



Denton County Lawyer

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www.dentonbar.com

Bar-Nanza, AKA Bench Bar 2013, a Success

Phillip M. Herr, Herr Legal Consulting, PLLC, www.herrlegalconsulting.com.

On April 26, 2013, this year's Bench Bar Conference convened at the Mayan Dude Ranch in Bandera, Texas—located one hour northwest of San Antonio. Peahens, peacocks, and deer openly grazed through the property & perhaps welcomed good morning to attendees. Co-chairs, Kim Killebrew and Amie Peace, delivered an exciting program filled with CLE and team competition exercises.

The speakers list was impeccable. Supreme Court Justice Phil Johnson lectured about new rules to the Justice Court and the Texas Rules of Civil

Procedure ("TRCP"). Justice Johnson spoke about Rule 91a of the TRCP, effective March 1, 2013, providing for the dismissal of baseless claims, and the new rule carries certain time restrictions to file the motion for dismissal under TRCP 91a. Denton County's very own, Justice Lee Gabriel of the 2nd Court of Appeals provided insight to

- i. mandated electronic filing of civil suits—starting January 1, 2014,
- ii. an explanation of the re-routing of appeals to other Courts of Appeals, and
- iii. the ever favorite statistics of the likelihood or unlikelihood of an appeal.

All of our District Court Judges, Probate Court Judge Bonnie Robinson,

and County Court at Law #2 Judge Robert Ramirez were in attendance and gave presentations on a variety of subjects. Back by popular demand, evidence jeopardy returned with Judge Sherry Shipman and Judge L. Dee Shipman. This year's CLE was filled with top caliber lecturers and the content was phenomenal. For those who couldn't make it to the conference, some of those papers are available on the Denton County Bar's website.

A murder mystery was incorporated into this year's activities with a classic who-done-it. Was it the saloon owner who refused to pay out Maverick Mitch his \$100,000 in prize monies? Or, did it involve the banker who was looking at foreclosing the saloon? The culpable party was none other than... Montgomery Money who was snookered out of \$150,000 by Maverick Mitch in a failed for profit endeavor.

Kevin Fitzpatrick, the National Cowboy Symposium's 2008 World Champion Trick Roper, kicked off

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From the President

“For no other reason than it is right” is how our Texas Lawyer’s Creed justifies how we as Texas attorneys should act and work. We all took the Lawyer’s Oath, and we all have vowed to do the right thing.

One of my goals as your DCBA president is to review, discuss, and focus on our professionalism in the legal system, the community, and the local bar. I treasure the DCBA. I have made many wonderful friends in my practice here. And I respect the system under which we operate. I hear often from lawyers in surrounding counties how much they love coming to Denton County. They appreciate the way judges and attorneys get along and get business done. I hope to raise our awareness and standard to a level that makes our colleagues throughout the state simply envious of what we enjoy. We are the shining stars of North Texas. We can show our entire profession and community why we choose to be Texas lawyers.

I submit the following for your thoughtful consideration. It is section one of The Texas Lawyer’s Creed:

I. Our Legal System

A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.

1. I am passionately proud of my profession. Therefore, “My word is my bond.”
2. I am responsible to assure that all persons have access to competent representation regardless of wealth or

position in life.

3. I commit myself to an adequate and effective pro bono program.
4. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.
5. I will always be conscious of my duty to the judicial system.



Theodore D. Ogilvie, President

Practice what you know is right. Ensure your practice is the living example of the Creed.

The DCBA helps your practice, helps you make your practice better, and helps you honor the Creed. Foremost, the Bar offers education and pro bono opportunities for everyone. Whether it is volunteering to provide important legal documents to police and firefighters, to advise veterans on benefits or other legal issues, or to help resolve a contentious divorce as a mediator, we have a place for you. The very heart of our mission is to provide you opportunities to exercise the Creed.

I look forward to serving as your President. I look forward to a year of classy encounters and outstanding Denton County Bar fun. Why? “For no other reason than it is right.”

DCBA Officers

President, *Theodore D. Ogilvie*
Immediate Past President,
Duane L. Coker
President-Elect, *Amie Peace*
Vice President, *Travis Biggs*
Treasurer, *Vicki Isaacks*
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CLE Director, *Victor Rivera*

DCBA Directors

Phillip Herr, Fon Laughlin, Julia Kerestine, Virginia Moore, Jill O’Connell, Brian K. Tackett

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Bench Bar, *Kimberly Killebrew*
CLE, *Victor Rivera*
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Mentoring/Transition, *Virginia Moore, Dena A. Reecer*

Newsletter/Communications,
Phillip Herr, Jill O’Connell
Planning, *Amie Peace*
Pro Bono, *Julia Kerestine*

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.

Bench-Bar 2013

Bar-Nanza continued from page 1.

Cowboy Olympics & entertained guests with his trick roping and bull whip cracking show. Whether it was attempting to rope a miniature steel bovine, throwing a cowboy hat onto a pole, or attempting to crack a bull whip, folks had an opportunity to

demonstrate their best western skills.

The night cap on Saturday evening included a Texas-sized dinner with massively sized T-Bone steaks. While the steaks might not have rivaled the 72 ounce giants served in Amarillo, Texas, the meal was delicious,

nonetheless, finishing off with apple cobbler, bathed in Vanilla ice cream, for dessert.

And, finally, for those keeping score on the team competition, Team Barnes and Burgess took the first place trophy in the team competition.



The Veterans Court and the Veterans Treatment Program

Forrest Beadle, Assistant District Attorney for Denton County.

The Denton County Veterans Treatment Court Program (VTCP) is a treatment and supervision program designed to help our combat veterans returning from overseas deal with PTSD and other combat-related mental issues that have led to their entry into the criminal justice system. The purpose and hope of the program is to identify those veterans who can and want to be helped. If successful through intensive court supervision, the veteran will receive the treatment and counseling necessary to address the underlying mental and psychological problems that have contributed in some degree to the offense they are alleged to have committed. Additionally, the District Attorney's (DA) Office will dismiss their criminal case after they have successfully completed their court supervised treatment thereby allowing them to clear their criminal record. The Denton County community as a whole will benefit by returning a veteran to society that will have the life skills necessary to deal with their PTSD related issues and avoid further entanglements with the law.

Veterans Court is designed to be a non-adversarial collaborative process between the presiding judge, the District Attorney's Office, members of the Denton County Criminal Defense Bar, supervision officers from the Denton County Adult Supervision Department, the Department of Veterans Affairs, and local and state veterans groups and agencies. The Honorable Judge David Garcia, the

presiding judge of County Criminal Court #3, has volunteered to serve as the Veterans Court Judge and will supervise this process and participating veterans. The supervision of the participating veterans is intensive to ensure that they are following their treatment plans and that the safety of the community is protected.

To begin with, the District Attorney's Office carefully screens incoming cases in order to identify veteran defendants and determine their eligibility and appropriateness for the Veterans Treatment Court Program. Not all criminal cases are considered for Veterans Court, and most will be misdemeanor or low-level felony offenses. Aggravated violent offenses, sexual offenses, crimes against children, and other victim related crimes are not eligible for the program.

To be eligible, a veteran must have served honorably in either a combat or hazardous duty assignment and have been diagnosed with PTSD or some other combat related mental illness. If undiagnosed, the veteran is still eligible but must be screened by the VA for one of these mental issues. Once eligibility is determined by the DA's Office, the veteran is screened by Denton County Adult Supervision, an independent third-party psychologist, and a family counselor. Through this process, a treatment and supervision plan is developed and eventually presented to the veteran who has

a choice to make. The veteran can accept the regular plea offer, request a trial, or volunteer to participate in Veterans Court. No judge can order a veteran to participate, and the veteran can quit the treatment program at anytime. By making the process voluntary, the program ensures that only willing and motivated veterans participate in the treatment, thereby concentrating the efforts of the Veterans Court treatment team on those veterans who wish to be helped. If the court removes the veteran for not complying with their treatment plan or the veteran quits the program, their case is immediately reactivated on the criminal docket.

While the law authorizing the creation of Veterans Courts in Texas was passed by the Legislature in 2009, the Denton County legal community is just now implementing a plan to realize the full potential of the program. There have been a variety of reasons for this and several versions of Veterans Court attempted with each being a building block to the current version. Veterans Court owes a large debt of gratitude to the Honorable Judge Brent Carr of Tarrant County and his Veterans Court program manager Courtney Young for their assistance and guidance developing the court. Much of our current program has been adopted from Judge Carr's program.

Beginning in the spring of 2012, I began to attend Judge Carr's court sessions to try and learn from their

successful program, and in doing so realized the impact he was having on the veterans in his court. During my first visit, I saw five veterans graduate and receive their dismissals. I approached one graduate, a soldier serving in the Texas National Guard named Jose, to ask him about his experience in the court. Jose found his way into Judge Carr's Veterans Court after being arrested for DWI after returning from his second deployment overseas. Jose could not speak for very long but agreed to email me and took my card. Jose was going with his family to dinner before being deployed the next week to Afghanistan for his third tour of duty. He emailed me from overseas three weeks later. It is important to note that Jose brought his wife and two children to watch him graduate. Jose wrote the following:

"Good evening Mr. Beadle, my name is Jose. We met briefly during my graduation from Veterans Court on May 2, 2012. My experience with going through the program allowed me to learn a lot about myself and the disease known as alcoholism. On May 2, 2011, I was arrested for DWI in Bedford. I woke up in jail dazed and confused. Little did I know that was the least of my worries. I was so ashamed of myself when I arrived home that I couldn't even face my kids. I was even relieved of duty at work. I kept asking myself

what I was going to do. How would I provide for my family? I was guilty even though I hadn't even been tried in court. I was fully aware that having a DWI on my record limited my chances in getting a decent job. I kneeled and asked God for forgiveness and for help I need with my issues. I was re-hired at work, on the condition that if I was found guilty I would be terminated.

On October 7, 2011, I was accepted into Veterans Court. The first three months were so hectic and time consuming that I doubted that I could finish, with having to report twice a month to court, counseling for PTSD, AA meetings, having to have my ankle bracelet read twice a week, and alcohol awareness classes. My life was very busy, but just knowing that at the end of all this, my citation would be dismissed and I could once again raise my head, be proud of myself, and face my family was all worth it. Without the program a lot of vets who have given their time and service to defend this great country would probably end up being a burden and another statistic, aka a number, instead of being a proud Veteran. Is this program necessary? It was for me."

Denton County Veterans Treatment Court Program

The Honorable Judge David Garcia Presiding

If your client is a military veteran charged with a criminal offense who suffers from Post-Traumatic Stress Disorder (PTSD) or other combat related mental illness as a result of military service, your client may be eligible to participate in the Denton County Veterans Treatment Court Program.

Please contact Assistant District Attorney Forrest C. Beadle about the program.

"It takes the strength and courage of a warrior to ask for help."



Why Law and Why Denton?

Part of a member perspectives series. By Richard H. Kelsey, Kelsey, Kelsey & Hickey, www.dentontexaslawyers.com.

My name is Dick Kelsey. I will have been licensed and actively engaged in the practice of law for fifty years in April 2014. I have been asked to write this memorandum in an attempt to answer the above questions. It has been an interesting mental exercise to go back over the last fifty years.

I always wanted to be a lawyer. It was between geology and law. The “lawyer” won in about the eighth grade. From then on, all my educational choices were targeted toward a law degree. This was a good choice, because I learned as a college freshman that geology involved chemistry, physics, and mathematics—none of which are my strong suit.

I was told by a lawyer that a business degree was more compatible with law than a liberal arts degree, so I changed major in college from government to business. I learned that both liberal arts and business are important in the practice. I am fairly characterized as an intellectual liberal and a fiscal conservative. I believe in the social contract, but I also believe in individual responsibility. My favorite quote is from Hamlet: “And this above all. To thine own self be true, then it must follow as the night the day thou canst then be false to any man.”

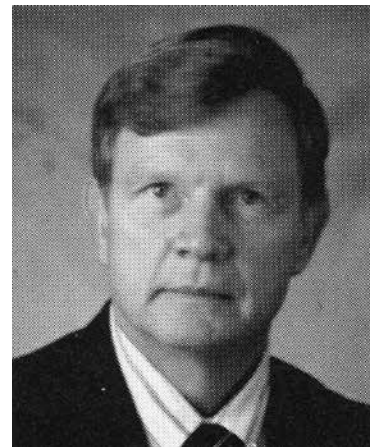
I graduated from Midland Texas High School in 1958, UT Austin in 1962 (BBA), and UT Law in 1964 (LLB). I made okay grades, but certainly not sterling. I am a much better lawyer

than I was a law student. I started my law practice as a clerk with Stubbeman, McRae, Sealy, Cassidy, Laughlin, and Browder in Midland on my twenty-fourth birthday. Then the draft board told me to volunteer or get drafted. I served three years in the USAF JAG Corps 1964-1967. My separation rank was as a permanent Captain. I spent two years with the 362nd strategic aerospace wing in SAC at Moses Lake, Washington and one year at Webb Air Force Base at Big Spring, Texas, which was an advanced jet training base.

I re-met (from high school days) and married my wonderful wife of forty-six years while at Webb. We have two super children—an international flight attendant with American Airlines (our daughter Holly) and my law partner, John. I have two grandchildren and one great-grandchild. I have been very lucky and privileged to do what I love best. I have been rewarded personally, professionally, and financially. I have practiced mostly civil law. I also practiced criminal law in the Air Force and for five years in Denton.

When I completed my military service, we decided to move to green grass, clear water, and trees. We enjoyed Austin for its beauty, but were drawn to Denton when I was twenty-seven for many reasons:

1. Near a large city, but in a different county;
2. A major university;



3. A small cadre of lawyers;
4. No large controlling law firms; and
5. A fifteen year gap between the established lawyers and we “newbies.”

Jerry Garrett (with Hal Jackson) and Tom Jester (with Minor & Knight) were contemporaries. WC Boyd, Jr. (Randy’s father) was District Judge of the 16th, which split half time with Cooke County. The County Court Judge was Sonny Baldridge. The DA was John Lawhon. There were approximately twelve practicing lawyers, of which seven or eight were trying cases. Jack Gray was a former District Judge. Jack and Hal Jackson were great trial lawyers. The population of Denton County was approximately sixty thousand. There was one lawyer in Lewisville. The rest were in Denton.

We tried five to eight jury trials and 15-20 non-jury trials per year with maybe one or two depositions per case. There was no written discovery. There were three justices on the Fort Worth Court of Appeals. The District Court Judges were chosen by mutual acclamation among the bar. There were no Republicans. The Democratic primary decided all elective offices. Attorneys communicated directly to

Practicing in Denton County

Part of a member perspectives series. By Jill E. Jester, Minor & Jester, P.C., www.minorandjester.com.



I was born in Denton and grew up here. My legal career began at Minor & Jester, P.C. when I was about eight years old, putting up the “dreaded pocket parts” as my sister and I called them. Since then, I have lived in Oklahoma, Chicago, London, Houston, and Austin. When I moved back to Denton in 2010, I was delighted to find that while Denton has grown into a more diverse and interesting place, it hadn’t lost its soul.

I returned to Denton for family reasons and to practice law with my father, Tom Jester. Being back has been better than I could have imagined. Working in a profession

that sometimes is portrayed as being full of greedy and selfish people, I can tell you that is not my experience here. Shortly after I moved back to Denton, my father became ill and was unexpectedly out of the office for an extended period. Denton attorneys, who were old friends, new friends, and some I had never met reached out to offer their help. That is the kind of gesture that defines a Denton lawyer to me.

Denton County has a collegial bar where reputation matters. A good reputation is rewarded, and that is one reason I love practicing here. I choose to practice like a Denton lawyer one who calls the

other side to see what we can agree on and attempts to reach a resolution that is in the client’s best interest. My father always tells me, “Our job is hard enough without making it worse by treating our colleagues with discourtesy.”

I may not always win my case, but I rise or fall practicing an honorable, service-oriented profession. For all these reasons I am proud to be an attorney and even more proud to be a Denton lawyer.

plan the trial, list the witnesses, and documents. You could trust every attorney’s word. It cost \$2,500 to \$5,000 to try a jury trial.

I now practice a lot of law that did not exist fifty years ago. The big changes include the cancerous growth of discovery, abolition of venue trials and appeals, changes in the jury charge, long-arm jurisdiction, declaratory judgments, divorce law, all the “codes”, the UCC, mediation, petitions for review in the Supreme Court, electronic communication and filing, word processors, research online, mandatory CLE, specialization, etc.

I guess all these things are “progress”;

but sometimes I wonder. We just seem to run faster and longer to become more exhausted sooner. I used to know all the Denton County lawyers. Now I only know a few—my loss. I detest Rule 11, but it is an evil necessity. I regret the workload we all carry—lawyers, judges, staff, clerks, coordinators, etc.

I was never athletically competitive. However, I enjoy a good contest. I feel that I can compete in the great intellectual arena of the courtroom. You should leave a little bit of yourself on the courtroom floor every time you try a case. No one wins them all. It is still a great thrill to try a case. I am proud of the legal profession.

The opposites of the rule of law are anarchy or tyranny. I intend to keep on keeping on until I am no longer able to do so. Presumably John and Scott will tell me when that point is reached, or I will go out “boots first.”

Finally, Perry Pickett, then the oldest tenured District Judge in Texas, swore me in to practice law and told me, “Dick, there are four things you need to remember: do good work, get it out on time, keep your nose clean, and remember this, it was here when you got here and it will be here when you leave.”

My best to each and all of you in your practice and your profession.

Announcements & Events

June President's Kick-Off Party

Date:

Friday, June 28

Location:

To be announced

Program:

Like our Facebook Page, join our Facebook group, and check your inbox for details about the President's Kick-Off Party as they become available.

July Bar Luncheon

Date:

Friday, July 12

Location:

Oakmont Country Club

Program:

New electronic filing procedures adopted by the Texas Courts

Speakers:

TEXFILE representative

CLE: Course Number: 901268792,
0.75 hours



STATE BAR OF TEXAS ANNUAL MEETING
DALLAS, JUNE 20-21, 2013

SBOT Annual Meeting Early Registration Ends May 20!

Registration includes breakfast and lunch both days, a flash drive with all Annual Meeting materials and two quality days of CLE.

Register Online or download the full Course Brochure.

Rooms at the Hilton Anatole located at 2201 North Stemmons Freeway in Dallas have been blocked at special rates on a space available basis until **May 22**. Make a reservation online or contact the hotel and indicate you will be attending the State Bar of Texas Annual Meeting.

Monthly Meetings

Collaborative Professionals

DCCP will meet at **12:00 PM** on Tuesday, **June 4**, at Oakmont Country Club, 1901 Oakmont Dr. in Corinth.

Family Law

The Family Law Section will meet at **12:00 PM** on Thursday, **June 20**, in the Central Jury Room, 1450 E. McKinney St. in Denton.

Paralegals

DCPA will meet at **12:00 PM** on Thursday, **May 23**, 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 Jill Jester at jjester@minorandjester.com for meeting times and location.

REPTL

The REPTL Section will meet at **12:00 PM** on Wednesday, **May 22**, at Oakmont Country Club, 1901 Oakmont Dr. in Corinth.

Denton County Bar Association

2013-14 Membership Application

Required Information (for directory, membership, and website use)

Name: _____ Texas Bar Number: _____
Business Phone: _____ Facsimile: _____
Firm/Company: _____
Business Address (including City & Zip Code): _____
Email/Web Address: _____
Texas Board Certifications (TBLS): _____
Law School/Graduation Date: _____
List All Other Degrees: _____

If you are younger than 37 years OR have practiced in Texas for less than 5 years, please check here ☐

Primary Areas of Practice* (select two):

** Having two areas of practice listed in the web directory is included in the fee for bar membership. If you would like three to five areas of practice listed, there is an additional \$75.00 posting fee. Choose from the following:*

- | | | | | |
|--|---|--|--|--|
| <input type="checkbox"/> Administrative & Public | <input type="checkbox"/> Construction | <input type="checkbox"/> Family | <input type="checkbox"/> Juvenile | <input type="checkbox"/> Public Utility |
| <input type="checkbox"/> ADR | <input type="checkbox"/> Consumer | <input type="checkbox"/> Finance | <input type="checkbox"/> Labor-Employment | <input type="checkbox"/> Real Estate |
| <input type="checkbox"/> Antitrust | <input type="checkbox"/> Creditor-Debtor | <input type="checkbox"/> Government/Administrative | <input type="checkbox"/> Law Office Management | <input type="checkbox"/> School Law |
| <input type="checkbox"/> Appellate | <input type="checkbox"/> Criminal | <input type="checkbox"/> Health Care | <input type="checkbox"/> LGBT Law | <input type="checkbox"/> Securities Law |
| <input type="checkbox"/> Aviation | <input type="checkbox"/> Elder Law | <input type="checkbox"/> Immigration | <input type="checkbox"/> Litigation: Commercial | <input type="checkbox"/> Social Security Law |
| <input type="checkbox"/> Bankruptcy | <input type="checkbox"/> Entertainment | <input type="checkbox"/> Insurance | <input type="checkbox"/> Litigation: Personal Injury | <input type="checkbox"/> Taxation |
| <input type="checkbox"/> Business | <input type="checkbox"/> Environmental | <input type="checkbox"/> Intellectual Property | <input type="checkbox"/> Military | <input type="checkbox"/> Technology |
| <input type="checkbox"/> Collaborative Law | <input type="checkbox"/> Ethics-Legal Malpractice | <input type="checkbox"/> International | <input type="checkbox"/> Oil & Gas | <input type="checkbox"/> Wills-Trusts-Probate |
| | | | <input type="checkbox"/> Other | <input type="checkbox"/> Workers' Compensation |

Optional Information

Home Address: _____
Home Phone: _____ Birthdate: _____
Spouse's Name: _____ Number of Attorneys in Firm: _____
Date Licensed in Texas: _____
Other State Bar Admissions/Dates/License Numbers: _____
Do you speak a foreign language? _____ If yes, what language: _____

If you would like to post your photograph on the DCBA website, email your photo to Erin Manley at emanley@dentonbar.com. The website will be updated periodically throughout the membership year.

Application Certification

I, the undersigned, do hereby make application to the Denton County Bar Association for membership and, in making such application, I certify that I am validly licensed to practice law or am a law student of an accredited law school, that I promise to uphold and support the By-Laws of the Association and the Texas Disciplinary Rules of Professional Conduct in all respects and to the best of my personal and professional ability, that all information provided by me in this application is true and correct.

Signature of Applicant: _____ Date: _____

Application Submission

Please mail this application along with a check made payable to **Denton County Bar Association** in the amount of **\$195.00** or **\$150.00** (licensed in Texas less than two years) to DCBA at 512 W. Hickory, Suite 202, Denton, TX. 76201. Please **DO NOT** include Collaborative Law, Family Law, Criminal Law or Real Estate, Probate, and Trust Law Section dues with your DCBA payment. The DCBA membership year runs from May to May and dues are not pro-rated.

If you have any questions about the DCBA, please call the Denton County Bar Association at 940-320-1500.
Visit our website at www.dentonbar.com/membership.shtml.