

Your Bar Events - January 2008

S	M	T	W	T	F	S
		Happy New Year 1	AAYLA Board Meeting, 12:00 p.m. Sprouse Law Firm 2	AABA Board Meeting, 11:45 a.m. Amarillo Club 3	4	5
6	7	8	9	Bar Luncheon, 11:45 a.m., Amarillo Club 10	Building Blocks of Wills, Estates & Probate CLE, 9:00a.m.-5:00p.m. Eagle Center. 11	12
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AAMA-LAW

A Publication of the Amarillo Area Bar Association

www.amarillobar.org

VOLUME 22

JANUARY 2008

NO. 5

Meet your AAYLA President: Mark Logsdon



November night in 1988 at Dick Bivins stadium against Odessa Permian (the team featured in the movie "Friday Night Lights").

Mark left Amarillo in the summer of 1989 to attend college at Baylor University, vowing never to return. Mark enjoyed college at the "Harvard on the Brazos" so much, that he decided to stay for another three years to attend law school. Mark graduated from law school in 1996. His studies over, Mark promptly resumed dating and soon met Ashley Duncan, a southern belle from

Pascagoula, Mississippi who had made her way to Dallas. Less than a year later, Mark and Ashley were married.

Mark and Ashley lived in Dallas and in Tyler during the early years of their marriage while Mark began practicing law. Like a moth to a flame, however, Mark could not stay away from Amarillo. With a Russian Blue cat and a German Short-haired Pointer in tow, Mark and Ashley moved to Amarillo in January of 2001 where Mark became an attorney with Mullin Hoard & Brown, LLP. Not long thereafter, Mark had to have the cat put to sleep (believe me, we are all better off) and gave the dog away.

Mark and Ashley have been blessed beyond description with a daughter, Rebekah Lynn Logsdon (4 years old), and a son, Nathaniel Clay Logsdon (3 years old). (They have no plans to put either child to sleep or to give either child away.) They are also expecting their third child in January of 2008.

Mark Logsdon and his twin brother, Matthew, were born to John (a poor medical student) and Becky (a nurse) Logsdon in Dallas, Texas. After his graduation from medical school, Mark's father, John, moved the family to San Antonio, where John served eight years in the Army and Becky gave birth to Mark's sister and younger twin brothers. After Mark's father retired from the Army in 1979, the Logsdon family moved to Amarillo, where John entered private practice at the Amarillo Diagnostic Clinic.

Mark Logsdon spent the remainder of his childhood in Amarillo, graduating from Tascosa High School in 1989. During high school, Mark was a member of the Tascosa Rebel football team, which went undefeated in district play during Mark's senior year in the fall of 1988. The highlight of the 1988 season, of course, was Tascosa's victory over the arch-rival Amarillo High Sandies by a score of 28-5. Mark played his last football game on a cold

“Expensive? Heck no.”

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“If you think you are special enough to be lauded and appreciated by your colleagues and peers, contact Jo Ann Holt.”

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“The defense has more assets than the state of Texas.”

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“Getting a search warrant does not mean that the officer can serve it whenever he wishes.”

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“Legalbeavers.com extends a furry hug to legalbeagle.”

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A Publication of the Amarillo Area Bar Association

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President's Page

Michele Fortunato

We're almost half way into January but it's not too late to make your 2008 resolutions. Here is a list of popular resolutions, according to my quick research on the Internet:

- Spend more time with family and friends.
- Exercise.
- Diet.
- Quit smoking.
- Enjoy life more.
- Quit drinking.
- Get out of debt.
- Learn something new.
- Help others.
- Get organized.

Assuming you would like to adopt these resolutions as your own, the AABA is here to help. On January 29 the AABA is having a Wine Dinner which you can read about in another part of this newsletter. The Wine Dinner will get you started on the path to successful resolutions.

Spend more time with family and friends. This one is easy. Wouldn't you like to spend a relaxing evening at OHMS with your fellow lawyers? If you'd rather bring your non-lawyer friends, invite them too.

- Exercise. Is bending your elbow considered an aerobic exercise?
- Diet. This is tough, but the menu does include broccoli.

Quit smoking. Another tough one, but you can't smoke in the main restaurant, so we got it covered.

Enjoy life more. A sure winner. This will be an evening filled with good food, good wine and good friends.

Quit drinking. Even a lawyer might have trouble spinning this one. Ok, so you really don't need to drink wine at the wine dinner. Persuaded?

Get out of debt. This is tricky because we want you to donate a good bottle of wine, plus then we want you to bid on the wine that someone else brings. Consider it a debt free wine exchange.

Learn something new. How much do you know about wine law anyway? Deirdre Bourdet is coming all the way from Napa to educate us about wine law. She has a certificate in wine studies from Paris, France which means she knows more about wine than most of us.

Help others. The AABA Centennial Committee has planned a year full of great events for 2009-10 to celebrate 100 years of Panhandle legal history. The wine auction will raise funds for the centennial celebration. Come help us get the centennial ball rolling.

Get organized. Put this on your to do list. Better yet, pick up the phone now and call OHMS to make your reservation.

As my Grandpa Giuseppe always said: "Un giorno senza vino e un giorno senza sole." Ciao.

AMA-LAW

AMA-LAW is published monthly from September through May by the Amarillo Area Bar Association.

Advertisement Rates

	Single Issue
Business Card	\$50
Quarter-Page	\$75
Half-Page	\$150
Full Page	\$300

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Contact Us

For more information about your local area bar association or for address changes, contact Jo Ann Holt, Executive Director, at:

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Also visit our website at www.amarillobar.org for information and links to both local and state-wide legal resources.



Abby is a miniature Beagle who is a hound for obscure, interesting, and/or outrageous legal treats. Her briefs are meant to educate and entertain. If you have any Legal Beagle-worthy tidbits, please e-mail Abby at legalbeagle.aaba@sbcglobal.net. Submissions will be published in this column and attributed to the sender. Abby is a stickler for Shepardizing, so please cite your source.

Temporary Injunction—"Such fear and apprehension of injury are not sufficient to support a temporary injunction." Matrix Network, Inc. v. Ginn, 211 S.W.3d 944, 947-48 (Tex. App.—Dallas 2006).

Insurance Coverage—"If risk has never attached because an insurance policy was void ab initio, the insured is entitled to a return of all premiums paid." In re Texas Ass'n of School Boards, Inc., 169 S.W.3d 653, 659 (Tex. 2005).

BIFDL? It is the Texas Beer Industry Fair Dealing Law, found in Texas Alcohol and Beverage Code sections 102.71-.79, which governs "all relations between manufacturers and their distributor, including any renewals or amendments to agreements between them. . ." TEX. ALCO. BEV. CODE ANN. § 102.72(b) (Vernon 2004).

Quote of the Month "It usually takes three weeks to prepare a good impromptu speech." Mark Twain

From the Legal Beagle mailbag: 🐾

Dear Abby,

Legalbeavers.com extends a furry hug to legalbeagle and invites your AMA Law readers to check out our free attorney directory and community forum:

ATTORNEYS UP A STUMP CAN TRY LEGALBEAVERS.COM

Beavers work diligently on their own but are much more efficient working together. Likewise, lawyers with a specialized practice can benefit from each other's experience and earn referral fees as co-counsel. This is the aim of Legalbeavers.com, recently highlighted in the ABA's winter 2007/2008 Certification Link newsletter. The idea of Daniel Sochor, himself a lawyer, Legalbeavers.com provides a directory for lawyers to list their law practice and a professional forum to consult and refer cases across legal specialties.

Joining the site is free. For further information, contact Daniel Sochor at 760-898-0950 or daniel@legalbeavers.com. Legal Beavers LLC, 163 Pennsylvania Avenue, Louisville, KY, 40206.

A picture is worth...

Be the first person to correctly identify this young person to legalbeagle.aaba@sbcglobal.net. The winner will receive a prize. The correct answer and the name of the winning contestant will appear in January's edition of AMA-LAW.





Mike Smiley was the first to correctly identify Naomi Harney as a youngster. Mike is a second time winner, and must be the only gamer at The Underwood Law Firm. Last month's legal beagle answer contained a typo. To overcompensate, legal beagle would like to fully and completely identify last month's picture as John Thomas Boyd, Jr.

The following names were drawn from the fishbowl at the December Bar luncheon:

- \$25 Darin Mitchell...no Christmas present
- \$50 David Russell...no Christmas present
- \$75 Jack Hazlewood...Was on hand to receive his Christmas PRESENT!!!!

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January Bar Luncheon

"When should I call a bankruptcy lawyer?"

In January, a panel of three speakers from Dallas will discuss: "When should I call a bankruptcy lawyer?" These experienced bankruptcy practitioners will discuss strategies for dealing with a troubled company, whether you represent creditor or debtor. Real life examples, thinly disguised war stories, and interpretive dance by Kelly Utsinger will bring a refreshing perspective on the issues. The panel is comprised of

Michael "Buzz" Rochelle received a BA degree with honors from Duke University and a B.A. and M.A. from the University of Oxford, England. Completing law school at SMU in 1976, Buzz focuses his practice on matters involving corporate bankruptcy, advising financially distressed entities, commercial reorganization and creditor's rights. He has authored many articles on bankruptcy, served as an adjunct professor at Texas Tech and SMU's law schools, and has been a contributor to Collier Handbook for Trustees and Debtors-in-Possession since 1982.



Steve Hutcheson received his BA and MBA from Abilene Christian University, his law degree from Texas Tech and was a briefing attorney for the Honorable Bill H. Brister, U.S. Bankruptcy Judge for the Northern District of Texas. Steve has been the co-Author of: Chapter 29, "Debtor's Relations with Governmental Agencies," 1989 Collier Handbook for Trustees and Debtors-in-Possession, Matthew Bender. "Post-Filing Loans to the Chapter 11 Debtor: Good Money After Bad?" 107 Banking Law Journal 344 (1990). The Texas Construction Trust Fund Act and Bankruptcy Preferences", Vol. I Construction Law Journal, 43 (2003).

Christopher Harper graduated with a BBA from Texas Tech University in 1969, receive his JD from the University of Houston, Bates College in 1972, and attended Austin Presbyterian Theological Seminary, receiving his M. Div. in 2005.



Kelly Utsinger advises that none of these speakers will have been using performance enhancing drugs.

AMARILLO AREA BAR ASSOCIATION

WINE DINNER

JANUARY 29, 2007
6:30 p.m. at OHMS Cafe



First Course

Smoked Tomato Soup
Kris Pinot Grigio

Second Course

Field Greens with Roasted Shallot Vinaigrette,
Granny Smith Apples,
Bleu Cheese Crumbles & Walnuts
King Estate Pinot Gris

Third Course

Beef Tenderloin Au Poivre
served with Roasted Garlic Mashed
Potatoes & Steamed Broccoli
Viu Manent Malbec

Fourth Course

Layered Chocolate Cake
with Fresh Raspberry Coulis
Peju Rutherford Cabernet

Price \$75 per person

Call OHMS at 373-3233 to make reservations. Space is limited and will be filled by reservation secured by credit card.

We will have a wine auction to raise funds for the AABA Centennial Committee. Please bring one bottle of an extraordinary wine or an appropriate wine related item (per couple) to donate to the wine auction as part of the price for this event.

Price includes CLE on wine law presented by Deirdre Bourdet, Dickenson, Peatman & Fogarty; Napa California (CLE approval is pending). See Ms. Bourdet's profile on page ___ of this issue.

Wine Law CLE at Wine Dinner

Deirdre Bourdet will present an overview of hot topics in wine law at the AABA Wine Dinner on January 29. Deirdre is a lawyer at Dickenson, Peatman & Fogarty in Napa, California. She has an extensive knowledge about food and wine and will share her experience and background at the wine dinner. Prior to law school, she earned a Diplome de Cuisine and a certification in wine studies from LEcole Le Cordon Bleu in Paris. She graduated Phi Beta Kappa from Vassar College and worked for Zagat Survey researching restaurants and hotels around the world.

She received her J.D. from the University of California Berkeley Boalt Hall School of Law and is a member of the Research and Education Committee of the Wine Institute. In addition to being grateful that she can put all her degrees to use in the practice of wine law, she enjoys cooking, hunting fabulous food finds, and pursuing any and all adventures of the palate.

AAYLA Update

Well, the Christmas season is over, and it is time to begin breaking all of our New Year's resolutions for 2008. AAYLA is planning to host its annual "Wills for Heroes" event in March in which AAYLA helps to prepare estate planning documentation for some of

our local firefighters and law enforcement personnel. AAYLA is also making final preparations for its annual Las Vegas CLE. Once again, AAYLA is partnering with the Austin Young Lawyers Association to put on the CLE, which will be held on Saturday,

April 5, 2008, at the Golden Nugget. Any and all lawyers, regardless of age, are invited. Brochures will be available soon. In the meantime, please mark your calendars.



By Mark S. Logsdon

CLE SCHEDULE

January 11:

Building Blocks of Wills, Estates & Probate Basement Training Room, Eagle Center

January 24&25:

Advanced Oil & Gas & Energy

Law Sprouse Shrader Smith Conference Room

February:

Advanced Estate Planning & Probate

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After 45 years of the practice of law, I have decided to retire. I will not accept new matters for representation after January 1, 2008. I hope to wind up ongoing matters by April 1, 2008. I will continue to accept engagements as a mediator for the foreseeable future, and my office address, mailing address and telephone number will remain as shown on this letter head.

Over the years, I have accumulated a fairly extensive law library. A list of my books is attached to this letter. All books are in first-class condition and all are supplemented to December 2007, except as noted. If purchased new, I am told these books would cost well over \$30,000.00. Of course, I would like to sell these books before I close my office. The price for all or part is negotiable, and they may be inspected here at my office during normal business hours.

If there is any interest in purchasing any of these books, please contact me.

Library:

Texas Black's Statutes, Codes and Rules (West Publishing);
United States Code Annotated (West Publishing);
Uniform Commercial Code Case Digest (West Publishing);
Texas Torts and Remedies (Matthew Bender);
Texas Usury Law Handbook (West Publishing);
Texas Modern Payment Systems and Notes (West Publishing);
Southwestern Reporter System Texas Cases

1st, 2nd and 3rd editions to date (West Publishing);
Texas Litigation Guide (Matthew Bender);
Federal Civil Procedure Before Trial (5th Circuit Edition) (West Publishing);
Texas Digest First (West Publishing);
Texas Digest Second (West Publishing); and
Sheppard's Texas Citations-current to January 2007 (Matthew Bender);

Robert H. Smith

Young Lawyer of the Month

January's Young Lawyer of the Month is Jarrett Johnston. Jarrett is a partner at Miller, Johnston, Blakley & Associates. Jarrett is the son of Bill and Marsha Johnston of Borger, Texas. Both of whom were school teachers for over 30 years.

Jarrett completed his undergraduate work at West Texas A&M University in 2000, earning a Bachelor of Science in Sports and Exercise. Upon completing

his education at West Texas A&M, Jarrett had an epiphany; he could not endure the pressure that goes along with coaching badminton, so off to law school he went. However, before beginning his law school career he began carrying the golf bag of local talent Ryan Palmer. Jarrett believed this to be his destined occupation.

However, after carefully considering the options of caddying for a player on a small time tour or going to law school he



Jarrett Johnston

decided law school to be the best bet for his future. After all, no one from around here actually makes it to the PGA Tour.

While preparing his appellate brief during his second year of law school, Jarrett turned on his TV only to discover that his pal was at 3 under par and leading The Masters. While covenants not to compete are extremely intriguing, Jarrett believed he had made the wrong decision. Extremely disappointed in his choice, Jarrett found himself wanting to leave law school. However, with the encouragement of his Mom, his Dad, and Wells Fargo Student Loan Department, Jarrett persevered and received his J.D. from Texas Wesleyan School of Law in the fall of 2004.

After graduation Jarrett moved back to Amarillo and began practicing law with Arnie Miller. Jarrett's primary practice in Amarillo is criminal law. Jarrett also has an office in Borger, where he practices golfing, fishing, and hunting.

Jarrett and his wife Amanda were married in June of 2006. Amanda is a Pharmacist for United Supermarkets so she does all the grocery shopping. Jarrett and Amanda do not have any children yet but they do have a Jack Russell terrier named Jackie who keeps their hands full and Carpet Tech in business.

Legal Briefs

The Amarillo Area Bar Association Board is looking for a volunteer to help coordinate the CLE courses offered by the AABA.

This job is VITAL to the overall success the AABA as well as the education of attorneys in our area. If you think you are special enough to be lauded and appreciated by your colleagues and peers, contact Jo Ann Holt..

BE CHEAP!!!

Enhanced Page on the Attorney Locator Service Is Cost Effective Advertising

Do you have an enhanced page on the amarillobar.org website? The AABA office gets lots of calls from attorneys and the general public around Texas and every place in the USA (Europe, too) wanting additional information about individual lawyers and law firms. They are directed to the enhanced pages on the website where there is an opportunity to "tell your story". (Check it out).

Expensive? Heck no. Just \$20 the first year (for set-up charges) and \$10 for each additional year. Just call the AABA office, 371-7226, and you can be "enhanced".

Do you have a colored picture on the Web? Each AABA member is listed on the Attorney Locator as a benefit of membership. A colored portrait is easy too. Just make an appointment with Gray's Studio (\$15).

If you have news, we want to hear from you. Send your information to the AABA: email director@amarillobar.org, fax 379-9259, or call 371-7226.

High Plains Public Radio has approximately 500 square feet of professional office space to rent in our attractive new studio suite at 5th & Polk in downtown Amarillo. Available space includes large office, with windows on Polk St. and 5th Ave., able to accommodate 4-5 work spaces. \$565 monthly rent includes utilities, use of general office equipment (including copier/scanner/fax machine) and access to attractive, well-appointed conference room.

For more information, contact Stacy Yates at (806) 367-9088.

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Legal Yarns

By James Wester

The Cullen Davis Trial

While many of us remember the Oprah Winfrey trial, most of us (including me), don't know much about the famous Cullen Davis trial that unfolded on the fifth floor of the Potter County courthouse in 1977. I hope that some of you that were involved or have more information will submit a "yarn" with additional information. From what I have read and even in today's society, the trial would be considered stranger than fiction.

In August of 1976, a black-wigged intruder broke into the Davis' Fort Worth mansion (then worth about \$6 million), which was being occupied by Priscilla Davis during her pending divorce from Cullen Davis. At the time, Priscilla lived there with a new boyfriend and ex-basketball player, Stan Farr. The intruder went on a shooting rampage. He shot and killed both Stan Farr and Andrea Wilborn, who was Priscilla's 12 year old daughter by a previous marriage. Priscilla was also shot in the chest but managed to escape. In addition, a friend of the family Bubba Gavrel was

also wounded by the gunman. Bubba's date, Beverly Bass, was able to escape being shot.

All of the witnesses pointed their fingers at Cullen Davis as the intruder. The state's prime witness was Priscilla Davis, who had less than a stellar reputation. She was a platinum blonde and rumored to have worn a .32 strapped to her boot and a necklace that spelled out "RICH BITCH" in diamonds.

Days before the shooting, the Davis couple had apparently been quarreling bitterly over money. Cullen Davis had been ordered to increase support payments to Priscilla to \$5,000 a month. A negligible amount for an heir of Kendavis Industries, a conglomerate valued between \$300 million and \$1 billion in the mid-70s. However, Cullen Davis was in debt at the time as the presiding judge had ordered his assets frozen until the terms of the divorce were settled. To get an appreciation for Cullen Davis' wealth, Joe Shannon, the prosecutor was quoted as saying: "The de-

fense has more assets than the state of Texas."

The D.A.'s office sought the death penalty, and Davis had hired a team of nine lawyers, supplemented by twelve investigators and secretaries, to represent him. Foremost among them was Richard ("Racehorse") Haynes, a flamboyant character fond of hand-tooled ostrich-hide boots and aggressive tactics of cross-examination.

Cullen Davis did not get released on bail and was in jail for about 14 months, but they say that he managed to carry on his business from a phone in the judge's chambers and actually dined with his cronies in a vacant jury room.

During trial, unsavory details emerged to the discredit of both sides. With her hip-hugger jeans and Indian jewelry, one executive described Priscilla as "a lady who looked like she had spent too much time in bowling alleys." During the cross-examination of Priscilla, Haynes concentrated less on an alibi for Davis and more on Priscilla's reputation. Some have written that the evidence seemed to focus more on putting Priscilla on trial, than defending Cullen.

I have intentionally omitted why the case was tried in Amarillo in hopes that some of the attorneys still around with knowledge of the trial will provide that information and/or correct any errors in the foregoing.

7th Court of Appeals Update

by Justice Brian Quinn

Tort Claims – Dismissal of the Employee When the Employer Is Also Sued

Under § 101.106(e) of the Texas Civil Practice and Remedies Code, a governmental employee may reap the benefits of a dismissal when sued along with the governmental unit. But, the terms of § 101.106(e) must be followed, and the statute requires that the governmental unit to move for dismissal, not the employee. So, even though the City of Lubbock succeeded in getting itself dismissed, ex-officer Littlejohn could not be dismissed under 101.106(e) since the city did not move for

dismissal on his behalf. *Hernandez v. Littlejohn & City of Lubbock*, No. 07-06-00094-CV, 2007 WL 4178635 (Tex. App.-Amarillo, November 27, 2007).

Criminal Appeals – Certification of Right to Appeal

For several years now, the Texas Rules of Appellate Procedure have required trial courts to certify in writing whether a defendant (once convicted) has a right to appeal. TEX. RULE APP. P. 25.2(d). But, as of last September 2007,

it is not enough for the trial court alone to sign the certification. It along with the defendant must do so. Otherwise, the certification is defective and the defendant's appeal becomes subject to abatement, at the very least. *Salazar v. State*, No. 07-07-0432-CR, 2007 Tex. App. LEXIS 9776 (Tex. App. – Amarillo, December 14, 2007).

Criminal Law – Time to Execute a Search Warrant

Getting a search warrant does not mean that the officer can serve it whenever he wishes. He has three whole days to do so, excluding the day the warrant issues. So, if the warrant is not executed by midnight of the fourth day after it was signed, it becomes "functus officio" (oh, ... did I say that?). *State v. Rico*, No. 07-07-0092-CR (Tex. App.-Amarillo November 28, 2007).