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# September Luncheon Meeting

Wednesday, September 12, 2007, 12:00 p.m.  
Congressman Solomon Ortiz International Center  
402 Harbor Drive

**Speaker: Orlando Lopez, State Bar of Texas' Law Practice Management Manager**

**Title: "Top Ten Stupid Mistakes Smart Lawyers Make"**

CLE Credit: 0.5 hour Participatory, **ETHICS**

**Cost:** \$18.00 per person for members, \$23.00 per person for non-members if reserved by noon, Tuesday, September 11, 2007. Call the Bar Office at 883-4022 to RSVP or e-mail us at [sgonzales@corpusbar.com](mailto:sgonzales@corpusbar.com). All reservations must be paid for. The cost at the door will be \$20.00 for members, \$25.00 for non-members.

## NOTE

**ADDED ADVANTAGE OF ADVANCE RESERVATIONS** — THOSE WHO RSVP IN ADVANCE WILL HAVE THEIR CLE ATTENDANCE CARDS PRE-POPULATED SO ALL THEY HAVE TO DO IS TO SIGN THE CARD (AND, OF COURSE, STAY FOR THE PRESENTATION) IN ORDER TO OBTAIN THEIR CLE CREDIT — Just another service of your Corpus Christi Bar Association

## ABA: CCYLA NATION'S BEST "Kids' Law Library" Chosen Best Public Service Project in U.S.

The American Bar Association's Young Lawyers Division has named the Corpus Christi Young Lawyers Association the best small city young lawyers' association in the country. In addition, the American Bar Endowment, a charitable affiliate of the ABA, awarded CCYLA the most prestigious public service award available to any state or local young lawyers association regardless of size for its "Kids Law Library" project. Both awards were presented at the ABA's Annual Meeting in San Francisco. Brian Miller, the CCYLA Delegate to the Texas



Brian Miller accepts the American Bar Endowment's Outstanding Public Service Project of the Year Award from The Honorable Lee Edmond, Los Angeles, California, Superior Court Judge and President of the American Bar Endowment, left, and American Bar Endowment Board Member Leevy Johnson of Columbia, South Carolina, right. Photo reprinted with permission of Zac Sargent Photography.

Young Lawyers Association and creator of and chair for the "Kids Law Library" project, was on hand to receive the awards on behalf of CCYLA.

In winning the First Place Comprehen-

sive Award of Achievement for the best local young lawyers association with fewer than 800 members, CCYLA, which has 150 members, was competing against all young lawyers associations in the United States located in metropolitan areas of less than 1.5 million population (approximately). This award recognizes the local young lawyers association that had the best combination of successful public service and member service projects during the prior year.

The ABE's Outstanding Public Service Project of the Year Award presented to CCYLA is just as prestigious, for all young lawyers associations, regardless of size and whether they are state-wide or local, were in competition for the award. "Kids' Law Library" is a first-of-its-kind project to identify and donate a collection of children's books about the American legal system to an elementary school. This collection includes fiction and nonfiction books on a wide variety of topics including famous lawyers and judges, famous trials and appellate cases, the United States Constitution and civil rights, forensic science and detective work, and the importance of trial by jury. Brian Miller originated the idea of the "Kids Law Library," obtained a grant to help pay the costs of the project, and chaired the project. CCYLA donated the collection of books to Los Encinos Elementary School.

Fourth and fifth graders from Los Encinos Elementary School were joined by Miller, co-chair Ron Dennis, and Texas state district judges Bobby Galvan and Nelva Gonzales Ramos at a "Kids Law Library" kick-off ceremony on April 13<sup>th</sup>. The project culminated in a book report competition with the winners being recognized

with awards at the school's end of the year assemblies. CCYLA was assisted by school principal Sylvia Prezas and librarian Belinda Avila in implementing the project. "Kids Law Library" was funded in part with a grant from the Texas Young Lawyers Association.

CCYLA's "Baseball with the Bench" also won an individual award. It was honored by the ABA's Young Lawyers Division with a Special Recognition Award for a service project that benefited members of the bar by a young lawyers association of less than 800 members. "Baseball with the Bench" is an annual program open to all licensed lawyers that combines a two-hour continuing legal education presentation by local judges with a Corpus Christi Hooks game. A group outing to a Hooks baseball game immediately follows the CLE presentation.

Other CCYLA public service projects included a legal careers symposium and "Kids in Court." The legal careers symposium was presented to undergraduate students at Texas A&M University – Corpus Christi and featured a panel of CCYLA members discussing law school admissions, bar examinations, and life as a young lawyer. The "Kids in Court" program provided a courthouse tour and mock courtroom examinations to young children scheduled to testify as witnesses in court proceedings so that they would feel comfortable testifying in court.

Other CCYLA member service projects included continuing legal education luncheons and an orientation for newly licensed lawyers. The orientation for newly licensed lawyers provided a courthouse tour, presentations by courthouse staff about local court procedures, and a reception for the new lawyers to meet the local judiciary.

The awards were presented for the 2006-2007 ABA fiscal year. CCYLA's board of directors for 2006-2007 were president Omar Leal, president-elect Dabney Pettus, immediate past president Danice

Obregon, vice president Steve McMains, treasurer Marco Longoria, secretary Julie Hampton, Texas Young Lawyers Association representative Brian Miller, and directors Frank Gonzales, Don Jones, Polly McCann, Jaime Rangel, and Geordie Schimmel.

## SBOT Reverses Position re Recording Telephone Calls

The Professional Ethics Committee for the State Bar of Texas has changed its position with regard to whether a Texas Lawyer may electronically record a telephone conversation between the lawyer and a client or third party without first disclosing that he/she is recording the conversation. The Committee has concluded in Opinion Number 575 issued in November 2006 that undisclosed recordings of telephone conversations generally do not violate the Texas Code of Professional Responsibility if certain conditions are met. They are

- 1) The lawyer must be a party to the telephone conversation;
- 2) Recording the telephone conversation must be necessary to protect the legitimate interests of the client or the lawyer
- 3) The lawyer must be able to and must actually take steps to safeguard the confidential client information contained in the recording
- 4) Recording the telephone conversation must not violate any applicable law (including the laws of another state) that would make the undisclosed recording of the telephone conversation a serious criminal offense; and
- 5) Regardless of whether the client is involved in the telephone conversation or has consented to the recording of the telephone conversation, the lawyer has not stated to anyone that the telephone conversation is not or would not be recorded.

The Committee observed that legitimate reasons for recording a telephone conversation would include to aid memory and keep an accurate record, to gather information from potential witnesses, and to protect the lawyer from false accusations.

## Important Dates

**Bold** indicates seminar or new entry on the calendar

### September

- 3 — Holiday, Office Closed
- 6 — CCYLA Board Meeting**
- 12 --- Luncheon, 12:00 p.m., Ortiz Center
- 18 — Board of Directors Meeting
- 19 — Criminal Defense Luncheon, 12:00 p.m., Katz 21
- 20 — Docket Call, Cassidy's Irish Pub**
- 27 — CCYLA Luncheon**

### October

- Annual "Coat, Blanket, and Warm Clothing Drive" begins, Red Mass
- 4 — CCYLA Board Meeting**
- 5 — Family Law Seminar**
- 10 --- Luncheon, 12:00 p.m., Ortiz Center
- 16 — Board of Directors Meeting
- 17 — Criminal Defense Luncheon

12:00 p.m., Katz 21

### November

"Coat, Blanket, and Warm Clothing Drive" ends and donations distributed to homeless shelters; "Adopt a Family" Holiday Project begins

- 1 — CCYLA Board Meeting**
- 2 — Advanced Personal Injury Seminar**

- 12 — Holiday, Office Closed
- 14 --- Joint Luncheon with Legal Professionals, 12:00 p.m., Ortiz Center
- 20 — Board of Directors Meeting
- 21 — Criminal Defense Luncheon 12:00 p.m., Katz 21

- 22 — Holiday, Office Closed
- 23 — Holiday, Office Closed
- 30 — Fish Fry**

### December

"Adopt a Family" Holiday Project ends and food and other donated items distributed to "adopted" families;

- 6 — CCYLA Board Meeting**
- 19 — Criminal Defense Luncheon**

- 24 — Holiday, Office Closed
- 25 — Holiday, Office Closed
- 31 — Holiday, Office Closed

### January 2008

- Appellate Law Seminar
- 1 — Holiday, Office Closed
- 3 — CCYLA Board Meeting**
- 9 — Luncheon, 12:00 p.m., Ortiz Center
- 15 — Board of Directors Meeting
- 16 — Criminal Defense Luncheon 12:00 p.m., Katz 21
- 18 & 19 — TYLA Board Meeting Here**
- 21 — Holiday, Office Closed

### February 2008

- Bankruptcy Seminar Mock Trial, Joint Luncheon with CPA's
- 7 — CCYLA Board Meeting**
- 19 — Board of Directors Meeting
- 20 — Criminal Defense Luncheon 12:00 p.m., Katz 21
- 23 — Peoples' Law School**

### March 2008

- Ethics Seminar; Nominating Committee, Docket Call; 17 — 21 CCISD Spring Break, 21 — Good Friday, 23 — Easter
- 6 — CCYLA Board Meeting**
- 18 — Board of Directors Meeting
- 19 — Criminal Defense Luncheon 12:00 p.m., Katz 21

### April 2008

- Election of New Board, Advanced Civil Trial Law Seminar, 19 — Passover Begins
- 3 — CCYLA Board Meeting**
- 9 — Annual Meeting Luncheon 12:00 p.m., Ortiz Center, Speaker Gib Walton, SBOT President**
- 15 — Board of Directors Meeting
- 16 — Criminal Defense Luncheon 12:00 p.m., Katz 21

### May 2008

- Law Day Reception, Law Day Luncheon, Baseball with the Bench
- 1 — CCYLA Board Meeting**
- 20 — Board of Directors Meeting
- 21 — Criminal Defense Luncheon, 12:00 p.m., Katz 21
- 23 — Criminal Law Seminar**

- 26 — Holiday, Office Closed

### June 2008

- Docket Call, , State Bar Annual Meeting
- 5 — CCYLA Board Meeting
- 17 — Board of Directors Joint Meeting
- 18 — Criminal Defense Luncheon, 12:00 p.m., Katz 21

## Bill Chriss "Comes Home" for August Luncheon

Bill Chriss, who is now the Executive Director and Dean of The Texas Center for Legal Ethics and Professionalism and lives in Austin, was the speaker at the August Luncheon. His topic was "Ethics



Bill Chriss, who commenced his presentation by noting the "5 Top Things to Avoid Saying to a Former Neighbor:" "Don't you live in Austin now?"; "Haven't you left yet?"; "Why are you still here?"; "You don't live here anymore, do you?"; and "I thought you were gone."

and Rehabilitating the Profession." Demonstrating his dedication to the legal profession and the importance of his message, Mr. Chriss had to overcome two flat tires and a tire that required the addition of air every thirty miles to appear at the Luncheon. His message, among other things, emphasized the fact that lawyers must be cognizant of the fact that what they do and the way they do it makes a lasting impression not only on their fellow lawyers but also their clients and the general public. Those in attendance received credit for one hour of participatory CLE in Ethics.

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## NEW CCBA Members

We welcome the following new members:

**Charmaine K. Brackens**, City of Corpus Christi Municipal Court, phone 826-2528

**J. Bryon Burton, III**, Uhl, Firtzsimmons & Jewett, P.L.L.C., phone 310-829-1660

**Manoj Devdas**, City of Corpus Christi Municipal Court, phone 826-2530

**Belinda Hinojosa-Pershon**, Nueces County Attorney's Office, phone 888-0391

**Robert J. Reining**, City of Corpus Christi Municipal Court, phone 826-2530

**Lloyd S. Van Oostenrijk**, Royston, Razor, Vickery & Williams, L.L.P., phone 884-8808

## Judge Mike Westergren Criminal Defense Section August Speaker



Judge Mike Westergren addressing the Criminal Defense Section August Luncheon

The speaker for the Criminal Defense Section August Luncheon was Retired

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## Donald M. Feferman, J.D., C.P.A. Attorney At Law

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don@feferman.com  
http://www.fefermanlaw.com

Judge Michael Westergren. Judge Westergren's topic was "Ethical Dilemmas in Criminal Practice." He used appellate cases and shared some anecdotes to note how ethical issues of which criminal defense lawyers should be aware can arise in a case. Those in attendance received credit for one hour of participatory CLE in Ethics.

### Judge Mike Westergren's Recent Case Summaries

IN RE MARION BARNETT, RELATOR,  
SUPREME COURT OF TEXAS, 207  
S.W.3d 326, 2006

Candidate omitted his address from his application to run for trustee of an ISD. The school District rejected his application even though he stated his correct address in the blank for mailing address and stated under oath that he had lived in the single member district for many years. Supreme Court

mandamus the district to allow his candidacy.

TOMMY NORMAN CADE v. BEVERLY STEVENS, COURT OF APPEALS OF TEXAS, FIFTH DISTRICT, DALLAS, 207 S.W.3d 909, 2006 - No subsequent appellate history

Ex-wife tried to execute a judgment that was over 10 years old. Trial court allowed but appellate court ruled that judgment over 10 years old was dormant and could not be revived. A writ of execution must be issued within a 10 year period.

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### Judge Westergren's Case Summaries Continued from Page 6

D.R. HORTON, INC. v. AURORA BROOKS; IN RE D.R. HORTON, Relator, COURT OF APPEALS OF TEXAS, FOURTEENTH DISTRICT, HOUSTON, 207 S.W.3d 862, 2006  
No subsequent appellate history

At will employee's knowledge of arbitration requirement in employer's policy manual sufficient to create agreement to arbitrate any dispute.

JOHN ROBERT FISCHER v. STATE OF TEXAS, COURT OF APPEALS OF TEXAS, FOURTEENTH DISTRICT, HOUSTON, 207 S.W.3d 846, 2006  
- Petition for review granted

Trial court failed to suppress statements of the arresting officer during the video taping of DWI defendant.

Intermediate court ruled that this was the functional equivalent of an offense report which is generally not admissible. Since a Petition for Review was granted we will have to wait and see if this hold up.

EX PARTE JOSHUA WAYNE DELANEY, COURT OF CRIMINAL APPEALS OF TEXAS, 207 S.W.3d 794, 2006

A defendant waived his right to appeal in a plea without a recommendation from the state which resulted in the defendant being placed on deferred adjudication. In a subsequent proceeding to revoke probation, the defendant was given a life sentence. Defendant sought the trial court's permission to appeal which was denied. The Court of Criminal Appeals, attempting to distinguish this case from cases in which there was a plea bargain, held that the trial

### PART-TIME MUNICIPAL COURT JUDGE

The City of Corpus Christi has an opening for a part-time Municipal Court Judge. Appointment to this position will be made by the City Council. Applicants must be licensed attorneys in good standing in the State of Texas and have practiced law in Nueces County for at least two years prior to appointment. Municipal Judges must also be citizens of the United States, a resident of the State of Texas, and qualified voters. Under the general direction of the Chief Municipal Court Judge, the part-time Municipal Court Judge administers magistrate warnings to prisoners who are accused of Class A and B misdemeanors and felonies, determines probable cause, sets bail, orders commitment to jail, and reviews probable cause affidavits and if probable cause exists issues arrest warrants and search and arrest warrants for Class A and B misdemeanor and felony offenses. Part-time Judges will work weekend shift work, approximately 14 hours every other weekend, and may substitute for full-time Judges as needed.

A Letter of Interest and Resume must be received in the City Secretary's Office no later than Friday, September 7, 2007, at 4:00 p.m., addressed to:

Municipal Court Committee  
c/o City Secretary  
City of Corpus Christi  
1201 Leopard  
Corpus Christi, Texas 78401

Salary: \$ 32.91 per hour



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court must grant permission to appeal the sentence.

FREDDIE JAMES SMITH v. STATE OF TEXAS, COURT OF CRIMINAL APPEALS OF TEXAS, 207 S.W.3d 787, 2006

This is a rare situation. The trial court, intermediate court, and Court of Criminal Appeals agree that failure to sign affidavit in search warrant is not fatal to the validity of a search warrant.

ROQUE TERCERO ARANDA v. DISTRICT CLERK, GAINES COUNTY, COURT OF CRIMINAL APPEALS OF TEXAS, 207 S.W.3d 785, 2006

A finding of "vexatious litigant" does not apply to writ of habeas corpus.

JOHN LOWELL BUFKIN v. STATE OF TEXAS, COURT OF CRIMINAL APPEALS OF TEXAS, 207 S.W.3d 779, 2006

Failure to give instruction concerning

consensual "love bites" which, according to defendant's version, were consensual and occurred the day before the assault being prosecuted, was held to be error since the jury might have believed defendant's testimony but still have been required to reach a finding of guilty under the charge as presented.

### **Up-to-Date Mailing Labels For Sale**

The Bar Association has up to date membership mailing labels for sale. The membership data base is updated daily. The cost for members is \$50.00 plus tax and shipping and handling when applicable. Just call us at 883-4022 or e-mail us at [sgonzales@corpusbar.com](mailto:sgonzales@corpusbar.com) to order. **We provide same day service.**

# CCBA Directory Errata Sheet

## September 2007

### Additions:

**Backens, Charmaine K.**  
(Thomas M. Randolph)  
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### Corrections:

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### Corrections: