



Together as **A PROFESSION**

THIS IS MY LAST PRESIDENT'S PAGE. Many months ago, I thought this last page would spotlight some of the year's State Bar activities and briefly express appreciation to all who contributed. Then later, at the Annual Meeting, I could share more specifics and thank people in person. But times have changed. Today, the Annual Meeting has been canceled, I am back to work as a full-time lawyer and getting together with a large number of people doesn't seem likely anytime soon.

More importantly, I have ongoing concerns for our entire profession, including our lawyers, our families, and all of our work colleagues. Indeed, we face many unanswered questions and uncertainties. But I am confident that our State Bar will continue its efforts to assist us in our lives and practices in today's world. For up-to-date State Bar resources, go to texasbar.com/coronavirus. Together as a profession we will overcome the challenges we face.

I still want to give some words of appreciation:

1. Thank you to the lawyer volunteers and professionals of the State Bar of Texas who are more dedicated than ever to the work and mission of the lawyers of Texas. Over the past year, I have tried to spotlight significant efforts our organization has made to be a State Bar that is by the lawyers, of the lawyers, and for the lawyers of Texas. Our State Bar professionals and our lawyer volunteers have done terrific work keeping our bar running and improving it at the same time. I can't thank each of you enough for your efforts. And thank you, Executive Director Trey Appfel. You lead an amazing group of professionals!
2. Thank you to my wife, Alex; my family; and my law partners who have been along for this bar effort. There are sacrifices that each has made and I hope each knows how appreciative I am. My wife, in particular, has been instrumental in supporting me and encouraging me. I love you. And thank you, Benny, Mo, and Brandt—my law partners. Without your backing as a law firm, this year as president would not have been possible.
3. Thank you colleagues! As our society gets back up and running, I know the rule of law will continue to be a cornerstone of our country. We, the lawyers and judges of Texas and throughout this nation, will be vital in our nation's recovery. So I thank all of you who will continue to do the job necessary to preserve and protect our legal system, our system of government, the rights and privileges that have been fought for and afforded to us, and to secure the return of our nation to normalcy. You are the real difference makers.

If we had conducted the Annual Meeting in Dallas as originally scheduled, I would have recognized so many more people who continue to make our profession great and our bar the very best in the country. Those of you who have contributed in this past year know how much you have done. So please know how much you are appreciated. I also want to wish Larry McDougal the very best in his new role as president of the State Bar of Texas. I know he will make a terrific president and will serve our bar admirably. Look for more great things from our State Bar under Larry's leadership.

Godspeed to each of you!

Sincerely,

RANDY SORRELS

President, State Bar of Texas

FREE LAWYER WEBINARS

TexasBarCLE webcasts on force majeure and practicing law address concerns surrounding COVID-19.

BY ADAM FADEREWSKI

As businesses and courts in Texas have shuttered in response to the coronavirus pandemic, attorneys and clients alike have faced uncertainties about the future and in particular about practicing law during COVID-19. In response, TexasBarCLE held two free webcasts in March to assist lawyers. Adam Schramek, a partner in Norton Rose Fulbright and a State Bar of Texas director; Blair Dancy, a partner in Cain & Skarnulis; and attorney Claude Ducloux paneled “Benefits and Challenges of Invoking Force Majeure Clauses in the Age of Coronavirus,” a webcast detailing common provisions in force majeure contracts and addressing five key questions to consider when analyzing business agreements for force majeure. “Practicing Law in the Shadow of COVID-19” featured a panel hosted by Ducloux, including Jett Hanna, senior vice president of loss prevention and computer operations at the Texas Lawyers Insurance Exchange; Jefferson Fisher, a partner in Orgain Bell & Tucker; and Chris Ritter, director of the Texas Lawyers’ Assistance Program.

FORCE MAJEURE

Schramek stated that there is no single “standard” force majeure clause and that while a force majeure clause may be one found in the “standard” terms and conditions of a contract, it remains subject to negotiation like any other term. He also said that whether a force majeure clause that specifically references acts of God will apply to a coronavirus cancellation is fact and jurisdiction specific.

Dancy reviewed some provisions in third-party insurance policies, including commercial general liability, contractual liability exclusion, impaired property exclusion, and pollution exclusion and whether such exclusions may apply in part.

For more information, see “Force Majeure in the Age of the Coronavirus” on page 303.

PRACTICING LAW DURING COVID-19

Hanna opened the webcast by discussing the nature of continuing to work with existing clients during the coronavirus pandemic while lawyers and their staff members are at risk from possible incapacity or death. Existing disaster recovery plans need to be considered a work continuation plan, Hanna said.

He suggested writing down a plan, including steps regarding communication, working, and unavailable personnel. Items to be considered under communication include ensuring clients know how to reach you if the office closes, keeping employee contact information current, staying up-to-date with court orders, and continuing to watch calendars and communicate with opposing counsel early to change plans as necessary.

Things an attorney should consider if his or her office were to close include how mail will be handled, how work from home will be implemented for firms, and the possibility of a skeletal staff rotation at the office.

When considering unavailable personnel, Hanna advised solo

attorneys to consider pre-arrangement for a trustworthy person to manage their practice temporarily or in the event of death. He suggested law firms should have contingency plans in place to backup individual attorneys and key staff positions. Attorneys should also withdraw from cases if they feel they cannot give their client competent service—incapacity is sufficient reason to withdraw.

Next, Fisher discussed leadership during a pandemic. He noted that attorneys (and people) are wired to “go negative” in a crisis and, as such, leaders should strive to manage fears. Leaders should provide a calming figure to their staff—delivering realism about the crisis versus optimism. He also suggested empowering others and creating a sense of team—people are more able to manage stress about a crisis when they feel they are doing something to help.

With teleworking being the new normal, Fisher suggested going back to the basics in working remotely, setting up communication backups on top of the current backup system, and measuring the results of working from home.

Ritter, of TLAP, provided five strategies for improving well-being during coronavirus isolation: 1) connect and debrief; 2) learn to relax; 3) set boundaries; 4) practice gratitude; and 5) use online resources for well-being.

He suggested “debriefing,” or going over an experience or set of actions with someone to achieve some sort of order or meaning concerning them. As far as connecting with others, Ritter cited a 30,000-person study over 10 years that showed people with stressful years had a 43% higher risk of death than those who did not. A related study showed that stress was completely offset by regularly helping others.

Ritter suggested utilizing ways to activate the parasympathetic nervous system, including exercising, breathing, playing a musical instrument, meditating, gardening, painting, or cooking. Ritter said mindfulness and breathing exercises lower high anxiety rates from the 90th percentile to the 60th percentile and moderate anxiety levels from the 57th percentile to the 48th percentile in just two weeks.

We must set boundaries for work-life balance especially when working from home, Ritter said. He emphasized setting aside at least an hour a day for self-care and focusing on things that can be controlled rather than those that can’t. Another method to improve well-being is to take up “gratitude journaling,” where one takes inventory of what he or she has to be grateful for in life. Ritter cited a study that showed after three months of gratitude journaling people were seeing an 8% increase in happiness—equal to having won the lottery on that same day.

If you feel stressed or overwhelmed, Ritter recommended online resources for well-being including texasbar.com/coronavirus and the TLAP website, tlaphelps.org. TLAP staff is continuing to offer assistance to attorneys, law students, and judges during the COVID-19 pandemic by phone at 800-343-TLAP (8527) or by texting TLAP to 555888. **TBJ**

To view these free webcasts, go to texasbar.com/coronavirus and scroll down to “Free Lawyer Resources and Webinars.”