



The AWA Brief

Volume 7, Issue 1

May 2014

Letter from the 2014-2015 President Brooke McNabb



As my term as President of the AWA begins, I would like to thank Cindy

Diggs, the 2013-2014 Board, and all of our members for a wonderful and successful year. Our membership continued to grow, and we were privileged to have number of terrific speakers.

The 2013-2014 year wrapped up with our third annual Premier Women in Law Luncheon, which was held on March 11, 2014 at the Hyatt Regency. We honored six Modern Trailblazers: Devon Anderson, Harris County District Attorney; Justice Eva Guzman,

Texas Supreme Court Justice; Chief Justice Kem Frost, 14th Court of Appeals; Ruthie White, Managing Partner of Jackson Lewis P.C.; Lauren Waddell, Founder of the Waddell Law Firm; and Susan Sanchez, Counsel and Pro Bono Coordinator at the Exxon Mobil Corporation. These women are truly inspirational, and their being honored as Modern Trailblazers was well deserved. We also proudly awarded six Houston area law students with scholarships. Thank you to the Premier Women in Law Luncheon committee members who worked so hard to make this event such a success, as well as to our sponsors for helping make this a memorable AWA event.

Our 2014-2015 year is off to a great start. On April

23, Blanche Stovall, Founding Principal of Stovall Consulting, LLC, spoke on a timely topic – privacy issues as they impact our lives and practices.

We have a great schedule of events planned for the rest of the year: Chamber Chat with Judge Ellison on May 22; Anna Rotman on Gender Differences in Negotiations on May 28; Judge Hinde on Voir Dire from the Court's Perspective on July 23; Justice Guzman on The History of Women on the Supreme Court on September 24; our judicial endorsement meeting in September; our annual Judicial Reception in October; LinkedIn for Lawyers on November 12; our annual holiday party in December. I look forward to seeing you at these events.

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May AWA Meeting: Gender Differences in Negotiations

Join us for AWA's lunch meeting on May 28, 2014, when Anna Rotman, a Partner at Yetter Coleman LLP, will speak to us on the topic of "Understanding and Approaching Gender Differences in Negotiation." Attorneys constantly negotiate: within their organiza-

tions, with their prospective and current clients, and on behalf of their clients with other parties. Most women attorneys have likely wondered whether their gender impacts the outcomes they achieve in these negotiations. In this presentation, we'll explore the research

on women in negotiations and discuss effective negotiation strategies that build on this research. The meeting will take place at 11:30 a.m. at McGuire Woods, JP Morgan Chase Tower, 600 Travis Street, Suite 7500. If you have not already done so, please RSVP to rsvp@awahouston.org.



By: Judge
Patricia J.
Kerrigan

*190th
District
Court*



THE JURY CHARGE: THE START AND FINISH OF YOUR CASE

One of the one most important pieces of advice given to me as a young lawyer was to begin preparing the charge the day the case came into the office. Initially, this piece of advice didn't make a lot of sense to me. But shortly after I began discovery on my first few lawsuits I realized that I couldn't prepare a smart discovery plan, set realistic goals, budget the case or figure out what it would take to win, unless I knew what I needed to prove to the jury in order to obtain a favorable verdict. I then realized that the best way to know what evidence I needed to give the jury was to know the questions that the jury would be asked at the end of the trial. Preparing a charge early in the case helped me tailor my discovery and deposition questions to fit the case and develop the key issues I needed to win. By highlighting the legal issues early in the case I also had a head start on knowing what I needed to do to preserve any charge error at the end of the case.

The 190th District Court requires the parties to submit a proposed charge at the pre-trial conference. The parties' proposed charge provides important pretrial information to the judge by outlining how each party views the case and their proof burdens and gives the judge a starting point to begin drafting the court's final charge. The differences between the parties' proposed charges also alert the court to ultimate legal and fac-

tual issues in dispute. While the Court may rely on the attorneys to submit a charge, a legally sound charge is ultimately the court's responsibility. The court must prepare a legally sound charge and at the same time avoid advising or assisting one side or the other. When what has been submitted by the parties does not constitute an adequate or correct charge, the court must review case law and prepare the proper submissions.

When a lawyer submits an incomplete or incorrect charge, it signals that counsel is not focused on the key issues in the case and may have never clearly identified the elements necessary to the cause of action being pursued or challenged. An insufficient proposed charge may reflect a misunderstanding of the case and foreshadow an unsuccessful result.

There are times when a party submits a preliminary charge knowing that a different or more complete charge will be necessary after pretrial rulings are made. Where possible it is worth getting rulings on significant matters before the pretrial conference so the court is aware of those key legal issues early in the case and so you can submit a complete charge at the pretrial conference. Keep in mind that the longer an attorney delays before presenting the court with a final proposed charge, the further along the judge will be in drafting the court's charge and may, therefore, be less persuaded or at least less patient with your late submission. Delaying producing the actual charge may be a tactic employed in an effort to gain an

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advantage over or blindsides the other side. I doubt any real advantage is gained and the tactic will generally be viewed by the court as an amateur ploy which may serve only to frustrate the court which has been working outside of trial time to draft a correct charge.

That said, a case will often morph during trial and evidence counsel anticipated would be established may not materialize and the issues for the jury will change. When that happens, and happen it will, it is important to consider how that change impacts the questions for the jury. In those circumstances a revised charge is appropriate and would likely be welcome by the court.

Broad form submission remains mandatory where feasible but there are specific situations where appellate courts have recognized broad form submission is not feasible, such as where a broad form submission comingles valid and invalid theories, or for lump sum damages where some elements of damage are not supported by evidence, and also presents complex issues in the submission of multiple liability issues with apportionment questions. These issues are difficult and an improper submission may be fatal to your case. In these circumstances, and many others, it is worth consulting with an appellate attorney or bringing an appellate attorney to the charge conference.

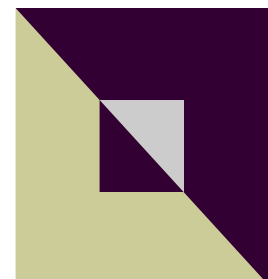
Being prepared for the charge conference often makes the difference between winning or losing your case at trial or on appeal. While the Pattern Jury Charge provides a good starting point, there are causes of action which are not covered in the Pattern Jury

Charge and the attorney will need to draft proposed questions based upon case law or statutes. Always come to the charge conference with copies of the cases and statutes which support your proposed submission. While some courts are totally wed to the Pattern Jury Charge, as I pointed out in the introduction to an earlier edition of Volume 1 of the Pattern Jury Charge, the proposed questions in the Pattern Jury Charge are the work of mere mortals and good advocates will look beyond the Pattern Jury Charge submissions in appropriate cases.

Too often a lawyer appears at the charge conference with little understanding of how to preserve error for appeal or with an overabundance of unnecessary written objections or requests which serve to unnecessarily lengthen the charge conference. Be knowledgeable on the steps you must take to preserve error. It is a fundamental part of being a trial lawyer to know how to preserve error. If you don't know how to object, when to object, when to request an instruction or submit a proposed question, whether an oral request is sufficient or if a written request is required, what to do with a written request or whether to file it, then it is time to learn.

In sum, if you start working on your charge early in the development of the case, you will have a roadmap for developing the case and for winning at trial. If you are prepared at the end of the case to present your charge and preserve any error by the court, you will have your roadmap for an appeal.

“Being prepared for the charge conference may make the difference between winning or losing your case at trial or on appeal.”





Association of Women Attorneys - Houston

Membership Application

(April 1, 2014 through March 31, 2015)

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RENEWAL

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2014 Premier Women in the Law Luncheon

The AWA Foundation presented six AWA Premier Women in Law awards and six scholarships at the Downtown Hyatt on March 11, 2014. The AWA is the only organization that focuses exclusively on the advancement of women law students, lawyers, and judges in the Houston area.

“By profiling successful lawyers and students, we believe corporations and other businesses will be more willing to hire, retain, and promote women lawyers and strive to eliminate subtle gender biases that might otherwise hamper those promotions,” said AWA Past President Cindy Diggs.

The Premier Women in Law awards were presented to: Devon Anderson, Harris County

District Attorney, Justice Eva Guzman, Texas Supreme Court Justice, Chief Justice Kem Frost, 14th Court of Appeals, Ruthie White, Managing Partner of Jackson Lewis P.C., Lauren Waddell, Founder of the Waddell Law Firm, and Susan Sanchez, Counsel and Pro Bono Coordinator at the Exxon Mobil Corporation.

This year, the AWA Foundation awarded a total of six scholarships, amounting to \$18,000, to deserving second and third year female law students at each of the three law schools in Houston. The scholarship recipients also received a professional photo, free AWA membership for one year, and an invitation to the luncheon.



Clockwise from above: Modern Trailblazer Honorees Justice Eva Guzman, Ruthie White, and Devon Anderson; Scholarship recipient Nancy Molina with Jessie Amos; Scholarship recipient Emily Taylor with Laura Gibson; and AWA Past President Cindy Diggs.

THANK YOU PWIL COMMITTEE

Anna Rotman, Cristina Solomon, Cindy Diggs, Cisselon Nicols Hurd, Dana O'Brien, Gail Brownfeld, Ileana Blanco, Jessica Cathey, Jessie Amos, Jillian Ballard, Laura Gibson, Le Hammer, Lisa Pittman, Melanie Koltermann, Morgan Haenchen, Peggy Harper, Pooja Shivangi Amin, Sally Andrews, and SJ Swanson

More pictures of the event may be viewed and purchased at www.dreamofmephotography.com

Find more about AWA at
awahouston.org

2013-2014

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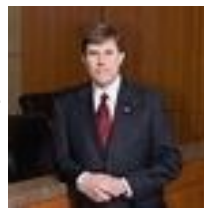
**Chamber Chat with
Judge Ellison**



Hon. Keith Ellison has graciously invited 15 of our members to join him in his chambers for conversation on May 22, 2014, from 4-6 p.m. Please contact Brooke McNabb at brooke.mcnabb@bakerbotts.com if you are interested in attending this event.

**AWA July Lunch
Meeting Featuring
Judge Hinde**

Mark your calendars for AWA's July 23, 2014, lunch meeting at McGuire Woods. Judge Dan Hinde from the 269th District Court will discuss Voir Dire from the Court's Perspective. For non-members, there is a \$25.00 charge to attend lunch events. For members, there is a \$5.00 charge for lunch, if you choose to eat at the event.



**Easy Recipes for
Busy Lawyers**

Tilapia and Vegetables

4 Tilapia Filets

1 bag frozen veggies

4 tsp olive oil

Seasoned salt

1 box couscous

Place tilapia filets on

separate sheets of foil;

drizzle with olive oil;

cover with frozen veggies;

season; fold foil to seal;

bake at 400°F for 15 min.;

cook couscous according

to box; enjoy!