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## Confederate and Carpetbaggers: The Precedential Value of Decisions from the Civil War and Reconstruction Era

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# Confederates and Carpetbaggers: The Precedential Value Of Decisions From the Civil War And Reconstruction Era

By Jim Paulsen and James Hambleton

Many Texas attorneys consulting older decisions for guidance breathe sighs of mental relief when they read a Texas Supreme Court case, rather than one of those pesky Court of Appeals or Commission of Appeals decisions with an arcane writ history or "judgment adopted" designation. After all, Texas Supreme Court cases are the top of the heap, precedent-wise, unless they have been overruled. Right? Well, maybe. In Texas, there are good and bad vintages for Texas Supreme Court opinions. The Civil War and Reconstruction years, from 1861 through 1873, are a particularly interesting legal vineyard.

Surprisingly enough, despite the century or more that separates these opinions from the present day, questions of precedential value still arise with some regularity. For example, a dissenting opinion in *Cropper v. Caterpillar Tractor Co.*, decided only a few months ago, warns:

All of these cases [relied upon by the Court's majority] were decided during the general period when Texas was one of the confederate states or while it was controlled by a "reconstruction court." Reliance upon authority from this era should be discouraged. Official matters of the State of Texas were in discord and decisions of this court are generally thought to be less authoritative from that time period. 31 Tex. Sup. Ct. J. 459, 464 (May 25, 1988).

Nor is this an isolated example. In *Hofer v. Lavender*, 679 S.W.2d 470 (1984), the court's majority, holding that punitive damages could be recovered from the estate of a deceased tortfeasor, described a Reconstruction era decision to the contrary as a "semi-colon" court opinion. Both of these decisions demonstrate the continuing concern of Texas courts for careful use of Civil War and Reconstruction opinions; as will be shown later, however, both of the specific statements just cited are arguably incorrect.

The University of Texas' "Green Book," *Texas Rules of Form* (6th ed.), notes: "Cases decided between 1861 and 1873 are generally thought to be less authoritative than those previously and subsequently decided... Accordingly, one should exercise care in relying on those cases for support." The writers of this column would respectfully differ. While caution is certainly advisable, in that one should take some care to ascertain which court authored a given opinion, there is no sound reason to group all decisions from a 13-year period of this state's history into a single "suspect" category. To the contrary, many of these cases are perfectly authoritative. It all depends on the date of

the decision and, more precisely, on the court rendering the judgment.

There were actually four distinct courts in operation between 1861 and 1873. From 1861 through 1865, the Civil War years, the Texas Supreme Court functioned while Texas was a member of the Confederate States of America. The first Reconstruction court, sitting during what was called "Presidential Reconstruction," issued decisions in 1866 and most of 1867. This court was removed by Gen. Sheridan and replaced with the so-called "Military Court," which sat from 1867 through 1870. The final court, nicknamed the "Semicolon Court" after a particularly unpopular opinion, accounts for decisions issued from late 1870 through 1873. Each of these courts traced its authority to a different source; each deserves separate treatment.

## The Confederate Court (1861-1865)

One might reasonably expect that decisions issued by the Texas Supreme Court when Texas was in open rebellion against the United States would be looked upon with some suspicion. This has never been the case, however. So far as the authors have been able to determine, whenever specifically examined, Civil War opinions have always been considered just as reliable as any other Supreme Court decisions.

If any proof be needed, consider the following facts. First, even the Reconstruction Supreme Courts, whose members presumably would have had little love for their secessionist predecessors, honored the decisions of the war years as precedent. Ironically enough, even in the despised "semicolon" decision itself which will be discussed in more detail below, the last Reconstruction court looked to Civil War precedent:

Our distinguished predecessors have established all the necessary jurisdictional boundaries of this court in like cases... The circumstances that those relators were military prisoners and that the cases were decided during the late civil war, will not detract from their authority, if they are carefully examined and found to have been decided by such men and jurists as Wheeler, Bell, Moore, Roberts, and Reeves. *Ex Parte Rodriguez*, 39 Tex. 706, 748 (1873).

Second, if the Civil War decisions had not been considered authoritative by later courts, they would never have been printed in the first place. Due to a paper shortage during the war, the opinions of the Confederate court were not actually printed until Reconstruction days. A few — primarily Confederate draft cases — were never printed in full, probably because the subject matter was no longer of any great interest. The great majority of all decisions were printed, however. No Recon-

struction government would have subsidized the printing of Confederate cases, had they not been considered precedential.

As a final proof of the precedential value of Texas Civil War cases, one need only turn to Shepard's *Texas Citations*. The Civil War volumes of the *Texas Reports* are sprinkled liberally with annotations of later Texas courts approving and following those decisions. Cases like *Ex parte Coupland*, a Confederate conscript decision setting out Texas habeas corpus law, have been cited with approval by the Texas Supreme Court and Court of Criminal Appeals, the Supreme Courts of other states, and even the Supreme Court of the United States.

One caveat should be mentioned, though. Decisions from 1861 through 1865 were decided under wartime conditions, with limited time and limited assistance of counsel. Immediately after the war, Chief Justice Moore questioned a case he himself had written while a member of Texas' Confederate Supreme Court, explaining:

The case was decided at a time when the court was compelled to dispose of the business before it in the absence of counsel, and without the aid of their investigation of questions upon which it was forced to act. I may also say, that subsequent reflection has led me to entertain some doubts... *Cherry v. Speight*, 28 Tex. 503, 517-18 (1866).

While this practical advice should be kept in mind, it should have no effect on precedential value, per se. After all, decisions of the Supreme Court of Texas during the period of the Republic are respected as precedent, despite the fact that the court rendering those decisions labored under very adverse conditions. Overall, there is no real question: Civil War opinions are entitled to precedential weight.

### The "Presidential Reconstruction" Court (1866-67)

After the war ended, Andrew Jackson Hamilton, a former Texas congressman and Union general, was appointed by President Andrew Johnson as provisional governor of Texas. Hamilton called for a constitutional convention, Texas responded with a new constitution in 1866, and a five-member Supreme Court took office.

This "Presidential Reconstruction" court was short-lived. The United States Senate refused to seat Texas' new senators and Congress later declared the governments of Texas and other former secessionist states to be illegal. Military commanders were authorized to remove and replace civil officials; the military commander for Texas promptly did so.

Again, one might expect doubts to be raised as to the precedential weight of cases decided during 1866 and 1867. But again, the decisions of the "Presidential Reconstruction" court have not been criticized specifically, so far as the authors are aware. An interesting commentary by G.W. Paschal may be found in the introduction to Volume 28 of the *Texas Reports*, containing the first decisions of the "Presidential Reconstruction" court:

As, in the reconstruction laws, congress has declared this government but provisional, there are many who have denied the legality of all the decisions of the judges, the acts or the legislature, the governor, and other officers of the state. But for this theory there is not even the apology that these officers were not sworn to support the constitution of the United States. I have considered the rule [to be] ... that the state thus organized was the state of Texas, and the validity of all acts depended upon the question whether or not such acts were in contravention of the constitution, laws, and treaties of the United States, or in aid of the rebellion. Upon no other theory

would it be admissible to publish the decisions of this volume. But the judgments rendered have been respected, and no reflecting mind has been willing to go practically to the full extent of this *ab initio* theory. *Reporter's Preface*, 28 Tex. v. vii-viii (1869).

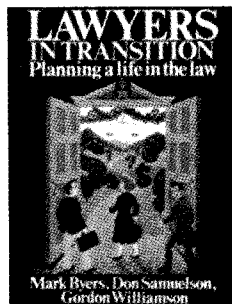
Paschal's observation proved correct: Even the "Military Court" whose members replaced the "Presidential Reconstruction" judges summarily removed in 1867 respected the decisions of their predecessors. A respected observer, Justice Norvell, observed that the court of 1866-67 "represents no break with the Texas tradition." Norvell, *Oran M. Roberts and the Semicolon Court*, 37 Texas L. Rev. 279, 287 (1959). Another commentator has stated flatly: "No judicial act of this court was ever the subject of merited criticism; and the precedents established by the opinions of those men are as firmly fixed today as they were when announced from the bench." Shelley, *The Semicolon Court of Texas*, 48 Sw. Hist. Q. 449, 449 (1945). In short, there is no reason to question the value of the decisions of Texas' first Reconstruction court.

### The "Military Court" (1867-1870)

As already mentioned, in mid-1867, acting under authority granted by Congress, General P.H. Sheridan removed the members of the Supreme Court, giving as his reason "their known hostility to the government of the United States." The "Military Court" appointed in their place has, perhaps understandably, never commanded much respect from Texans. As Justice Norvell succinctly put it: "The second Reconstruction

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Court — the so-called Military Court — had no Texas constitutional basis and hence its decisions do not operate as precedents under the rule of stare decisis." Norvell, 37 Texas L. Rev. at 287.

Refusal to treat decisions of the Military Court as precedent can be traced directly to the opinion of Chief Justice Moore in *Taylor v. Murphy*, 50 Tex. 291 (1878). Since Moore was also chief justice of the first Reconstruction Court — the one removed and replaced by the military appointees — he could hardly be expected to have held a high opinion of the Military Court. Nonetheless, his opinion was remarkably restrained:

[I]n my individual opinion, the court by which [the case in question] was decided did not exercise its functions under and by virtue of the Constitution and laws of the State of Texas, but merely by virtue of military appointment. And while I am as far as any one from desiring to bring into question the validity of its acts in adjudicating the cases which were disposed of by it, or from detracting from the respect properly due to its opinions, by reason of ability and legal learning of the gentlemen who constituted the court, ... nevertheless I cannot regard the opinion of this tribunal as authoritative exposition of the law involved in the cases upon which it was called to pass, but merely as conclusive and binding determinations of the particular case in which such opinion was expressed. *Id.* at 295.

Chief Justice Moore's individual views were adopted as the position of the full court in *Peck v. San Antonio*, 51 Tex. 490 (1879). This remarkable case, the fifth reported decision on the same narrow issue, illustrates well the tangled skein of precedent in post-war Texas courts. A little detail on the background is therefore justified on both legal and historical grounds.

All five decisions involved the same narrow question: The constitutionality of the sale of railroad bonds by the City of San Antonio. The first case, by the Military Court, held the bond sale to be constitutional. The second decision, by a post-Reconstruction court, held that the same piece of legislation embraced an object not encompassed in its title, thus violating the "caption" clause of the Texas Constitution.

When the third case raising the identical issue was brought, the Texas Supreme Court observed: "This suit, it would seem from the date of its commencement, was brought to take the opinion again of this court when composed of still another set of justices...." *Giddings v. San Antonio*, 47 Tex. 548, 557 (1877). The Supreme Court continued: "[I]t would be unfortunate that it should be thought practicable, on a doubtful question, to easily procure a change of decision with every change in the members who might from time to time compose the Supreme Court." *Id.*

These statements, while laudable in tone, were perhaps writ-

ten slightly tongue-in-cheek. After all, the *Giddings* court ultimately affirmed the most recent decision on the subject and held the San Antonio railway bonds unconstitutional. The decision thus affirmed, however, was the result of precisely what the *Giddings* court condemned: The successful party had relitigated an issue settled by the Military Court in a different, post-Reconstruction court, and obtained a different result.

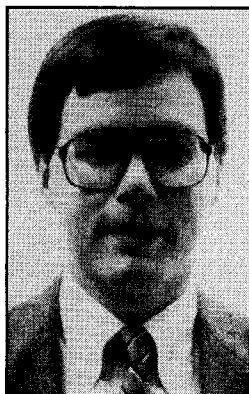
The penultimate act in this stare decisis comedy occurred when supporters of San Antonio railway bonds secured a favorable ruling from the United States Supreme Court in *San Antonio v. Mehafty*, 312 U.S. (6 Otto) 312 (1878). Reviewing the previous three cases, the Supreme Court — ignoring the two to one scorecard and the rule that the most recent decision governs — concluded: "The question may, therefore, be fairly considered as still unsettled in the jurisprudence of ... [Texas]. Under these circumstances, this court has always felt at liberty to follow the guidance of its own judgment."

With the score on the constitutionality of San Antonio's railway bonds now apparently tied at 2 to 2, a fifth case — *Peck v. San Antonio* — appeared before the Texas Supreme Court. The Texas high court began by noting that the first decision on the subject, that of Texas' Military Court, was issued by a court that "not having been organized under the Constitution and laws of the state, with all due respect to the members who composed that court as individuals, their opinions have not received the same authoritative sanction given to those of the court as regularly constituted." *Id.* at 492.

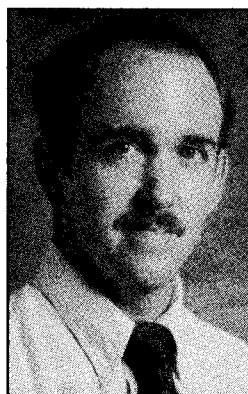
With the decision of the Military Court removed as precedent, the box score before the United States Supreme Court tackled the issue was thus reduced to 2 to 0 in favor of unconstitutionality. Precedent questions aside, though, the United States Supreme Court had also been of the opinion that the Military Court opinion "has on its side the greater weight of authority." This contention, and the entire opinion of the United States Supreme Court was disposed of, with icy courtesy, by the Texas panel:

Although we entertain the very greatest respect for the opinions of that high tribunal, yet we feel it our duty, upon a question which involves the proper construction of a local statute under the Constitution of Texas, to follow the latest decisions of this court; and particularly when, as in this case, the direct point involved has received our deliberate consideration upon a reexamination of the question. *Id.* at 493.

For opinions of the Military Court, then, the answer to the precedent question is clear: Decisions do not operate as precedent under the rule of stare decisis. To this general rule, however, a caveat should also be added: The fact that a decision is not technically "precedent" does not mean that a later court will



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not find it persuasive anyway. By the writers' count, law laid down by the Military Court has been followed by Texas courts at least a half dozen times during the decade of the 1980s.

Nor can this fact be dismissed entirely as an accident, i.e., as due to a failure by the courts involved to realize the non-precedential nature of the cited cases. In *Cantor v. State*, 656 S.W.2d 468 (Tex. Crim. App. 1983), the Texas Court of Criminal Appeals noted the argument that a Military Court decision cited was "generally considered to be of little authoritative value." The court conceded that the opinion "may well be in that category" but concluded that "one would find it hard to fault any appellate court for the attitude" expressed in its opinion. *Id.* at 469. Thus, Military Court decisions may not be precedential, but that fact of one may not stop a court from deciding to adopt the reasoning anyway.

### The "Semicolon Court" (1870-1873)

The Military Court came into existence in 1867 because the United States Congress refused to recognize Texas' government under the first post-war constitution. Another, more successful, constitutional convention was held in 1868, producing a constitution effective in 1869. Under the new constitution, Supreme Court judges were to be appointed by the governor.

Reconstruction politics, however, continued to cast a pall over the first election, held in November 1869. The federal military commander in Texas, Maj. Gen. Reynolds, favored the "Radical" element of the reconstructionists. Gen. Reynolds campaigned for the Radicals, received the election returns and supervised vote-counting. The Radical candidate for governor, E.J. Davis, won, but with a majority of only 809 out of nearly 80,000 votes cast.

History has not been kind to the judges of this last Reconstruction court. One commentator has ever described the court as "composed of foreign scalawags and military satellites." J. Davenport, *The History of the Supreme Court of the State of Texas* 82 (1917). This is not entirely accurate. While one member of the court during this period was a former Union army officer, the remainder were long-time Texans. A more charitable and possibly more accurate assessment has recently been given by former Chief Justice Hill, who observed: "One imagines these judges were not necessarily incompetent or unfair, just unwanted." Hill, *Taking Texas Judges Out of Politics: An Argument for Merit Election*, 40 Baylor L. Rev. \_\_\_, \_\_ n. 38 (publication pending).

No serious question has ever been raised about the precedential value, per se, of decisions issued by this court during the three years it sat. The last decision issued by the court, however, proved fatal to its reputation. 1873 was an election year. The ballot included not only a contest for governor, but a constitutional amendment to change the makeup of the Texas Supreme Court, increasing the number of judges from three to five, with nine-year terms. Gov. Davis, by now thoroughly unpopular, ran again and lost; the constitutional amendment passed. Davis appealed to the federal government for assistance in retaining his office; another disgruntled ex-officeholder appealed to the Texas Supreme Court, seeking to have the entire election invalidated.

The controversy involved one sentence of the constitution, reading in relevant part: "All elections ... shall be held at the county seats of the several counties until otherwise provided by law; and the polls shall be opened for four days, from eight o'clock a.m. until four o'clock p.m. of each day." Before the election, the Legislature provided that polling places would be provided in each justice precinct, not just the county seat; in consequence, voting was restricted to one day, with expanded hours on that day.

A.B. Hall, the loser in the Harris County Sheriff's race, arrested Joseph Rodriguez, charging him with voting twice.

Rodriguez conceded the double voting, but argued that no crime had actually been committed because the entire election was illegal. An original habeas corpus proceeding was brought in the Texas Supreme Court, amid charges that the entire proceeding was a trumped-up affair designed to secure an advisory opinion from the Supreme Court.

*Ex Parte Rodriguez*, 39 Tex. 706 (1873), hinged on a semicolon. If the provision earlier cited were read to give the Legislature authority to change the number of days the polls would be open, as well as the location of polling places, the election was valid. This argument had common sense in its favor, since the obvious reason for a four-day voting period was to permit outlying residents time to travel to the county seat and vote. Because the Legislature could provide for more voting places under the Constitution, it stood to reason that the Legislature should also be permitted to regulate the time the polls would be open. On the other hand, the semicolon separating the provision for a four-day voting period from the rest of the sentence could be read as making that clause mandatory. The Supreme Court relied on punctuation and invalidated the election.

There is sometimes, however, a big difference between writing a judicial opinion and making that opinion stick. The people of Texas were in no mood to have the entire election set aside because of any technicalities; the federal government was not inclined to intervene on behalf of ex-Gov. Davis. Legal or not, the new governor took office a few weeks after the decision in *Ex Parte Rodriguez*, and a new Supreme Court took the bench. A reporter's footnote to this last judicial opinion of the Reconstruction days concludes: "We may properly say, that the question before the court in *Ex Parte Rodriguez* received its

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final practical solution as a *political* and not a judicial question."

The only lasting effect of *Ex Parte Rodriguez* was to give the 1870-73 court the derisive nickname of "Semicolon Court" and, somewhat later, to cast doubt on other decisions of that court through a process of guilt by association. To reiterate, there is no real question but that the Semicolon Court was a properly constituted court, and that its decisions are entitled to be treated as precedent. The court that immediately followed did not hesitate to cite decisions of the Semicolon Court whenever appropriate. Indeed, because of a publishing delay, possibly caused by a severe epidemic, many of the Semicolon Court's opinions would never have seen print had it not been for the efforts of a subsequent court and court reporter. Moreover, the first reported decision of the new court confirmed the appointment of a new court clerk, one of the Semicolon Court's last official acts.

Nonetheless, the Semicolon Court has not fared well in the court of history or of public opinion. Former Chief Justice and Gov. Oran M. Roberts, in Wooten's *Comprehensive History of Texas* (1898), commented of *Ex Parte Rodriguez*:

*So odious has it been in the estimation of the bar of the State, that no Texas lawyer likes to cite any case from the volumes of the Supreme Court reports which contain the decisions of the court that delivered that opinion, and their pages are, as it were, tabooed by the common consent of the legal profession. Id. at 201.*

As a result, one will find occasional decisions refusing to rely upon cases decided by the Semicolon Court, or jurists using an apologetic tone when citing such opinions.

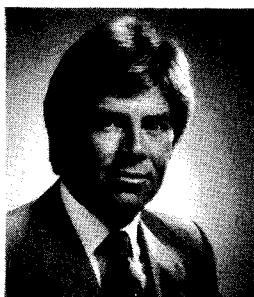
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## Precedential Weight of Civil War And Reconstruction Decisions

Court	Volumes	Weight
Civil War Court (1861-1865)	26 and 27 Tex. <sup>1</sup>	Fully precedential
Presidential Reconstruction (1866-1867)	28 Tex. through 30 Tex. 374 <sup>2</sup>	Fully precedential
Military Court (1867-1870)	30 Tex. 375-33 Tex. 584	Not precedential, but sometimes respected
Semicolon Court (1870-1873)	33 Tex. 585 <sup>3</sup> through 39 Tex.	Precedential, but sometimes not respected

## Conclusion

At this late date, there would seem to be little need to rely upon decisions of the 1860s and 1870s as authority. Certainly, much of the legal and social landscape of Texas has changed beyond recognition since that time. Nevertheless, despite the many hundreds of volumes of decisions issued since, a Civil War or Reconstruction court decision is sometimes still the most articulate, or even the only authority for a given proposition. And so decisions from this period of history continue to crop up in judicial opinions and their precedential value generates continued discussion.

Unfortunately, the passage of time has also tended to blur the distinct lines that should properly be drawn between the different courts of the time. This can result in lumping all decisions together in a single category of "questionable" cases, unfairly denigrating perfectly precedential opinions or unintentionally elevating the status of non-precedential opinions. The two recent Texas Supreme Court opinions mentioned at the beginning of this column are good examples. In *Cropper v. Caterpillar Tractor Co.*, the dissenting justices understandably but incorrectly attempted to cast doubt upon the perfectly authoritative Civil War and Presidential Reconstruction decisions relied upon by the majority. Conversely, in *Hofer v. Lavender*, the court's majority mistakenly referred to a contrary earlier opinion as being decided by the Semicolon Court, when the case in question was actually a wholly non-precedential Military Court decision. The authors hope this column will serve as a timely reminder of the real distinctions between the four very different Supreme Courts of Texas during the Civil War and Reconstruction years and as a handy reference tool for Texas attorneys.

1. Cases from the 1861 Galveston term are also found at 29 Tex. 489-507.
2. Volume 28 contains one Civil War case, *Juaragui v. State*, 28 Tex. 625 (1861). Volume 29 contains one pre-war, *Grier v. State*, 29 Tex. 487, and a number of Civil War cases. See *supra* n.1. All cases in Volumes 28 and 29, however, are precedential.
3. Volume 34 contains two non-precedential Military Court decisions, *Kottwitz v. Knox*, 34 Tex. 689 (1869), and *Bird v. Montgomery*, 34 Tex. 714 (1870). Volume 35 also contains two out-of-sequence decisions. *Marston v. Ward*, 35 Tex. 797 (1862) is a fully precedential Civil War opinion; *McArthur v. Henry*, 35 Tex. 801 (1869), is a fully non-precedential military court decision.

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### 26

#### **Winning Trial Tactics And Techniques**

Convention Center - San Antonio  
MCLE: 6.25 hours participatory,  
one hour ethics  
Sponsor: State Bar of Texas  
Information: 512/463-1429

### 26-28

#### **Practice Skills Course - Litigation**

Stouffer - Austin  
Sponsor: State Bar of Texas  
MCLE: 20.25 hours participatory,  
three hours ethics  
Information: 512/463-1429

### 27

#### **Bankruptcy Litigation & Practice in Texas - Eastern District**

Tyler  
Sponsor: Prof. Educational Systems  
Information: 1/800/826-7155, ext.31

#### **Winning Trial Tactics And Techniques**

South Texas College of Law - Houston  
Sponsor: State Bar of Texas  
MCLE: 6.25 hours participatory,  
one hour ethics  
Information: 512/463-1429

### 27-28

#### **Products Liability & Personal Injury Law**

Four Seasons - Austin  
Sponsor: U.T. School of Law  
Information: 512/471-3663

### 28

#### **Bankruptcy Litigation & Practice in Texas - Northern District**

Sponsor: Prof. Education Systems  
Information: 1/800/826-7155, ext. 31

## November

### 3

#### **Winning Trial Tactics And Techniques**

Holiday Inn North - Fort Worth  
Sponsor: State Bar of Texas  
MCLE: 6.25 hours participatory,  
one hour ethics  
Information: 512/463-1429

### 3-4

#### **Advanced Civil Litigation**

South Texas College of Law - Houston  
Sponsor: South Texas College of Law  
MCLE: 12 hours participatory,  
one hour ethics  
Information: 713/659-8040, ext. 308

#### **Legal Writing Seminar**

U.T. School of Law - Austin  
Sponsor: U.T. School of Law  
Information: 512/471-3663

#### **The Anatomy of a Real Estate Workout**

Sheraton - Dallas  
Sponsor: State Bar of Texas  
MCLE: 13.25 hours participatory,  
one hour ethics  
Information: 512/463-1429

Dates of CLE programs are subject to change. Check with registrations coordinator of each seminar for possible update. Minimum Continuing Legal Education course credit information is provided for courses that were approved for credit at the time of publication.

For information about MCLE call 512/463-1382.



**4**

**Advanced Personal Injury Law**

Hershey Hotel - Corpus Christi  
Sponsor: Corpus Christi Bar Association  
MCLE: 6.25 hours participatory,  
.5 hour ethics  
Information: 512/883-4022

**4-5**

**Computer Basics for the Small Law Office**

Radison Gunter - San Antonio  
Sponsor: State Bar of Texas  
MCLE: 10 hours participatory,  
one hour ethics  
Information: 512/463-1429

**4-13**

**Comparative Criminal Law Course**

Beaumont  
Sponsor: Criminal District Court of  
Jefferson County  
Information: 409/835-8432

**10-11**

**Bankruptcy Conference**

Hyatt Regency - Austin  
Sponsor: U.T. School of Law  
Information: 512/471-3663

**Criminal Law Institute**

South Texas College of Law - Houston  
Sponsor: South Texas College of Law  
MCLE: 12 hours participatory,  
one hour ethics  
Information: 713/659-8040, ext. 308

**16-18**

**Practice Skills Course:  
Litigation**

Westin Oaks - Houston  
Sponsor: State Bar of Texas  
MCLE: 20.25 hours participatory,  
three hour ethics  
Information: 512/463-1429

**17-18**

**Advanced Evidence  
And Discovery**

Hyatt Regency - San Antonio  
Sponsor: State Bar of Texas  
MCLE: 10.42 hours participatory,  
one hour ethics  
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# Ethics Opinion 458

### Facts

A medical-legal consulting firm has engaged in substantial advertising involving the use of contingent fee contracts wherein the firm enters into a contingency contract with a particular plaintiff and in return provides various services including the providing of expert testimony.

### Question

Does the Texas Code of Professional Responsibility, specifically DR 7-109(C), prohibit an attorney from participating in or recommending that a client enter into a contingency fee agreement with a medical-legal consulting firm?

### Discussion

There are four basic issues which must be considered in light of the Texas Code

of Professional Responsibility. First, is the contingent fee agreement a mere subterfuge for fee splitting with non-lawyers? Second, is the attorney giving up complete or partial control of the case? Third, does the contingency contract result in the payment of excessive fees by the client? And fourth, does the contract result in the payment of a contingent fee to a witness in exchange for his or her testimony?

Opinions from various jurisdictions, while showing that a slight majority of states allow such contracts, tend to fall on two sides of a very narrow line. Those jurisdictions allowing such contracts do so hesitantly, expressing concern over possible violations of the Code of Professional Responsibility. Such seems to be the rule in Indiana (Opinion one of 1981); Arizona (Opinion 84-9), and Connecticut, (Informal Opinion 82-7). The ABA Informal Opinion 1375 (1976) is fairly representative in this area. The ABA would allow such an arrangement so long as:

"(1) the lay person or agency (medical-legal consulting service and experts provided by the same) is not to engage in the unauthorized practice of law, DR 3-101(A); (2) the lawyer does not share legal fees with the lay person or agency, DR 3-102(A)(1)(3); and (3) the contingent fee is not payable for the testimony of the lay person or agency, DR 7-109(C)."

All of the jurisdiction is which allow such fee arrangements have expressed similar reservations for attorneys who recommend or participate in such arrangements. These states see these as potential violations and not as violations per se. These states seem to have come to the conclusion that with careful contracting and diligence on behalf of the attorney in maintaining control of the case, ethical violations can be avoided.

Other states, however, have seen these problems as too serious to be completely avoided. In Opinion 5-72 of the New York State Bar Association Committee on Professional Ethics, the committee concluded that there were serious ethical problems in relation to the 20-30 percent contingent fee in addition to the attorney's contingent fee. This was especially true in light of the fact that the consulting firm performs many of the functions normally done by the attorney for his or her fee alone.

But the most troubling problem in this area comes in light of DR 7-109(C) which states:

"A lawyer shall not pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of his testimony or the outcome of the case. But a lawyer may advance, guarantee, or acquiesce in the payment of:

(1) Expenses reasonably incurred by a witness in attending or testifying;

(2) Reasonable compensation to a witness for his loss of time in attending or testifying;

(3) A reasonable fee for the professional services of an expert."

In Idaho Formal Opinion 104, the ethics committee found that the paying of a contingent fee to a "finder" was the functional equivalent of paying a contingent fee to a witness. There does exist a financial incentive to influence the testimony of the witnesses provided. Idaho found these contingent fee contracts to violate DR 7-109(C) and therefore prohibited attorneys from participating in or recommending such contracts.

### Conclusion

Several states have heeded the warnings of other states and have held such contingent fee arrangements to be unethical. Beyond the problem presented in the areas of (1) fee splitting, (2) excessive fees, (3) loss of attorney control, (4) preventing the unauthorized practice of law (not dealt with by this committee), and (5) payment of contingent fees in exchange for expert testimony, the entire arrangement gives the appearance of impropriety.

Thus, an attorney who aids, assists, or permits a client to enter into such a contract violates DR 7-109(C). It would seem to be the only logical conclusion available, that when you pay a fee based on a percentage of the recovery to a consulting firm providing expert witnesses, in essence you are paying for testimony. Theoretically, the better the testimony, the larger the recovery and hence, the larger the fee to the witness. Under 7-28, "witnesses should always testify truthfully and should be free from any financial inducements that might tempt them to do otherwise."

This committee does not offer an opinion on the legitimacy or enforceability of a contract between a client and a medical-legal consulting firm. It merely addresses the issue of an attorney's participation in such an agreement and the ethical implications arising therefrom.

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# Disciplinary Actions

## Resignation

The Supreme Court of Texas accepted the resignation of **Gerald Weatherly**, of Dallas and cancelled his law license on May 25. Weatherly resigned in lieu of disciplinary proceedings. He was convicted of theft on Feb. 22 in the 292nd Judicial District Court of Dallas County and was sentenced to five years confinement in the Texas Department of Corrections.

## Disbarment

On July 1, a judgment was entered by the 212th Judicial District Court of Galveston County disbaring **Otto A. Yelton, Jr.**, of Galveston. Yelton had been previously suspended from the practice of law pending appeal of his criminal conviction of mail fraud. The Appellate Court affirmed Yelton's conviction and the Galveston County Court signed the judgment for disbarment pursuant to Article X, Section 26, of the State Bar Rules, and Title 2, Section 81.078 of the Texas Government Code.

## Suspensions

On July 8, the 190th Judicial District Court of Harris County signed a judgment suspending **Francis Williams** from the practice of law for six months. The suspension is probated for one year effective July 1, 1988 to June 30, 1989. The court found Williams willfully or intentionally neglected a legal matter entrusted to him.

**David L. McGee** of Corpus Christi agreed to a six-month suspension from the practice of law on July 6. The final three months will be probated. The suspension began Aug. 1, 1988. The District 11-A Grievance Committee found the attorney solicited legal representation of clients through a runner.

On July 25, the 229th Judicial District Court of Starr County suspended **Glenn H. Ramey** from the practice of law during the term of his probation based on his conviction of income tax evasion. The probation for the criminal conviction was effective May 31, and is for five years. Ramey's law license is suspended as long as he is on probation.

The 95th Judicial District Court of Dallas County entered a judgment on July 7, suspending **Robert Dennard** from the practice of law for three months fol-

lowed by 36 months of probated suspension. The active suspension was effective May 1 to Aug. 1. The probated suspension is effective from Aug. 1, 1988 to July 31, 1991.

The court found Dennard violated Disciplinary Rule 1-102(A)(6) in connection with the giving of financial advice to two clients regarding investments in entities from which Dennard received remuneration.

**Raymond B. McCoy** of Dallas agreed to a 30-month suspension from the practice of law. Six months of the suspension is active and is effective from July 18, 1988 to Jan. 18, 1989. Twenty-four months of the suspension is probated beginning Jan. 19, 1989, subject to certain terms and conditions. The District Six Grievance Committee found McCoy failed to deposit settlement funds into an identifiable trust account, thereby commingling a client's funds with his own. The committee further found the respondent failed to maintain and preserve for at least five years, after final disposition of the underlying matter, all records of his trust account and disbursements of his client's funds or properties.

On April 27, the 250th Judicial District Court of Travis County suspended **Dianne M. Palmer**, formerly of Houston, from the practice of law for 12 months. The court found, among other violations, that Palmer had engaged in conduct prejudicial to the administration of justice, willfully or intentionally neglected a legal matter entrusted to her, and failed to promptly deliver to a client properties which the client was entitled to receive.

Galveston attorney **Stephen A. Pitts** was suspended from the practice of law for a period of nine months from July 15, 1988 through April 14, 1989, after which he will serve a 24-month period of probation by virtue of a judgment entered by the 10th Judicial District Court.

Pitts was found to have failed to timely furnish information requested by a grievance committee in eight separate instances.

In addition, Pitts failed to take reasonable steps to avoid foreseeable prejudice to the rights of his client prior to withdrawing from employment, willfully or intentionally neglected a legal matter entrusted to him, and failed to carry out a contract of employment entered into with a client for professional services. He failed to promptly pay or deliver to the client as requested by the client the funds in his possession which the client was

entitled to receive, handled a legal matter which he knew or should have known he was not competent to handle, and handled a legal matter without preparation adequate in the circumstances.

**Mark Pool** of Austin agreed to a six-month suspension from the practice of law effective July 28, to be followed by 18 months of probation. The District Nine Grievance Committee found Pool's conduct, which included the commingling of funds and the investment of client funds without the client's consent, violated Disciplinary Rules 1-102(A)(3) and (6); 9-102(A), 9-102(B)(3) and (4). The Grievance Committee also found Pool made payment to his client of all the funds which the client was due.

By agreed judgment of revocation of probation, **Paul Berlanga**, attorney of Lubbock, was suspended from the practice of law for one year from July 15, 1988 to July 14, 1989. The District 16-A Grievance Committee found the attorney poses a substantial threat of irreparable harm to his clients or prospective clients. The committee found also Berlanga has accepted cases for clients and failed to carry out his responsibilities with those cases. Further, the committee found Berlanga perjured himself while giving testimony to the committee.

**Tony Schoonover**, formerly of Dallas, agreed to the entry of a judgment for a two-year probated suspension from the practice of law, based on violation of DR 5-104, "Limiting Business Relations with a Client." The probation suspension is effective from July 1, 1988 to June 1, 1990. In the agreed judgment entered in the 160th Judicial District Court of Dallas County, Schoonover agreed to reimburse his client in the amount of \$180,000 during the time of probation, failing which, probation will be revoked and Schoonover placed on a three-year active suspension.

The 80th Judicial District Court of Harris County suspended **David C. Cobb** of Houston from the practice of law for six months by judgment entered May 5, 1988 based upon violations of Disciplinary Rules 1-102(A)(1), 1-102(A)(6), 6-101(3), 7-101(A)(1), and 7-101(A)(2). The suspension is effective from May 15 to Nov. 15.

Cobb was hired to pursue a modification as to child custody and misrepresented to the client that service had been obtained and a hearing date set when in fact neither had occurred. Cobb subsequently refused to return calls, failed to

prosecute the notices to modify to final judgment, and refused after demand to refund any unearned fee.

**Pete Sentena** of Dallas agreed to a three-year suspension from the practice of law, fully probated subject to certain terms, on June 22. The suspension began July 6. The District Six Grievance Committee found the attorney failed to complete legal services, promptly return clients' files, appear in court and carry out contracts of employment entered into with his clients. He failed to communicate with his clients and seek the lawful objectives of his clients.

**Earl B. Erwin, Jr.**, an attorney of Fort Bend County, was suspended from the practice of law for three years by agreed judgment of the 240th Judicial District Court of Fort Bend County. The suspension is effective from June 1, 1988 to May 31, 1991 with the last 18 months probated provided Erwin makes restitution of \$5,100 to two former clients.

The court found Erwin willfully or intentionally neglected a legal matter entrusted to him, intentionally failed to carry out a contract of employment entered into with a client for professional services, failed to maintain complete records of all funds, securities, and other properties of clients coming into his possession and failed to render appropriate accounts to his clients regarding them. Also, Erwin failed to pay or deliver to a client as requested by the client the funds, securities, or other properties in his possession which the client was entitled to receive.

**James Lee McManus**, formerly of Corpus Christi, agreed to a six-month suspension from the practice of law effective June 1. The District 11-A Grievance Committee found, with regard to several client complaints, that McManus willfully or intentionally neglected legal matters entrusted to him and failed to carry out contracts of employment entered into with clients.

The 285th Judicial District Court of Bexar County suspended **Lawrence Letchford** of San Antonio from the practice of law for 36 months, with the last 24 months probated, by judgment entered June 2. The suspension is effective from June 2, 1988 through June 1, 1991. Additionally, Letchford must make restitution in accordance with the terms of the judgment as a condition precedent to resuming the practice of law.

The court found Letchford handled several legal matters which he knew or should have known he was not competent to handle in violation of Disciplinary Rule 6-101 (A)(1).

**Jeff F. Smith** of Dallas received a probated suspension from the practice of law for six years pursuant to an agreed judgment of the 193rd Judicial District Court of Dallas County. The suspension, which is contingent upon restitution to a former client began June 1, 1988 and ends May 31, 1994. The court found Smith intentionally prejudiced or damaged his client during the course of the professional relationship, failed to maintain complete records of all funds, securities, and other properties of a client coming into his possession, failed to render appropriate accounts of his client regarding them, and failed to promptly pay or deliver to the client, as requested, funds, securities, or other properties in his possession to which the client was entitled.

**Terry M. Levine**, an attorney of Bexar County, agreed to a District 10-A Grievance Committee judgment of suspension on June 8. The 90-day suspension from the practice of law began June 1. The committee found the attorney participated in a fraudulent pyramid scheme and was instrumental in providing an opinion letter representing the scheme to be legal.

**Samuel L. Knight**, Houston attorney, was suspended from the practice of law

for the duration of his 10-year criminal probation. The 189th Judicial District Court of Harris County entered the judgment of suspension on May 10. Knight was placed on 10 years deferred adjudication for a felony offense of theft by receiving. The criminal probation commenced Aug. 13, 1987 and expires Aug. 12, 1997.

**Phillip H. Jones** of Dallas agreed to the imposition of a two-year suspension from the practice of law from June 1, 1988 to May 31, 1990. The District Six Grievance Committee found Jones violated a term of his probation. The respondent admitted that during the term of probation he failed to abstain from the consumption and use of alcohol.

**Gregory L. Koss**, attorney of Dallas, was suspended from the practice of law May 16. The agreed judgment was entered by the 44th Judicial District Court of Dallas County. Koss will be suspended during the period of his felony criminal probation for conviction of unlawful possession of a controlled substance. The felony criminal probation began Jan. 22, 1988 and is for 10 years. Thereafter, he will serve a two-year probated suspension from the practice of law.

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## ***Public Reprimands*** \_\_\_\_\_

Thomas M. Schumacher of Corpus Christi agreed to a public reprimand on July 1. The District 11-A Grievance Committee found Schumacher willfully or intentionally neglected a legal matter entrusted to him, in violation of Disciplinary Rule 6-101(A)(3).

Gilbert G. Gonzalez of San Antonio agreed to a public reprimand on June 21. The District 10-A Grievance Committee found the attorney aided and abetted a nonlawyer in the unauthorized practice of law.

Curtis M. Simon, attorney of Harris County, agreed to a public reprimand on May 31. The District 4-E Grievance Committee found the attorney handled a legal matter which he should have known he was not competent to handle, handled a legal matter without adequate preparation, willfully or intentionally neglected a legal matter entrusted to him, and failed to seek the lawful objectives of his client through reasonably available means by law. Simon also failed to carry out a contract of employment entered into with a client for professional services, prejudiced or damaged his client during the course of the professional relationship, engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, and entered into a business transaction with a client with differing interest therein when the client expected the lawyer to exercise his professional judgment for the protection of the client.

Joe Silvas, an attorney of Clute, agreed to a public reprimand, probated for two years, on April 28. The District 5-C Grievance Committee found Silvas failed to preserve the identity of clients' funds and property, failed to maintain complete records of funds, securities, and other properties of his clients coming into his possession, and failed to render appropriate accounts to his clients regarding them.

## ***Private Reprimands*** \_\_\_\_\_

On June 1, 1988, a Dallas attorney agreed to a private reprimand. The District Six Grievance Committee found the attorney was employed to pursue a wrongful death action on a contingent fee basis. Thereafter, the attorney performed no meaningful legal services, failed to notify his client that he was not going to pursue a case, and allowed the statute of limitations to expire. The respondent also failed to promptly return the client's file upon request.

A Corpus Christi attorney accepted a private reprimand on July 5. The District 11-A Grievance Committee found the attorney violated Disciplinary Rule 5-105(B) relating to continued, multiple employment when the exercise of his independent professional judgment on behalf of his client was likely to be adversely affected by his representation of another client.

A San Antonio attorney agreed to a private reprimand on July 22. The District 10-B Grievance Committee found the attorney without contact with a person or without reasonably apparent authorization for his representation, undertook the representation of a person and filed an appearance on that person's behalf in violation of Disciplinary Rules 5-105 and 5-107.

A Port Lavaca attorney agreed to a private reprimand on July 6. The District 11-B Grievance Committee found the attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation. Further, the committee found the respondent tried to collect an illegal or clearly excessive fee.

A Belton attorney consented to a private reprimand on July 5. The District 8-C Grievance Committee found the attorney charged a clearly excessive fee to a client. The respondent has made restitution.

A Fort Worth attorney accepted a private reprimand on July 5. The District 7-A Grievance Committee found the attorney was employed to represent a client in a medical malpractice claim. The respondent failed to prosecute the suit to conclusion and failed to withdraw as attorney of record. The suit was dismissed for want of prosecution.

A Houston attorney consented to a private reprimand on June 9. The District 4-A Grievance Committee found the attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

A Dallas attorney consented to a private reprimand on June 16. The District Six Grievance Committee found the attorney neglected a legal matter entrusted to him.

A Fort Worth attorney agreed to a private reprimand on June 21. The District 7-A Grievance Committee found the attorney failed to carry out a contract of employment resulting in a default judgment against his client and a warrant of arrest issued to his client. The respondent is required to make restitution to the client.

A Houston attorney agreed to a private reprimand on June 14. The District 4-A Grievance Committee found the attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

On April 27, a Houston attorney accepted a private reprimand. The District 4-A Grievance Committee found the attorney engaged in conduct involving dishonesty, fraud, or misrepresentation.

On May 18, a Houston attorney agreed to a private reprimand entered by the District 4-A Grievance Committee. The attorney neglected a probate matter for several years. The attorney, as part of the agreed judgment, made restitution of all attorney fees to the client and completed six hours of approved minimum continuing legal education credit in the area of legal ethics.

A Dallas attorney agreed to a private reprimand on May 20. The District Six Grievance Committee found the attorney accepted employment for professional services to file a lawsuit. Thereafter, the attorney neglected to return the client's telephone calls, failed to file the lawsuit for which he was employed, and allowed the statute of limitations to expire.

A Lubbock attorney accepted a private reprimand on June 19. The District 16-A Grievance Committee found the attorney willfully or intentionally neglected a legal matter entrusted to him and failed to seek the objectives of a client through reasonably available means permitted by law.

An attorney of Tarrant County consented to a private reprimand on July 1. The District 7-A Grievance Committee found the attorney failed to furnish information requested by the Office of the General Counsel and the grievance committee concerning a grievance filed against him.

A Groesbeck attorney agreed to a private reprimand on June 24. The District 2-C Grievance Committee found the attorney engaged in conduct prejudicial to the administration of justice and conduct that adversely reflected on his fitness to practice law. Further, the committee found the respondent willfully or intentionally neglected a legal matter entrusted to him.

A Houston attorney consented to a private reprimand on June 16. The District 4-A Grievance Committee found the attorney failed to furnish information requested concerning a complaint filed.

# Eugene Cook Sworn-In as Justice

Eugene Cook of Houston was sworn-in as justice of the Texas Supreme Court on Sept. 7. He was appointed by Gov. Bill Clements to fill the seat vacated by Justice James Wallace's resignation.

Cook thanked the governor for the appointment and promised to do his part in making the Texas Supreme Court the finest in the United States.

"I am proud to be a lawyer," the new justice said. "As part of the legal profession, lawyers have the responsibility of putting something back into the system. That is the only way we qualify as professionals."

Stressing that he was not criticizing the current court, Cook acknowledged that this is a time of turmoil for the court.

"The Supreme Court must be the heart and soul of the legal profession," said Cook. "All lawyers in the state look to the court for guidance on how they should act."

Cook said the justices on the Texas Supreme Court must remember they have one constituency — the people of Texas.

"We represent justice," said Cook. "Texans must know the rulings on the court are based on only the law, not on special interests."

Cook who taught legal ethics at the University of Houston Law School said that if judges and lawyers "always remember to always avoid the appearance of impropriety," the reputation of the court and legal system will be renewed.

Prior to his appointment, Cook was a partner in the Houston law firm of Cook, Davis and McFall. Cook is the president-elect of the Houston Bar Association and has participated in Bar activities for 22 years.

He earned a B.A. and J.D. from the University of Houston. Cook is board certified by the Texas Board of Legal Specialization in family law and civil trial law.

Cook served as chairman of the Litigation Section of the State Bar of Texas during 1982-84 and currently serves as chairman of the Continuing Legal Education Committee. He has authored more than 27 articles published by the American Bar Association, Texas Bar Journal and other legal publications. Cook received President's Certificates of Merit in 1983, 1984, and 1986.

He is a member of the American Col-

lege of Trial Lawyers, American Academy of Matrimonial Lawyers, and International Academy of Matrimonial Lawyers. Cook is a fellow of the Houston Bar Foundation, Texas Bar Foundation, and American College of Trial Lawyers.



*Sondra Cook helps her husband, Eugene Cook, into his robe after he was sworn-in as justice of the Texas Supreme Court.*

He and his wife, the former Sondra Attaway, have two children, Laurie Ann and Eugene.

Justice Wallace served on the Texas Supreme Court for six years. He resigned to return to the private practice of law.



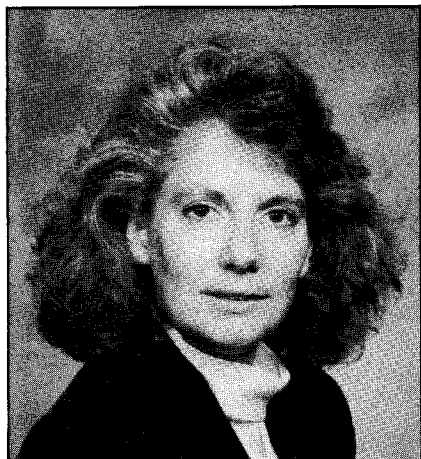
*Justice James Wallace swore-in his successor to the Texas Supreme Court, Eugene Cook of Houston, at ceremonies Sept. 7 in the court chambers.*



*State Bar President James B. Sales of Houston (left) and TYLA President Bill Ford of San Antonio (right) congratulate Justice Eugene Cook on his appointment to the Texas Supreme Court at a reception at the Texas Law Center.*



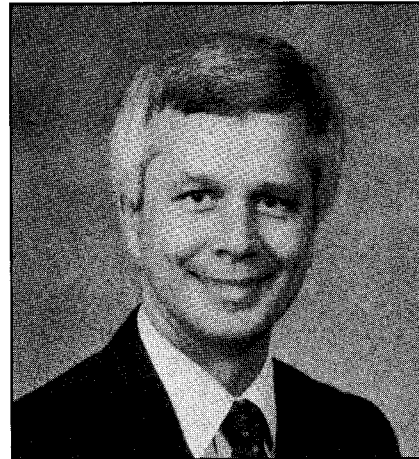
# Bar Staff Members Head National Organizations



Patricia Moran



Patricia Williford



Gary McNeil

Three members of the State Bar of Texas staff were elected to head bar related national organizations.

Patricia Moran, executive director of the Texas Equal Access to Justice Foundation was elected president of the National Association of IOLTA (Interest on Lawyers Trust Accounts) Programs. Texas is a charter member of the organization which was created in 1986 as a network of the 49 IOLTA programs in the United States.

NAIP meets twice a year to discuss challenges and current issues affecting all IOLTA programs. It also works cooperatively with the American Bar Association IOLTA Commission which serves as a clearinghouse of information on IOLTA nationwide.

Some topics addressed by NAIP include bank relations, grant management, recruitment of law firms to the program, and investment of funds.

The Texas IOLTA program was created by order of the Texas Supreme Court in December 1984. Moran, who has an MBA from Louisiana State University, was hired as executive director in January 1985. Since that time, the foundation has provided \$1.5 million in two grant cycles for legal services to low-income Texans in civil matters.

Texas is one of 30 states with voluntary IOLTA programs. Ten states have comprehensive programs and nine have opt-out programs.

For information about the Texas IOLTA program, contact Moran at 1/800/252-3401 or 512/463-1444.

Patricia Williford, director of the Texas Minimum Continuing Legal Education (MCLE) program, was elected president of the Association of Minimum

Continuing Legal Education Administrators (AMCLEA). The organization consists of all directors of MCLE programs in the United States and representatives from states interested in instituting a mandatory continuing legal education requirement.

The organization which has been in existence for about five years was formalized in February 1987. Its initial purpose was for MCLE directors to share problems, compare solutions, and discuss record keeping procedures.

Goals this year, according to Williford, include developing a national cooperative accreditation program of CLE providers.

"This procedure will make it easier for the provider, lawyer, and administrator," said Williford.

Also on the agenda is an effort to create a more standard sponsors accreditation form and more uniform MCLE rules from state to state. The organization works closely with the ABA Committee that produced Model Rules for MCLE.

MCLE was approved in Texas by referendum in November 1985. Williford, who earned a BBA from the University of Texas, was hired in 1986. The first reporting of the MCLE requirement by Texas attorneys was in June 1987. In Texas, lawyers are required to earn 15 hours of CLE per year. Ten of those hours must be participatory, including one hour of ethics. Five hours may be self study.

Texas is one of 32 states with MCLE requirements. Eight states are considering instituting the requirement.

For information about MCLE, contact Williford at 512/463-1382.

Gary McNeil, executive director of the Texas Board of Legal Specialization, was elected president of the Association of Legal Specialization Executives which was formed in Toronto, Canada during the ABA Summer Meeting.

The primary purpose of the organization is to provide an opportunity for administrators to exchange information about specialization programs and operations, and to discuss problems and issues faced by all their programs. It will also offer assistance to states considering instituting specialization programs.

The association will work closely with the ABA Standing Committee on Specialization. Currently, only 13 states have specialization programs.

In Texas, the Board of Legal Specialization began offering certification programs in 1975. The Board recognizes attorneys in various areas of law, who because of experience, training, and examination are awarded certificates of special competence. Approximately 3,500 Texas attorneys have achieved board certification. Areas of specialization include: civil appellate; civil trial; consumer bankruptcy; criminal; estate planning and probate; family; immigration and nationality; labor; oil, gas and mineral; personal injury trial; real estate; and tax.

McNeil earned a J.D. at the University of Texas School of Law and has worked for the Bar 12 years, serving in the general counsel's office, professional development program, and Texas Board of Legal Specialization.

For more information about the requirements for certification contact McNeil at 512/463-1454.

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