THE WOMEN'S ADVOCATE A CATALYST FOR 2012 - 2013

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Women and the Law Section Newsletter www.txwomenlawsection.org

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CHAIR'S CORNER



I am honored to be this year's Chair. The Council and our members are a great group of women, and I appreciate your participation and support. I thank Alison Colvin, our immediate Past Chair, for all of her help and insight in leading us to this point, and helping me prepare for the year ahead.

We start this year with a heavy heart, having lost a dear friend and past Chair, Ralph Brock. I am so grateful that his wife, Carolyn

Moore, is a strong supporter of our section, and continues to inspire all of us in our practices and in our lives. In March, we will celebrate Carolyn and Ralph's contributions to the community of Lubbock and to the practice of law, as they both receive the 2013 Distinguished Service Award by Texas Tech School of Law.

The Women and the Law Section's mission is to encourage and facilitate the active and effective participation of women in the legal profession and in the community, and to address women's current needs and the issues affecting them. With the implementation of the Affordable Care Act, the U.S. government has made it mandatory for us to have health insurance or pay a penalty for noncompliance. As the country navigates new waters with this law, we will explore how it impacts our families, our clients, and our medical providers. We have begun planning the CLE program for the State Bar Annual Meeting in June, and will feature a panel of speakers to address legal issues, physician-patient issues, employer-employee issues, and family law issues that arise with the new health insurance law. We hope you will volunteer to help plan this event, and join us in Austin for the Annual Meeting. Nora Bryant, our Chair-Elect, is coordinating the CLE efforts.

Beyond the new health insurance law, we are reaching out to you, our members, to see what issues and topics are important to you. We want to know how we can improve your practices and your lives as women lawyers, as we enter 2014. Mentoring and retention of women in the profession are recurring, important themes. We hope to be able to connect more seasoned women lawyers with those who are just starting their journeys in the practice of law. Be on the lookout for section updates, as we work toward implementing this mentoring project.

The Women and the Law Section is made up of incredible women who dedicate their time and resources to improving the practice of law for Texas women. I hope you will join us and get involved as we continue the journey this year.

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TRAILBLAZER



Pat Allison

Pat Allison has a string of "firsts" to her credit. The first person to earn a Master's degree in Urban Studies from Washington University in 1970, Pat became the first Environmental Manager of the Houston-Galveston Area Council in 1974. In that role, she led the effort to develop the first-ever water-quality plan for the 13-county HGAC area, which funneled millions of dollars of federal grants into the region. Following this, Pat became the first women hired to practice environmental law at Fulbright & Jaworski. Credentials in environmental law quickly led to a career in oil and gas transactions. Few women practiced oil and gas law in 1980, and fewer still practiced internationally when Pat joined the law department of an independent oil company. She worked deals in Texas and numerous foreign countries and became Board Certified by the Texas Board of Legal Specialization in Oil, Gas and Mineral Law in 1988, one of the first women to earn that distinction. Pat rose in the corporate ranks, becoming Associate General Counsel-International and General Counsel.

In an effort to give back to the profession, Pat has been active in volunteer professional organizations, serving as President of the Association of International Petroleum Negotiators, an organization of 3500 members from over 80 countries. She also served as the U.S. Chapter Regional Director, VP of Education, and VP of Planning and was twice named the AIPN Member of the Year. Pat has chaired the Oil, Gas and Mineral Section of the Houston Bar Association and the Oil and Gas Practice Group of the Institute of Energy Law of the Center for American and International Law. Other activities include serving on the Council of the State Bar Corporate Counsel Section for 17 years (including the position of Chair), and serving as a Section Representative to the State Bar Board of Directors and a member of the State Bar CLE Committee. Last year State Bar President Buck Files appointed Pat to the Board of Directors of the Texas Board of Legal Specialization and she is the to be the first person Board Certified in Oil, Gas and Mineral Law to serve in that position as well as the first female Board Certified to serve.

DO YOU KNOW A TRAILBLAZER?

(trail·blaz·er - An innovative leader in a field; a pioneer.)

The Women and the Law Section is looking for women lawyers from Texas who would be considered a TRAILBLAZER in the legal profession. Do you know any? We would love to shine a spotlight on our Texas Trailblazers in an upcoming Newsletter and/or on our Website. Please send submissions (no more than one to three short paragraphs, and photo, if any) to the email address below:

Tonya Carter-Clary, Newsletter Editor attorneytdcc@gmail.com
RE: TX Trailblazer

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WE BID FAREWELL

by Tonya D. Carter-Clary, Newsletter Editor



On behalf of the Women and the Law Section, I would like to bid farewell to attorney and longtime WAL Board member, Ralph H. Brock, who passed away July 14, 2013. Ralph received his undergraduate and law degrees from Texas Tech University and was admitted to the Texas Bar in 1975. From 1982 until his death, Ralph was a solo practitioner in Lubbock. But beyond just the practice of law, Ralph devoted himself to the individual rights of others; and was said to live by his convictions in his personal as well as his professional life. Ralph received countless awards through the years for his dedicated service, including, but not limited to; the Lubbock County Pro Bono Attorney of the Year Award, a special pro bono award from the Lubbock Criminal Defense Lawyers Association, and the Dan R. Price Award from the Texas Bar Foundation. In June of this year, Ralph received both the Certificate of Merit and Presidential Citation Awards from the State Bar for "demonstrating exceptional service to enhance the Texas legal community," and, "outstanding contributions to the legal profession." Ralph had written numerous articles throughout his career; he was a long-time contributor to the Lubbock Law Notes and an editor of the State Bar College newsletter. He served as a Director of the State Bar and was also a sustaining life fellow of the Texas Bar Foundation. Ralph was a Chair to many State Bar sections including our own. He was a longtime Board Member for the Women and the Law Section and the ONLY male to serve as our president.

He was known to be an avid genealogy researcher and generous blood donor. He was a licensed amateur radio operator and a member of the Sons of the American Revolution. He was also an Eagle Scout. Ralph is survived by his wife of thirty-one years, and fellow longtime WAL Board Member, Carolyn F. Moore. Ralph was truly an inspiration to all that knew him; a dedicated leader in the practice of law, and a tireless champion of people less fortunate. We send our deepest and heartfelt condolences to his wonderful wife Carolyn, family, and friends. He will be sorely missed!



TEXAS SUPREME COURT ALLOWS MANDAMUS REVIEW OF MERITS OF NEW TRIAL ORDERS

By Melissa A. Dorman

The Supreme Court has expanded its requirement that a trial court must provide a detailed explanation for granting a motion for new trial. Now, appellate courts can weigh the sufficiency of the *reason* for the new trial order, and determine if the facts support the court's stated reason.

"When you consider the fact that, until fairly recently, a new trial could be granted for any reason or for no reason at all, and that the only limitation was the number of new trials that could be granted, the *Toyota* opinion is radical in the sense that it significantly alters these concepts and the many prior opinions that have kept them in place," said Steven J. Knight, an appellate partner with Chamberlain, Hrdlicka, White, Williams & Aughtry in Houston, Texas. While it is a radical change, he believes it is a good one. "Considering the costs and fees – and sometimes the emotional price – involved in trying a case, appellate review of a new trial order is essential," he said.

Since 2009, the Texas Supreme Court has required a trial court to explain with "reasonable specificity" why it has set aside a jury verdict and granted a new trial. With its recent opinion, *In re Toyota Motor Sales, U.S.A., Inc.*², the Supreme Court took the requirement of a specific and sound reason for a new trial a step further: the reason has to be true. If it is not true, the granting of the new trial is reviewed for abuse of discretion.

In the *Toyota* case, the trial court granted a new trial "in the interest of justice" and as a sanction because Toyota violated a *limine* ruling and presented evidence outside the record. The Eighth Court of Appeals denied Toyota's petition for mandamus, finding the trial court's order complied with the requirements of *In re Columbia Medical Center*.

The underlying case involved product liability theories. Richard King's family sued Toyota and the dealership where they purchased a Toyota 4Runner after King was killed during a rollover accident. The Kings claimed the 4Runner's allegedly defective seat belt system failed to restrain him, resulting in his ejection from the vehicle and subsequent death. An El Paso, Texas jury disagreed, finding the seat belts were not defectively designed.

The trial court's decision to grant a new trial centered on testimony from the investigating officer that King had not been wearing his seat belt at the time of the accident, which the Kings' counsel mistakenly read into the record. The testimony regarding King's seat belt non-use had been excluded *in limine*, and when the officer's testimony was presented by deposition, the Kings' counsel introduced the offending testimony under the rule of optional completeness. The door had been opened, and Toyota's expert witnesses acknowledged the testimony during their direct examinations. The Kings' counsel, however, requested sanctions as a penalty for using the previously-excluded testimony. The trial court declined to sanction Toyota's counsel, but instructed him not to publish the testimony to the jury.

Before closing argument, the trial court instructed the parties that the officer's conclusions about King's failure to wear his seat belt were outside the record, and had not been read into the record. Toyota's counsel disagreed. Ultimately, when asked how to handle the mention of the seat belt testimony, the judge instructed the Kings' counsel to "make your objection, and I will sanction people accordingly."

After the jury found for Toyota, the trial court granted the Kings' request for a new trial, giving two reasons for its order: it was in the interest of justice, and as a sanction for presenting evidence outside the record, in violation of the *limine* order.

The Supreme Court evaluated these reasons and found the trial court abused its discretion in granting a new trial. "The trouble is that the record squarely conflicts with the trial judge's expressed reasons for granting new trial," wrote former Chief Justice Wallace B. Jefferson.³

While this decision is a significant extension of prior law, Steve Knight is not convinced it will have a significant impact on judges presented with motions for new trials. "I think that trial judges have always given careful consideration to whether to order a new trial," he said. "If a trial court grants a motion for new trial and mandamus review is sought, it is imperative that the parties have fully and adequately presented their positions to the trial court so they preserve their essential arguments in the appellate court." For this reason, he says, trial counsel should consider having experienced appellate counsel present for trial.

^{1.} In re Columbia Med. Ctr. Of Las Colinas, Subsidiary, L.P., 290 S.W.3d 204 (Tex. 2009).

^{2.} __ S.W.3d __, 2013 Tex. LEXIS 673, 56 Tex. Sup. Ct. J. 1007 (Aug. 30, 2013).

^{3.} S.W.3d __, 2013 Tex. LEXIS 673, 56 Tex. Sup. Ct. J. 1007 (Aug. 30, 2013).

BOOK REVIEW

LEAN IN: WOMEN, WORK, AND THE WILL TO LEAD AUTHOR SHERYL SANDBERG

by Paula Whitten-Doolin

I had heard much about this book, and its author, before cracking the first page. Despite the fact that this book was only published in March of 2013 (and is based loosely on a TED talk Ms. Sandberg gave in 2010), the phrase "lean in" has already become shorthand for the struggles women face (and should push through, if you're taking the book to heart) in order to be successful in the workforce.

Needless to say, I was curious. Stylistically, the book is a short and fast read, just a smidge under 200 pages (excluding copious endnotes), and is packed with anecdotes about the author's own experiences and those of other women whom she knows and has known throughout her career.

Without ruining the book, I can say that I found it on point and extremely engaging, especially as a female attorney. Probably the most salient (and perhaps depressing) point she made, for me, did not directly follow from the thesis. Ms. Sandberg states that for women, success and likeability are negatively correlated, while for men, they are positively correlated. E.g., the more successful a woman is described to be, the less both women and men like her. Successful men are (in contrast) more likeable than those who are less successful. It is tempting to dismiss this point as conjecture or observation, but Ms. Sandberg cites several decades-worth of research to support the point. She points out that this leads to (for women) a horrible "damned if [she] does, doomed if [she] doesn't' situation (quoting another source in the book).

While the above might be a bit depressing, Ms. Sandberg also spends significant time suggesting strategies to deal with that implicit success bias in negotiating for responsibilities, salary, and titles (as well as within your current role). I found this type of advice the most useful part of the book.

The second point Ms. Sandberg makes that resonated with me—and which does more directly follow from her thesis—is that women often take themselves out of the running (for a promotion, a new opportunity, or an interesting responsibility shift) before the race even starts. She mentions a woman at Facebook who asked to speak to her privately about balancing work and family (given, one assumes, a potential new opportunity internal or external to the company). Ms. Sandberg readily obliged, only to be peppered with questions about how to balance those needs. On interrupting the clearly anxious woman, Ms. Sandberg discovers that not only is the questioner not pregnant (and has no kids), she is not married...nor does she even have a boyfriend (yet). She simply wants to make room for that eventuality if it does occur, sometime...in the future. Ms. Sandberg's point here is that by assuming you need to 'lean back' from work in order to make room for a future which may include children and a husband, you

cut yourself off from opportunities in the present. Further, those opportunities (if you 'lean in' and take them) may better enable you to make room for that family in the future, whether by putting you in a position where you can control your own schedule OR by giving you the financial freedom to make choices when the time comes.

Overall, the book was both useful and fascinating—I highly recommend it.



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STATE BAR ANNUAL MEETING 2013 HIGHLIGHTS

This year at the State Bar Annual Meeting, the Women and the Law Section conducted a CLE panel discussion consisting of a law professor, internal medicine doctor, and lawyers who have worked part-time and in-house discussed legal ethics, law practice management, and ways to be a healthy and effective lawyer. Speakers included Elizabeth Race, M.D., MPH; Dallas; Internal Medicine/Infectious Disease, AHF Health Care Center, Medical City, Christy Jump; Dallas; Jackson Walker, Professor Deborah Calloway; Hartford, Connecticut; University of Connecticut School of Law, and Dena DeNooyer Stroh; Dallas; Murchison Oil and Gas, Inc.



The Attendees

The Women and the Law Section presented the following awards at the Annual Meeting:

Sarah T. Hughes Award

The Sarah T. Hughes award honors women attorneys who have achieved excellence in their respective fields and have: Influenced other women to pursue legal carriers, or opened doors for women lawyers in a variety of Job settings the historically were closed to women, or advanced opportunities for women within a practice area or segment of the profession, or have otherwise served their profession or community in a manner

that has benefitted the legal profession. You show superb leadership as a Texas lawyer, Texas Judge, Texas leader and as a woman in the profession and in your community.

Judge Nancy Atlas-Nancy F. Atlas is District Judge for the Southern District of Texas, having served more than 30 years. She was nominated by President Clinton in 1995 to be a District Judge for the Southern District of Texas, Houston Division. By 2002, she was named "trial Judge of the Year" by the Texas Civil Trial and Appellate Specialist Association. She has been appointed by the Chief Justice of the United States to Chair the judicial Security Committee of the Judicial Conference of the United Stated.

Justice Atlas was a Director and Shareholder at Sheinfeld, Maley & Kay P.C. and an Assistant U.S. Attorney in the Southern District of New York before her appointment. While in practice she was a



Judge Nancy F. Atlas

pioneer of the process of ADR and was Founder, Director and Vice President of the Houston Chapter of the Association of Attorney Mediators, Member of the Advisory Board of the AA White Dispute Resolution Institute at the University of Houston, and of the Board of Advisors of the University of Texas Center for Public Policy Dispute Resolution. She has also chaired the ABA's ADR Committee. For all of her work, she was awarded the Justice Frank Evans Award for Outstanding Service to ADR by the State Bar of Texas in 1997.

For 20 years, Justice Atlas has spearheaded a program with judges on the Fifth Circuit Court of Appeals and the Southern District of Texas to facilitate appointment of skilled volunteer attorneys to handle capital habeas cases.

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The individual who nominated her spoke of her in this way:

"What sets her apart from others nominated for this award and what makes this award particularly warranted for her however is not simply her considerable professional achievement and public prominence, but instead her unbounded energy, astonishing work ethic. Enthusiasm for excellence and personal and professional generosity have simply made legions of women lawyers who have had the pleasure of working with her better lawyers, better citizens and better people. She has not merely paved the way for other women lawyers success, she has steadfastly stood at curbside and cheered us on."

Louise B. Raggio Award

Ma'at, the Egyptian goddess of justice, symbolizes truth, order, righteousness, and the emergence of order out of chaos. The Women and the Law Section established the Ma'at Justice Award in 1995 to recognize and celebrate individual attorneys or an association of attorneys who have contributed to the furtherance of justice in our society. Every year the Women and the Law Section awards the Ma'at Justice Award to an individual or organization who is actively addressing the needs and issues affecting women both in the legal profession and in the community.

This year the Section decided to change the name of the award to the Louise B. Raggio Award. Louise Raggio (June 15, 1919 – January 23, 2011) was a Texas lawyer for more than fifty years. Louise Raggio fought for the rights of women and became the first



Louise B. Raggio Award

female prosecutor in Dallas County, Texas. Joining her husband, Grier Raggio, in 1956 to form the law firm, Raggio & Raggio, she began to work to change the particularly bad laws in Texas concerning women. The Marital Property Act of 1967 was Louise's best-known accomplishment. The Act helped married women to manage their own property, borrow money from banks in their own right, and establish financial discussions without having to have the presence of her husband. Before this act married women in Texas were subject to the most restrictive laws in the United States. The Marital Property Act of 1967 became the foundation for the current Texas Family Code. She was nicknamed "The Texas Tornado".

Human Rights Initiative-The organization has attorneys such as Chris Mansour, Melissa Weaver, and Martha Gonzales, who represent victims of human rights abuses seeking asylum in the US, victims of human trafficking, and victims of spousal or child abuse. It is the only agency in North Texas providing free legal services to indigent immigrant women and children who are victims of domestic violence and crime. Although three specific lawyers were nominated, we decided to give the award to the entity and not to an individual.

Melissa Weaver has been the Women and Children's Program at HRI for the last 5 years. The Program works to protect the rights of women and children who are not U.S. citizens and are the victims of Human Rights abuses, including domestic violence, violent crime, trafficking or neglect. One of her groundbreaking achievements has been in the area of obtaining Special Immigrant Juvenile Status for unaccompanied minors from Central America and Mexico. Melissa is one of Texas leading attorneys in the field.

Martha Gonzalez another nominee for HRI has led the Asylum Law Program for the last two years with an 80% affirmative asylum grant rate.

Chris Mansour has headed the legal program for HRI for the last 5 years. Since 2000, HRI has trained over 770 legal professionals in these types of case. Almost 6700 hours have been donated by pro bono attorneys.

Chair Award

This was the first year for the presentation of the Chair Award by the Women and the Law Section. This award was created for the individual member of the section who assisted the Chair during her term by providing insight, guidance and assistance. The award was presented to Carolyn F. Moore. Ms. Moore is a lawyer with the Texas Department of Insurance. She was a great help and inspiration to the Chair during her term.



Chair Award

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ANNOUNCEMENTS

- We bid farewell to Attorney Janette Johnson, WAL's 2008 recipient of the Sarah T. Hughes Award, who passed away
 August 27, 2012. Ms. Johnson was admitted to the Texas Bar in 1989 and was also a member of the California and
 District of Columbia bars. From 1990 to 2012, she was the owner of Janette Johnson & Associates. Our deepest
 condolences to her family and friends.
- Texas Bar Foundation awards San Antonio's Childsafe \$10,000 for comprehensive services that include investigative forensic interviews, counseling, and therapy for child victims of abuse. For the complete article vist www.txwomenlawsection.org
- WAL Board Member, **Carmen Samaniego**, has opened her own practice, located at: 14610 N.W. Military Hwy., San Antonio, Texas 78231. Tel: 210-269-6528; Fax: 888-224-3924; attorneycarmen@me.com. She handles contested and uncontested probate, guardianships, and civil litigation.
- The WAL 2013 Sarah T. Hughes Women Lawyers of Achievement Award goes to Nancy F. Atlas who was nominated by Collyn Peddie. Nancy F. Atlas is District Judge for the Southern District of Texas, having served since being appointed in 1995. She has unbounded energy, an astonishing work ethic, enthusiasm for excellence, and personal and professional generosity. She has steadfastly cheered other women lawyers to succeed. She is described as smart, practical, and blunt in advocating for women lawyers.

The Sections first **Louise B. Raggio Award**** goes to the **Human Rights Initiative of North Texas, Inc.** which is in Dallas, Texas. The organization has attorneys such as *Chris Mansour, Melissa Weaver*, and *Martha Gonzales*, who represent victims of human rights abuses seeking asylum in the US, victims of human trafficking, and victims of spousal or child abuse. It is the only agency in North Texas providing free legal services to indigent immigrant women and children who are victims of domestic violence and crime.

Congrats to our two award recipients!

- ** Louise Ballerstedt Raggio was born on June 15, 1919 and died on January 23, 2011. She was a lawyer who was the first woman lawyer in almost everything she did from being an assistant district attorney to being the lawyer who oversaw creation of the Texas Family Code to being named the first voting emeritus council member of the Women and the Law Section. She was active in the Section and while alive declined to have the Section name an award in her honor. Recently the Section requested and received permission from her family to rename the Ma'at Justice award the Louise B. Raggio Award.
- Has your membership expired? Would you like to recommend membership to a colleague? Full Membership is \$20 for one year (if you have been licensed less than one year, your first year is free) and a Student Membership is \$5.00. Membership year is June 1st to May 31st. You can download an application from our website.
- Want to know more about the Women and the Law Section? Check out our **NEW** website at **www.txwomenlawsection.org**.



Are you a WAL Section member and have something you would like to share with the rest of Membership (i.e. Awards; Honors; Employment move or office relocation; Upcoming CLE speaking engagements; Employment search: hiring or seeking, etc.)? Our newsletter reaches over 600 WAL members from across Texas. Please send your announcement(s) to:

Tonya D. Carter-Clary, Newsletter Editor attorneytdcc@hotmail.com
Re: ANNOUNCEMENTS
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WOMEN AND THE LAW SECTION

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