecutor because you have the audacity to want to be paid. You continue to send bills, make calls, even consider withdrawing and intervening for your fees. What happens next? Your client accuses you of being over-zealous, or worse, not even doing what he or she wanted! You are a blood-sucking attorney who destroyed their family. The client threatens to call the Bar Association or hire a lawyer. And, guess what role you're now in? The Victim!

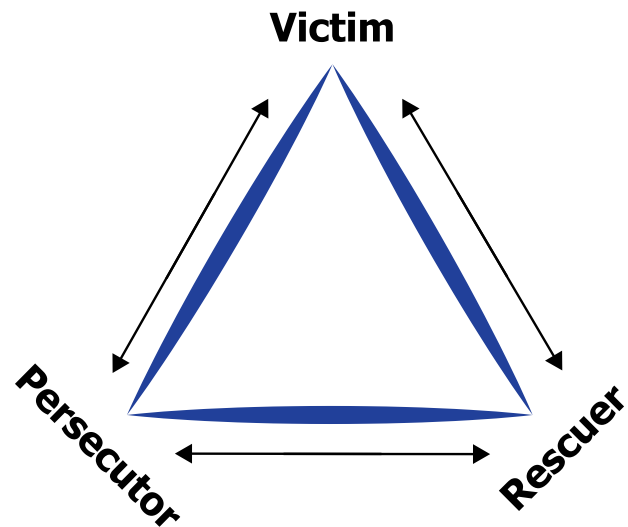
Fairy tales and dramas have taught us this triangle for centuries.

In Red Riding Hood, our heroine starts out as the Rescuer (taking food and comfort to grandma), becomes the Victim along the way (that pesky wolf), and, ultimately, the Persecutor/Rescuer (yes, you can wear two hats at once) when she takes care of business (or the Rescuer Woodcutter takes care of business, depending on which version you're reading). Of course, in the after story, I'm sure Red Riding Hood refused to pay the Woodcutter for his help and reported him to the Better Business Bureau for failing to get her out of the wolf's belly fast enough. Another Rescuer turned Victim!

So, the question is, how can we be zealous advocates for our clients, but avoid falling into the Triangle?

The best way is to be mindful of the three roles and avoid taking any one of them on. Sounds easy, but it's not. Most of our relationships, at some point, follow this triangle in one way or the other.

As attorneys, our starting role will almost always be the Rescuer. So, be clear with the client, from the beginning of the relationship, that your job is not to rescue them. It's to help them get through a tough situation as best as possible. Or, better yet, to help them rescue themselves. Stay above the fray. Don't join in with the client in attacking the other party, attorney or judge (and, thereby, becoming the attacked person's Persecutor; there's more than one way onto the triangle!). Always be professional, clinical, and maintain a certain level of detachment from the situation. You don't have to be heartless, but try sympathizing, not empathizing. You can feel badly for them, while maintain your professionalism, but you don't have to walk in their



## The Drama Triangle

shoes and experience their pain.

If, at any point, you find yourself down in the ditches, on the receiving end of a glob of mud, or, worse yet, about to throw a handful of it yourself, you are definitely in the triangle. Likely, at some point, despite your best efforts, you'll find yourself there. If you do, get out! How?

There are a lot of theories about how to exit a drama triangle. I think the best way for attorneys to do it is to, first, analyze the roles and determine your current role and the current role of the other players. Next, step up out of the trenches, begin to distance yourself, and observe the situation. Finally, clearly express to everyone involved your analysis of the situation. Professionals who study these relationships refer to this last step as "meta-communication" and characterize it as communication about the situation itself rather than what is going on in the situation (the latter being the he said-she said of it all).

Hopefully, at this point, you can establish a more professional attorney-client relationship, salvage the situation and move forward. However, if you can't, if the other parties aren't willing to recognize the situation or let you out of your role, then it might be time to consider withdrawing. Better to get your client on to someone else, who hopefully can re-establish the professional relationship, than rotating on that triangle until you're the Victim.

# Member Perspective

## The Denton Way

Part of a member perspectives series. By Mark Lewis, Lewis & Passons, P.C., [www.dentonfamilyattorneys.com](http://www.dentonfamilyattorneys.com).

A friend, who is a therapist, asked me once if I knew the difference between a good and a bad therapist. I tried, unsuccessfully, to answer his question before finally giving up.

"It's simple," he said. "A good therapist, on meeting you for the first time, says to herself, *There's Mark – he looks troubled – how can I help him?* A bad therapist says, *Thank goodness, there's next month's rent!*"

That definition applies to lawyers as well and, fortunately, most Denton lawyers say *How can I help?*

I believe it's what makes us different from other places; it's what I like to call *The Denton Way*.

The Denton Way recognizes that law is a helping profession, not a means to self-aggrandizement. It knows that our clients come to us with problems—both big and small—that they want us to solve. Understands our job isn't to create expensive lawsuits, but to be problem-solvers. As our law licenses say, we're not only attorneys but also counselors-at-law.

I believe that we are divinely created and each of us is put here to accomplish something that's very important and which only we can do. You may believe differently and that's OK. Even so, I doubt that you believe that you have no value and your life has no meaning apart from the hours you bill, the money you make, or the



cases you win.

The Denton Way tells us that our professional lives are defined by how we help those whom we serve. The Denton Way may not be the most lucrative or the most popular way, but it is the right way. And I am proud to say it's our way, and it's what makes us different.

I hope we never lose it!

## Transitions to Practice Mentoring Group

By Virginia A. Moore, Virginia A. Moore & Associates, [www.vamlawfirm.com](http://www.vamlawfirm.com).

Judge Bonnie Robison (Denton County Probate Court) and Judge Bruce McFarling (362nd District Court) hosted the Transitions to Practice Mentoring Group in January and February. Both court visits were well attended by group members. The mentees met and visited personally with the Judges and their staffs over lunch which was followed in each instance by a presentation on practice pointers from the judge.

Judge Robison shared tips on appointment lists, qualification

requirements to serve as ad litem and guardians, and important to these new attorneys, how to file for and document attorney fee applications.

Judge McFarling gave practical pointers on dealing respectfully with court personnel and opposing counsel, the background of the local rules and the decorum of his and other courts in Denton County.

Dena Reecer served as the facilitator for the Probate Court visit and Scott Alagood gave an overview of the

local rules and served as facilitator for the visit to the 362nd District Court. Mentor attorneys Gary Kollmeier and Lee Ann Breeding contributed additional tips on litigation and criminal practice in Denton County.

The next Transitions meeting will be March 29 at Oakmont Country Club, starting at 11:45 AM. This meeting will be an informal roundtable discussion. Mentors will be available to answer practice questions and discuss forming an ongoing small firm and solo's group.



## Perspective of a Georgia Girl

*Part of a member perspectives series. By Brook Stuntebeck, Neal Ashmore Family Law Group, [www.northtexasdivorcelawyers.com](http://www.northtexasdivorcelawyers.com).*

When I moved here in late 2006, I knew nothing, really, about Texas, nor had I ever heard of Denton County. I'm a Georgia girl who went to law school in Atlanta and practiced in the sprawling, traffic-ridden metropolitan area for about six months prior to our move. So, imagine my surprise, when I discovered that Denton County, the county where I would develop and grow my practice, would be so much like my hometown, which was near Athens, Georgia. Despite the arts, events, activities, and sheer population, Denton County, especially within the legal community, feels very much like a neighborly, small town—which is just like home to me.

Even before I became licensed in Texas, I was lucky enough to meet and work with some of the lawyers in the area. I encountered welcoming and approachable, and most importantly, helpful attorneys at each turn. Apparently, there is no such thing as a “stupid question,” but I had plenty! Everyone whom I approached stopped and listened and provided whatever small guidance I sought with patient empathy. I was interested in getting involved in order to meet people, both personally and professionally, since I was new to the entire area. The Denton County Bar Association had open arms for such an interest. Become a mediator at DCAP! Attend the Young Lawyer business meetings! Volunteer (there is always something going on where a warm body with a

legal education and a good attitude can contribute time and be of help)! And, while doing that, we'll get to know you, welcome you, and invite you to more events! Before I knew it, I attended Christmas parties and law firm open houses and family section lunch and learn sessions, and I even knew people at CLEs that took place out of town!

Before much longer, I had fostered true friendships with those in the legal community. The opportunity for involvement exists, but the ability to jump right in and never feel like a stranger is one of my favorite things about practicing in Denton County, and that only covers the camaraderie possible with fellow attorneys. We may have a bit of the “everyone knows your business” problems inevitable in most small towns, but I don't have a fear of calling any number of Denton County attorneys and asking questions and getting recommendations and/or working together. It's a simple pleasure to be comfortable with those with whom we work. I think we are better at our jobs because of the affable environment we foster with one another.

But the practice of law goes beyond dealing with other attorneys. The Courthouse environment is quite pleasant, even when my heels trigger the metal detector every time, which inevitably sparks a joke from a bailiff. The clerks in the District Clerk's office are friendly and will laugh with



you, not at you, for silly mistakes that only a young (ahem) lawyer would make. The bailiffs are attentive and go out of their way to be helpful. My experience with the District Court has been a learning curve of the greatest proportion, because as busy as their dockets may be, the Judges are approachable and want to help the issues before the Court resolve quickly and efficiently.

This year, I will be in my sixth year of practice. And, soon, I will no longer qualify as an “automatic” young lawyer by having practiced more than five years (we won't talk about the age requirement). Whether as a young lawyer or merely young at heart, practicing in Denton County is encouraging and comfortable. And, it feels like only yesterday that I found my “home” in Denton County, with no plans to move again any time soon.

**Be a part of our  
DCAP Program!**

**Contact  
Erin Manley**

**([emanley@dentonbar.com](mailto:emanley@dentonbar.com))**

**to schedule a time  
for your mediation!**

## Protecting the Brand— Trademark Law 101

By Tamera H. Bennett, Bennett Law Office, [www.tbennettlaw.com](http://www.tbennettlaw.com).

A brand or trademark is the way one business distinguishes its products or services from other businesses' products or services. It might be a word, a phrase, a logo, or even a combination of any or all those things. Developing a strong trademark is key to protecting the value of the brand.

Examples of well-known trademarks include NIKE, CHANEL and COKE. The name of your product or service doesn't have to be famous to be protected by trademark law. But, not every name is protected as a trademark.

In selecting a trademark, resist the temptation to pick a mark that is generic or describes the goods or services. Generic names cannot be protected and it is difficult, if not impossible, to protect a mark that is descriptive. Trademarks are subject to varying degrees of protection. The stronger the mark, the greater protection it will receive.

While we may all have a box of facial tissues in our office, some of us will have Kleenex® brand and others may have Puffs® brand. Facial tissue is an example of a generic term.

Guiding clients through the process of selecting a strong product name can be challenging. Here's an example we often discuss with clients to highlight the difference in a generic/weak trademark and a fanciful/strong trademark. If you open a

men's clothing store and name it "Men's Clothing," you cannot secure trademark protection for the name. If you open a place to cut men's hair and call it the "Barber Shop" you cannot have a trademark. In both examples, the name of the store is generic for the product or service sold inside. But, consider a men's clothing store where you have barber chairs as props and a barber pole at the front door. In that case, "Barber Shop" for a men's clothing store is not generic or descriptive. It might just be a very strong brand name, because it does not describe the product sold in the store.

After identifying a strong brand name, the next step is a trademark search to determine if anyone else is using a similar name for the same products/services or for related items. These searches are performed at the United States Patent and Trademark Office (USPTO), the Internet and other third-party search services. Trademark law is designed as a consumer protection act, not a business owner protection act. The key of the search is determining if this new mark might be so similar to an existing brand in the marketplace that there is a likelihood of consumer confusion as to the source of the product or service. Likelihood of consumer confusion is the standard used to determine trademark infringement.

A trademark is protected by common law from the moment the mark is attached to a product that is sold or to

a service that is provided.

While no registration is required to be protected, there are benefits to registration including presumptions of ownership and dates of first use. A state law application can be filed as soon as the brand name is used within the state. A newly revised Texas Trademark law grants statutory trademark protection for 5 years from the time the application is approved and may be renewed for consecutive 5 year periods.

If you believe you will use your mark in interstate commerce, you may file a federal application based upon intent to use the mark. If you are already using your mark on a product or service in more than one state, you can file a federal application based upon use. Once the mark is in use and proper filings are made with the USPTO, a federal registration lasts for ten years from the date of registration and may be renewed for consecutive ten year periods. But, it's very important to know certain maintenance filings are due between the fifth and sixth year after registration in order to keep the registration active.

Ask any business owner and they will tell you the importance of their brand name. Helping those business owners navigate the trademark selection, search, and registration process is key to protecting this asset.



## Duty to Inform

By Mike Gregory, Gregory Family Law, P.C., [www.dentonfamilylaw.com](http://www.dentonfamilylaw.com).

Under the Texas Disciplinary Rules of Professional Conduct, lawyers owe their clients certain duties. “In representing a client, a lawyer shall not: (1) neglect a legal matter entrusted to the lawyer; or (2) frequently fail to carry out completely the obligations that the lawyer owes to a client or clients.” DR 1.01 (b) (1) (2), TDRPC, Tex. Gov’t Code Ann. tit.2, subtit. app. A. Disciplinary Rule 1.03 (b) states, “A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.”

Black’s Law Dictionary describes the term “informed consent” as a principal of law that holds that in order to make a decision, a person must be aware and “informed” about the options and consequences of making the decision. “Informed Consent” is “a person’s agreement to allow something to happen, made with the full knowledge of the risk involved and the alternatives.” Black’s Law Dictionary 346 (9th ed. 2009).

Lawyers have a duty to inform clients about alternative dispute resolution (ADR) processes, including mediation. There is a duty to inform a client of the risks and benefits of settlement. Lawyers get sued for malpractice for failing to explain the risks and benefits of settlement, such as in *Alford v. Bryant*, 137 S.W.3d 916, 919 (Tex.App. Dallas 2004) rehearing overruled (July 19, 2004). In *Alford* a contract dispute settled in mediation. The original defendant then sued her attorney for failure to advise her of the risks and benefits of settlement. *Id.* at 919. See a more complete discussion of *Alford* in the November

2012 Gregory Negotiation Report. Attorneys owe a duty to clients to make a full and fair disclosure of every facet of a proposed settlement. *Bloyed v. General Motors Corp.*, 881 S.W.2d 422 (Tex.App. —Texarkana 1994, no writ).

In practical terms, what does all this mean in family law mediations? The lawyer for each side must explain the risks and benefits of the settlement offer as compared to the risks, costs, stress, time and benefits of going to court. How does the proposed settlement compare to a client’s BATNA (best alternative to a negotiated agreement), WATNA (worst alternative to a negotiated agreement) & RATNA (realistic alternative to a negotiated agreement)? Each lawyer should explain the uncertainty of letting a stranger in a black bathrobe decide the case. As I frequently say, “Going to court is like taking your dog to a partnership between a veterinarian and a taxidermist. All you know for certain is that you will get your dog back.”



*Manley continued from page 1.*

back to Denton, but she plans to find ideal camping spots in the region. She was also involved in the Austin Sports and Social Club, where she participated in several sports teams, including bowling, dodgeball, softball, flag football, and foosball. She helped start a small Foosball league, something that she wants to kickstart again now that she’s in Denton. If you are interested in friendly games of Foosball, you now know who to talk to. Welcome aboard, Erin!



Contact [emanley@dentonbar.com](mailto:emanley@dentonbar.com)  
to reserve your bunk.

**April  
26-28**

**Mayan  
Dude  
Ranch**

**Bandera,  
Texas**



## Worley Celebrated for Dedicated Public Service

*By Art Maldonado, The Maldonado Law Office, P.C.*

The Denton County Bar Association and Courthouse staff collaborated to host a breakfast reception for Judge Carmen Rivera-Worley, who has retired from the 16th Judicial District Court. The reception was held on Friday, December 21, 2012 in the Ceremonial Courtroom on the second floor of the Denton County Courthouse. The courtroom was nicely decorated with fresh flowers and the “spread” included a variety of food and drinks all arranged by the planning committee: Theresa Portales, Gayle Clift, Leah Harbour, Charity Borserine, Kimberly Shanklin and Melissa Maldonado. The reception was attended by Judges, attorneys, family members, friends, public officials, and their representatives from all branches and levels of government.

Judge Rivera-Worley was recognized for her career dedicated to public service concluding with her service as Judge of the 16th Judicial District Court. Various presentations carried one common theme—appreciation for her commitment and hard work. Judge Bruce McFarling of the 362nd Judicial District Court delivered opening remarks honoring Judge Rivera-Worley for her service to the Denton County legal community.

County Commissioner Bobbie Mitchell presented Judge Rivera-Worley with a Texas Flag flown over the State Capitol in her honor. The flown flag was sponsored by State

Representative Myra Crownover.

County Commissioner Andy Eads presented a Resolution, on behalf of State Representative Tan Parker, passed by The Texas House of Representatives, honoring Judge Rivera-Worley’s commitment to public service.

Lynn Yeargain read a Senate proclamation recognizing Judge Rivera-Worley’s career sponsored by State Senators Jane Nelson and Craig Estes. She also delivered an official letter of congratulations on behalf of State Representative Burt Solomons.

County Judge Mary Horn delivered and read an Official Recognition from the Office of The Governor, Rick Perry.

The final honor was delivered by United States Congressman Michael Burgess’ Office—an Official Congressional Record where Congressman Burgess honored Judge Rivera-Worley during the session of the 112th Congress.

Although Judge Rivera-Worley will be missed in her judicial role, those who know her well are aware that she will not



be idle. In her remarks, she jokingly stated she would be in the parking lot the Monday following her retirement. She further stated that she will be providing mediation services.

Thank you for your time on the Bench, Judge Worley! We wish you the best!

**CARMEN RIVERA-WORLEY**  
*Certified Mediator*

FORMER TEXAS DISTRICT JUDGE, 16<sup>TH</sup> DISTRICT COURT



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DENTON, TEXAS 76202



# Announcements & Events

## March Bar Luncheon

**Date:**

Friday, March 1 at Noon

**Location:**

Oakmont Country Club

**Program:**

*The Brain Science of Decision-Making Under Duress*

*Want to understand why clients struggle to make logical decisions while in conflict? We'll discuss what happens when the limbic system kicks in, and how people change the way they make decisions when under duress.*

**Speaker:**

Jayne Beach-Lafferty

## April Bar Luncheon

**Date:**

Friday, April 5 at Noon

**Location:**

Oakmont Country Club

**Program:**

*State of the Bar*

*Our District Representative of the State Bar of Texas will present an update and overview of the status of the State Bar of Texas.*

**Speakers:**

Cindy Tisdale

## Evidence and Advocacy Workshop: The Sequel

**Date:**

Friday, March 28, 2013  
2:00-5:00 PM

**Location:**

362nd District Court

**Program:**

*The Honorable Bruce McFarling will preside over an interactive final hearing scenario as new and often difficult evidentiary issues are brought forth. The Sequel will address recent evidentiary developments with smart phones, Facebook, Twitter, and other i- and e-technologies.*

**Additional Information:**

Sarah Hoffman,  
[sarah@springer-lyle.com](mailto:sarah@springer-lyle.com)

## Monthly Meetings

### Collaborative Professionals

DCCP will meet at **12:00 PM** on Tuesday, **March 5**, at Oakmont Country Club, 1901 Oakmont Dr. in Corinth.

### Family Law

The Family Law Section will meet at **12:00 PM** on Thursday, **March 21**, in the Central Jury Room, 1450 E. McKinney St. in Denton.

### Paralegals

DCPA will meet at **12:00 PM** on Thursday, **March 28**, at Oakmont Country Club, 1901 Oakmont Dr. in Corinth.

### DCYLA

DCYLA will gather for their monthly meetings on the first Thursday of each month. Contact Brook Stuntebeck at [lbs@nakfamilylaw.com](mailto:lbs@nakfamilylaw.com) for meeting times and location.

### REPTL

The REPTL Section will not meet in March due to scheduling conflicts with Spring Break for the various school districts. The next meeting will be or normal luncheon on Wednesday, April 24, at Oakmont Country Club.