



WALS LAWYERS NOW

DECEMBER 2022

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MEET THE CHAIR



Denise Paul

In this issue, we are thrilled to feature the current Chair of WALs, Denise Paul. Denise, who lives in the greater Houston area, serves as in-house Legal Counsel for Orion Engineered Carbons.

Tell us about your career path and what you do today. During law school, I had the opportunity to intern at a law firm and at a corporation. Both of those experiences showed me that I ultimately wanted to work as in-house counsel at a corporation. During the latter part of law school, I clerked part-time at an oil and gas corporation, and upon graduation started full-time as legal counsel with that corporation. My practice began primarily in the area of anti-corruption compliance. Since then, I have expanded my practice to include all general corporate matters and I am currently the sole legal counsel for Americas for a global chemicals company.

Tell me how you first got involved in with WALs? What was your first impression of WALs? My long-time mentor Nikki Chargois Allen invited me to serve on the Council when she was Chair. I had no clue what WALs did at the time, but I quickly grew to enjoy my participation and learn much about the State Bar.

What do you find most challenging about being a woman in the legal profession? Gender Bias. Women are still the minority in the legal profession, particularly in leadership roles. It is not limited to pay and promotion though. Female lawyers, especially those of color, continue to be mistaken for non-lawyers, such as administrative staff; and are given more administrative office tasks.

What's your personal philosophy on what should be done to improve the status of women in the law? I believe that the work environment should be revisited to focus on a true life/work balance. Things such as hybrid work, actually encouraging the use of vacation time, flexible schedules, and a variety of tracks for leadership.

What's the most important thing someone should know about you? Outside of my faith, my family is my world.

What's the best thing that's happened to you this year? Getting married in March.

What excites you right now? Currently, I am excited about our upcoming International Women's Day event on March 8, 2023.

What would you tell someone who is thinking about becoming involved with WALs? Do it! The Sections are the heart and soul of the State Bar.



The State Bar of Texas
Women and the Law Section presents

A Celebration across Texas for:

Networking

**International
Women's Day**

#BreaktheBias

March 8, 2023

Membership Drive

Inspiring Speakers

Join us in:

- Dallas
- Houston
- San Antonio
- Austin
- Tyler
- Waco
- Edinburg/McAllen
- Corpus Christi
- Lubbock
- El Paso
- Midland/Odessa
- Laredo
- Brownsville

Location and time TBA



The Women and the Law Section is so pleased and honored to host a statewide event for **International Women's Day** on **March 8, 2023**, honoring this year's theme, **#breakthebias**. Thirteen cities across Texas will host a celebration of this day, to include a membership drives and socials with speakers and networking opportunities. At each gathering, participants will wear purple in honor of the day and take a group picture. Check the section's Facebook page for up-to-date details!



PRACTICE TIPS

Top 10 Tips to Keep Your Client from Getting Convicted by Something YOU Did in a Civil Case

by Lisa Greenberg

We have a lot in common.

Cases I have pending with civil overlap involve such issues as:

1. Sexual assault
2. DWI with accident
3. Doctor/Teacher/Lawyer client
4. Stalking
5. Family Violence

Generally speaking, these are things to be careful of: protective orders, CPS inquiries, professional licenses, family law cases with any criminal allegations, and civil suits alleging any criminal violations including intentional torts and those regarding neglectful supervision.

I spoke with my criminal defense friends, here are our top 10 tips for civil practitioners.

#10: Be mindful of collateral consequences

All criminal lawyers must be mindful of collateral consequences, but even the best sometimes slip up. If your case involves any allegations of abuse, drug/alcohol abuse, child abuse/neglect, etc., you have to be aware that those things carry big rippling effects in someone's life. Besides people's licenses (see #9) there are other issues, such as immigration consequences, criminal enhancements, child custody situations, etc. Also, be careful of firearm situations.

Employment consequences: your client may have to answer to HR for allegations made in a civil or criminal matter. Please be careful in how you answer. The same for any kind of board, judiciary, state bar, etc.

When someone is accused of a crime, without even formal charges, it can affect their lives beyond the potential criminal proceedings.

#9: Licenses: what you don't know can hurt your client

What does your client do for a living? Doctor, lawyer, teacher, commercial truck driver, plumber, nurse, nursing assistant, welder? You must know what licenses the client holds as they could be at risk. Does the client need to carry a firearm or need a Class C license? Remember a DWI can have an effect on someone's license.

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If your client has a license, the issuing board may come with many questions or want a hearing. Be careful how your client answers/testifies. I once represented a judge and when we went to testify before the judicial commission, the prosecutors showed up to listen to the testimony.

#8: Watch out for social media pitfalls

This one should be obvious but often, your client doesn't think so. I tell my clients to pretend that they are on reality tv and the only people watching their show are government officials. I don't want them posting relationship status, photos of money and wealth, drinking/partying, etc. For example, if your client is getting a divorce, do we want photos of him/her dating? Drinking? What about if your client is accused of some sort of theft/embezzlement? Photos of a nice house or car are not helpful. We don't want our clients to appear to be out having a great time if they are accused of something we want them to appear remorseful for.

#7: DFPS: Department of Family Protective Services (formerly CPS) beware

I have been involved in many cases where I am the criminal lawyer on a case involving domestic violence or sexual assault accusations. Many of these stemmed from a family law case or other type of civil case. You don't realize it, but anything around children, even if it doesn't directly involve them, can cause DFPS to be involved. They will want to interview your client and get his/her take. You need to weigh the risk of that. Many people don't know DFPS works directly with the CPU of the police department, the children's hospital CARE Team, etc. Those statements are not made in a vacuum. Even if your client goes to seek medical care for the child, oftentimes the hospital staff will call DFPS on your client. Be careful of how your client talks to hospital staff social workers and DFPS at the scene.

#6: Protective orders

Do not agree to any finding of family violence in protective orders! My first tip here is get a criminal lawyer involved. I've inherited cases where the civil lawyer/family lawyer has handled the protective order hearing. They have put the client on the stand to testify about the incident and much more. This hurts the client. You may have won the battle but end up losing the war. Remember, while the client may get custody or win the civil case, the result might be that the client goes to prison because of a statement in the civil case that is later held against the client. As a criminal lawyer, I want the opportunity to get discovery through that hearing and be able to observe and perhaps cross-examine the complaining witness. It's an invaluable opportunity for me to see their demeanor on the stand and I want as many facts nailed down as possible so they cannot change them in the criminal trial. However, I do not want the same thing to happen to my client, so I generally do not let my client testify at such hearings.

#5: Mediated Settlement Agreements

We understand how much you want your civil case to get resolved successfully. However, this may have ramifications for a criminal proceeding. Most civil lawyers think a settlement agreement cannot be brought into the criminal case, but it often is as impeachment or evidence of motive. We also have to be mindful that no prosecution can be settled in the civil case and of claims of witness tampering.

I like to be involved in the settlement negotiations and the wording of the agreement, just in case the settlement comes back into the criminal matter. Also, there may be times to not hurry up and settle a case. That settlement could come back to bite our client in the criminal proceeding.

#4: Discovery Requests

Clients can invoke the Fifth Amendment in a civil case. Invoking the right against self-incrimination allows, but does not require, drawing adverse inferences in the civil case.

The privilege of the Fifth Amendment must be exercised in connection with precise questions and NOT as a general excuse for refusing to appear in response to a subpoena. *Meyer v. Tunks*, 360 S.W.2d 518, 523 (Tex. 1962) (citing *Rogers v. U.S.*, 340 U.S. 367 (1951)). The client must appear and must consider each question and determine whether the answer will incriminate or furnish a link in the chain that will lead to evidence that may tend to incriminate. *In re Willie*, 25 Fed. Cas. 38 (1807) (Chief Justice Marshall writing). Absent challenge, the assertion of privilege stands. Upon challenge, the client is entitled to be examined on a sealed record, without other counsel or parties present, to explain the assertion. If the judge overrules the plea, the client must be afforded the opportunity to appeal on a sealed record before he can be compelled to answer.

When a party is a defendant in a civil suit and a related parallel proceeding, the right to fair trial and Fifth Amendment right of the defendant may demand that the civil suit be abated or stayed pending resolution of the criminal proceeding however there is no constitutional requirement that a civil action be stayed pending the disposition of a related criminal proceeding. *In re R.R.*, 26 S.W.3d 569, 574 (citing *McInnis v. State*, 618 S.W.2d 389, 393 (Tex. App.—Beaumont 1981, writ ref'd n.r.e.)). A trial court, in the exercise of its discretion, may stay a civil proceeding to prevent interference with a criminal proceeding. *Id.* When deciding whether to delay a civil proceeding, a trial court should consider the effect of discovery in a civil case on pending criminal proceeding. *Texas Attorney General's Office v. Adams*, 793 S.W.3d 771, 776 (Tex. App.—Fort Worth 1990, orig. proceeding). The Fifth Circuit directs federal district courts to weigh six factors to determine whether a stay of a civil action pending resolution of a criminal action is warranted: (1) the extent to which the issue in both proceedings overlap; (2) the posture of the criminal proceeding (whether the moving party has been indicted); (3) the interest of the plaintiff in proceeding quickly with the litigation; (4) the burden the civil suit could impose on a criminal defendant; and (6) the public interest. *Dominguez v. Hartord Financial Services Group, Inc.*, 530 F. Supp. 2d 902, 905 (S.D. Texas 2008). Occasionally, a seventh factor is added to the list: interest of persons who are not parties to the civil litigation.

Courts disfavor absolute or “blanket” denial of a discovery order. See *In re R.R.*, 26 S.W.3d at 574. Instead, a court should attempt to reconcile the litigants’ competing interests, and the discovery order should be tailored to protect specific interests. See *Underwood v. Bridewell*, 931 S.W.2d 645, 646 (Tex. App.—Waco 1996, orig. proceeding). In *Adams*, civil defendants did not seek to stay the trial court discovery order, for a delay would harm their defense. Rather, it was the commissioner, a non-party to the civil and criminal proceedings, who was seeking a stay of the civil suit. Thus, the Fifth Amendment right and the right to fair trial of the party seeking a stay were not factors relevant to the court’s decision.

#3: Admitting to Criminal Activity in Any Form, in Any Hearing/Document

I recently had a case where my client, a physician, was accused of touching a female friend in an inappropriate manner. The friend sued him civilly, and we were unsure if there would be criminal prosecution down the road. In the documentation, texts and demand letters, he wanted to admit to the touching, even though it was a consent issue.

Recently, I had a client release text messages in his civil discovery that included drug use. Once those text messages were sent to DFPS, they were then included in the criminal matter which was indecency with a child allegations. The State then tried to insinuate that not only did my client touch his daughter inappropriately, he also subjected her to abuse because she was around drugs/alcohol. In this case, pleading the Fifth in response to the discovery would have been more beneficial to his criminal case

#2: Client Testifying

This one may seem obvious to many of you. However, I see many civil lawyers letting their clients answer questions either directly or indirectly that involve criminal allegations. They may not realize it, but those answers

may come back to hurt their client in a criminal trial. Things to watch out for: any allegations of domestic violence, alcohol/drug use, neglect to children, inappropriateness with children, or dangerous behavior around children. Be aware of topics involving dishonesty. Consider such issues as tracking someone with a device, repeated phone calls, repeated texts, looking through someone's phone or belongings or going through their house, running someone's background via law enforcement, making false allegations against someone, admitting to false allegations in a police report.

I have seen clients testify to text messages amounting to threats, harassment, and possible stalking charges. I have clients testify about their drug or alcohol use and it come back in a neglect or child abuse case. Sexual allegations can be tricky as well. Will your client admit to sexual conduct with someone accusing them? Even if you think it's harmless in a civil suit, it may come back to bite the client in the criminal suit because the facts have has already been locked in stone because of the prior testimony.

#1: Consult with Us

Many times as lawyers our egos or our anxiety keeps us from asking questions. We think we passed the bar and have experience, so we can handle different types of law. While that may be true in general, it never hurts to have a few friends who handle different types of law such as immigration, criminal, personal injury, and family law that you can reach out to. I never mind if my civil attorney friends call me up with a criminal question. It's the only thing I'm good at and I get to appear smart for a few minutes. If you can't find someone to ask, please reach out to me, my contact information is on here and I'd be happy to help advise you if I can.



Lisa Greenberg is a native Texan with a passion for criminal law. Lisa attended law school at Texas Tech School of Law, began her career as an Assistant District Attorney for El Paso County, and has been a criminal defense attorney in Corpus Christi, Texas since 2009. She also teaches undergraduate and graduate legal courses. Lisa can be reached at (361) 446-2476 or lisagreenberglaw.com.

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Q www.txwomenlawsection.org



REGIONAL SPOTLIGHT

Women's Bar Section of the Hidalgo County Bar Association

The Women's Bar Section of Hidalgo County hosts the Heart Gallery of Hidalgo County event every year in November for National Adoption Month. The purpose of the **HEART GALLERY OF HIDALGO COUNTY** is to promote awareness, understanding, and **ADOPTION** of children in the foster care program. The Heart Gallery accomplishes this by coordinating a traveling photographic exhibit designed to increase the number of adoptive families for children needing homes in our South Texas community. This year, the Heart Gallery exhibit will include twenty-four portraits of children and/or sibling groups currently available for adoption in the South Texas area.

This year's Heart Gallery of Hidalgo County was held on Thursday, November 10, 2022 from 5:30 p.m. to 7:30 p.m. at the Rio Bank, 701 E Expressway 83 McAllen, Tx 78501. This event was open to the public and entertainment & refreshments were provided. Local news featured this year's event, which directly resulted in an inquiry to adopt!

The 2022 Heart Gallery of Hidalgo County benefitted the Rainbow Room and Texas Rio Grande Legal Aid (TRLA) by providing children with emergency supplies via the Department of Family and Protective Services (DFPS) and assisting selected low income families with all or a portion of the adoption fees required to finalize the adoption process. The adoption fees are not attorneys' fees but are instead court-ordered fees that are required to be paid by the families out of pocket. In many instances, families are unable to complete the adoption process because they lack money to pay these fees. By donating money to pay these fees, the Women's Bar Section and its supporters can make a life changing difference in the lives of these families.

If you are interested in donating to assist the Women's Bar Section with their efforts, please contact Hidalgo County's Women's Bar Chair, Valerie Torres at valerientorres9@gmail.com or Heart Gallery Chair, Natasha Martinez at natasha@odlawfirm.com.



Your donation should be made payable to the Hidalgo County Bar Foundation.

In addition to promoting awareness of the foster care program through the Heart Gallery, the Women's Bar Section raises funds for the benefit of organizations whose work supports and provides for those in need. For more information regarding the Women's Bar Section and its events please contact the Hidalgo County Bar Association by phone at (956)380-1691 or by email at admin@hidalgoabar.org.



My Perspective

Trial and Error by Andria Miller

Most of us learn in law school that there is rarely just one right answer to many questions we face in the practice of law.

And in some unique circumstances, there may be no answer at all.

As someone whose whole life could be described as one unique circumstance, this is the situation I encounter on a daily basis, as I struggle to navigate the obstacles associated with being a newly licensed female lawyer who also happens to be visually impaired.

I am legally blind due to a brain tumor I had as a child. I can't see well enough to get my driver's license, and can't recognize anyone more than a few feet away from me, unless they say something so I can hear their voice. I learned to cover up my disability very well, which means many people never realize how bad my vision is in the first place. But looks can be deceiving.

And *looking* like you can see things, when you actually cannot, often creates a complicated tangle of issues.

Each day I am faced with hundreds of questions arising from complications of my unique situation, with no treatise or database to turn to for answers.

When is the appropriate time to mention to opposing counsel that I cannot see the exhibit they are pointing to? Or to tell a judge that I cannot see who they are directing their question to? Will my clients feel poorly represented if I tell them about my disability?

But in struggling against the weight of the endless unknowns that seek to cripple me, I have learned an invaluable lesson for navigating such uncharted waters: where no precedent yet exists, set it yourself. Pave your own way through the sticky, messy non-answers until you find something that works, and hope that maybe one day those who follow you will have somewhere to turn for the answers you didn't have.

This applies to any unique situation you may face in your life or practice; situations that have no answers, because you can't find a single person who has experienced the same thing and found a way to make things work.

But where none seems to exist, the answer will lie in how you choose to proceed. Figure out what works and what doesn't work for you, and set the precedent for those who come behind you.

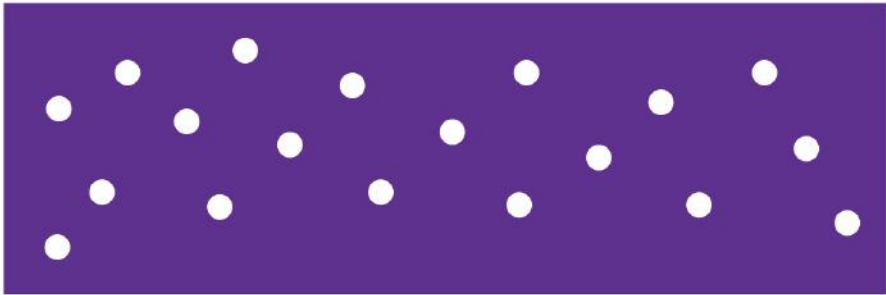


Andria Miller is currently an associate attorney at the civil litigation law firm Miller, Scamardi & Carrabba, P.C., in Houston, Texas. She graduated cum laude from Texas Tech University School of Law in 2021, and received her Bachelor of Arts degree from Texas Christian University in 2016. Andria can be reached at amiller@msc-lawyer.com.



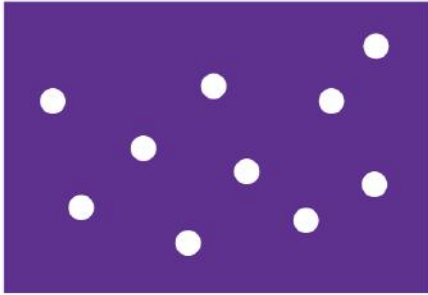
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AUSTIN, JUNE 22-23, 2023

JUNE

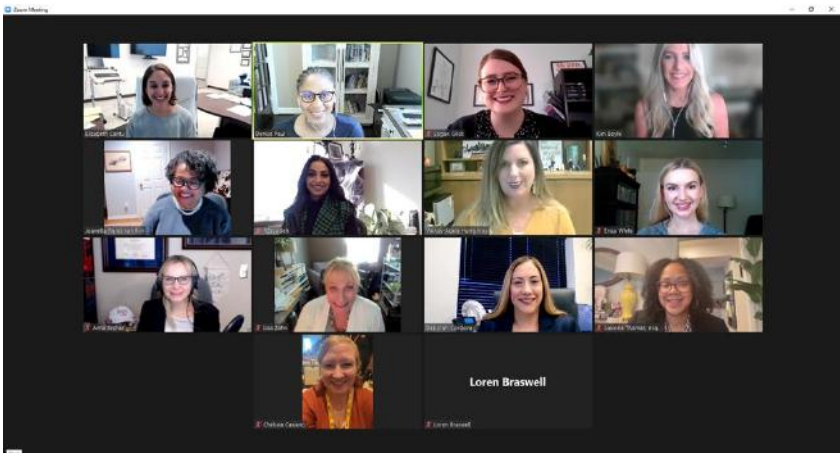


SAVE THE DATE

23



WAL SECTION ANNUAL MEETING & CLE



The Women and the Law Annual Bar Meeting Committee is in full swing and looking forward to the 2023 Annual Meeting and CLE. The planning committee has begun working and is so excited to continue bringing you amazing topics and speakers and to see everyone in Austin in June 2023. Stay tuned for more information and make plans to join this amazing group of women!! [#SBOTWAL2023](https://www.sbotwal.org)

The Women and the Law Section is excited to present a free CLE webinar.

THE CHANGING LANDSCAPE OF PRIVACY AND CYBERSECURITY



THURSDAY, DECEMBER 15TH

12 P.M. - 1 P.M. CST

1 HOUR MCLE CREDIT



CLARISSA BENAVIDES

MANAGING COUNSEL, PRIVATE & CYBERSECURITY
AT TOYOTA FINANCIAL SERVICES CORPORATION



txwomenlawsection.org

Mark your calendar! Our December CLE will be held on December 15, 2022 from 12:00 pm-1:00 pm. Our speaker, **Clarissa Benavides**, will discuss current events regarding privacy and cyber issues, as well as tips on how to protect your data.

REGISTER AT BIT.LY/DECWALSACLE

*this CLE is 1.0 MCLE credit hour



Women & the Law Section

CLE VIDEO library

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download course materials,
and claim MCLE credit!

[Access Instructions](#)

Visit <http://txwomenlawsection.org/>
Click on "Members"
Select "Members Only"
Select "CLE Video Library"
Type confidential pw "justice"



H A P P Y
H O L I D A Y S

WISHING YOU THE BEST
HOLIDAY SEASON AND
A BEAUTIFUL NEW YEAR.

THE COUNCIL OF THE
WOMEN AND THE LAW SECTION
STATE BAR OF TEXAS



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