



## SEXUAL PREDATOR HONORED As "DOCTOR OF THE DAY"

The Texas House of Representatives has honored a registered sex offender as its "Doctor of the Day" twice in the last two years.

According to Texas Medical Board records, in late 1995, Fort Worth Dr. Nilon Tallant, 75, began an improper sexual relationship with a 17-year-old female patient and pleaded guilty in 1997 to sexual performance by a child. He was placed on probation for 10 years. His medical license was revoked but reinstated in 2001. The convicted felon is still practicing medicine part time on a fill-in basis and does volunteer work.

Because the Texas Medical Board's website relies on licensees to self-report their criminal background and civil liability, patients cannot rely on the TMB for accurate information when making health care decisions. With severe limits on legal accountability, it is increasingly important that the Texas Medical Board serve as an advocate for patients.

Until lawmakers enact real legal accountability measures, re-instate the Office of Patient Protection and hold the TMB accountable for providing accurate and complete information to the public, the safety of Texas patients remains at risk, as proven in this outrageous example of honoring sex offenders.

## Governor's Veto, Court Rulings Show Callous Disregard for Injured Texans

Fairness for responsible policyholders injured by reckless, irresponsible and drunk drivers was the focus of HB 3281 recently vetoed by Governor Rick Perry. The legislation had passed with overwhelming bipartisan support. Not a single dissenting vote was cast in the House of Representatives.

HB 3281 was intended to clarify the current ambiguous statute, known as HB 4, a continuing source of controversy since its adoption in 2003 as part of the sweeping tort "reform" measure.

Insurance companies opposed the bill, asserting that reckless drivers who cause death and injury should be allowed to benefit if the injured policyholder carries health insurance.

**The governor's veto, prioritizing the wishes of a few special interest lobbyists and the insurance industry, guarantees that this issue will continue to be disputed in the courts, increasing litigation expenses and making justice harder to achieve for hard-working Texas families.**

In a judicial victory for the insurance industry, the June decision by the Texas Supreme Court in the case of *Fortis Benefits v. Vanessa Cantu* said that if its contract calls for it, an insurance company is first in line to recover whatever it paid before settlement proceeds go to the plaintiff. This ruling contradicts the 27-year Texas law that injured parties who win or settle lawsuits should be "made whole" before they have to pay back an insurance company.

The court's unanimous decision is only one in a series of recent rulings that advance the agenda of special interest groups. Last year the court overturned precedent in the case of *Duenez v. F.F.P. Operating Partners* by nullifying the Texas Dram Shop Act, an act making alcohol dealers liable for damages caused by intoxicated patrons.

**Nine-year-old Ashley Duenez was the victim of massive head injuries received in a major automobile collision caused by an intoxicated patron who had purchased beer at a convenience store. Rather than upholding the law in observing the Texas Dram Shop Act, the court took the side of the seller, tossed out the jury's verdict and left the brain damaged child to fend for herself after a nine-year court battle.**

In December 2006, the court overturned another precedent in *Brainard v. Trinity Universal Insurance Company*, ruling that an uninsured or underinsured motorist carrier may act in bad faith by refusing to compensate its policyholder until the policyholder hires an attorney, litigates his case and obtains a jury verdict. Further, the policyholder must pay his own attorney's fees, even if he wins.

The evidence of judicial activism in these little publicized rulings has even earned the criticism of conservative groups like Texans for Individual Rights, an organization committed to limited government, personal accountability and private property rights. The group's president Mark McCaig, in a recent op-ed, took strong issue with the Republican-dominated Texas Supreme Court for promoting the agenda of wealthy special interest groups at the expense of Texas taxpayers, workers and consumers.

## Bogus Chamber Study Attacks Civil Justice System

### AAJ Lists "Ten Worst States To Get Sick or Injured In"

The largest lobby in the country and a front group for corporations seeking to avoid accountability for wrongdoing and negligence, the national Chamber of Commerce this spring released another bogus study claiming to rank so-called "anti-business" state legal systems. Providing sobering examples of the Chamber's efforts, combined with those of big corporations, to put corporate greed over public good, the American Association for Justice released the following "Ten Worst States to Get Sick or Injured In," which shows what America can expect if the powerful Chamber and its corporate associates get their way:

**Alabama:** If a local governmental entity is held responsible, state law limits restitution to \$100,000 per person for injury or death, or \$300,000 if more than one person is injured or killed in the same incident.

**Alaska:** Restitution for "noneconomic" losses is limited to the greater of \$1 million or the injured person's life expectancy in years multiplied by \$25,000.

**Colorado:** No victim injured by a state employee can recover more than \$150,000. If two or more are injured at the same time,

restitution is limited to \$600,000, no matter how many must divide the amount.

**Florida:** The state and its employees are accountable only up to \$100,000 for one person and a total of \$200,000 per incident, no matter how many are injured or the severity of the harm.

**Illinois:** If injured as a result of negligence by a state employee or agent, restitution is limited to \$100,000 no matter how serious the injury or how expensive the recovery.

**Indiana:** There is an arbitrary limit of \$1.25 million for injured patients' restitution. Healthcare providers or their insurance companies are liable only for the first \$250,000 with the rest of the bill passed on to the taxpayers.

**Oklahoma:** Guilty parties can offer to settle a case, forego trial, and, if the injured patient accepts the offer, allow a judgment for that amount to be entered against them. If a patient declines the offer, proceeds to trial and does not secure a judgment for at least 1½ times the amount offered, noneconomic compensation is limited to \$300,000.

**Texas:** Survivors must fend for themselves. If a family sues for restitution, it is limited to

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# Todd Family Milestones



*Third and fourth generation Todds: Mike Todd and three-year-old son Kai. Kai's grandfather Alton Todd enjoyed watching the little Texan's T-ball game.*



*Ruel Todd, father of Alton C. Todd, shown here on July 4, 2007, celebrated his 90th birthday on June 6, 2007.*

## "Ten Worst States"

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\$500,000 (to be adjusted to track the consumer price index). The limit applies to each person killed, no matter how many healthcare centers, physicians or other personnel were responsible for the death.

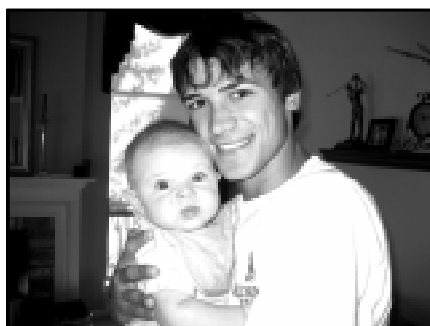
**Virginia:** In a separate system for babies brain damaged during birth, Workers' Compensation decides whether a baby will be covered, and the claim is never seen by a court unless the decision is appealed. Once covered, the child and his/her family can never hold the healthcare provider responsible for the baby's condition of harm to the mother. The program's expense is borne by every Virginian who purchases any kind of liability insurance.

**West Virginia:** If a healthcare provider has malpractice insurance with at least a \$1 million limit, no victim of his/her negligence can recover restitution of more than \$500,000 for a "noneconomic" loss, such as permanent physical deformity, loss of use of a limb or bodily organ system or a permanent physical or mental injury that leaves the victim unable to care for himself/herself independently.

## THE ATTLAW™

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*Little Cooper Douglas Todd, son of Jeff and Dana Todd and newest grandchild of Alton and Nari Todd, born March 4, 2007, is held by his uncle, Seth Park.*



*Kamilah Todd, 14, daughter of Alton and Nari, was the only camper in her age group to be named a Campfire Lighter, a model camper award, for the third summer term at Camp Longhorn, located in Burnet, Texas.*

## OTHER CASES, OTHER CAUSES

In Tennessee, medical industry reformers complain that 81 rural counties do not have a neurosurgeon, 49 lack an orthopedic surgeon, 47 an emergency physician and 42, an obstetrician. Not advertised is the fact that these counties also lack hospitals and have never had a malpractice verdict. Tennessee's eager-to-please Republican Senate might benefit from looking at the results of tort reform in Texas, whose largest malpractice insurance provider (Medical Protective) asked for a 19 percent rate increase just one month after the legislature passed caps on non-economic damages for victims of medical mistakes. The underserved counties in Texas have seen the rate of growth of doctors applying for licenses drop from 5.11 percent to 1.8 percent since tort "reform" became law in 2003.

In rare agreement, doctors and lawyers in North Carolina supported a bill to cap monetary damages at \$1 million in some medical malpractice cases. Under the bill, passed overwhelmingly by the House, plaintiffs and defendants in a patient negligence lawsuit against a doctor or hospital could agree to settle their case under binding arbitration. The two sides could agree on an arbitrator or ask a court to select one. The measure establishes the process of arbitration, with legislators seeking hearings to begin no later than 10 months after agreement by both parties. The arbitrator would have to issue a decision within two weeks of the hearing's close, with all monetary damages limited to \$1 million. Appeals would be very limited.

What's in a name? Even mention of the President's could unfairly prejudice their clients, say some defense lawyers in Pennsylvania. In Upper Darby Township, when President Bush was campaigning for re-election in 2003, a 78-year-old doctor was arrested for displaying an anti-war sign. After being found not guilty of disorderly conduct, the doctor filed a civil rights suit against Upper Darby, the judge refused to dismiss the suit and the case went to trial in July. One motion filed by defense lawyers asked that the plaintiff be prohibited from mentioning Bush's name because the President's identity, "in and of itself, presents the danger that the jury will favor plaintiff." The judge ruled that, at trial, Bush's identity has legal significance, bearing directly on the legality of the township's policies.

# Stunning Sites, World Wonders Mark Family Vacation

The traveling Todds enjoyed an early summer holiday in Europe, highlighted by scenic side trips in a two-week tour of England, France and Scotland. Alton and Nari Todd and their children, Seth and Kamilah, were accompanied by Nari's mother, Diane Podnar of Dunedin Florida, and Don Podnar, as well as her sister Yasmin Zughni, son Caleb, and Robert Cheetham of Friendswood.

The family of nine flew first to London, embarking next on Eurostar, a delightful if inauspicious first Chunnel adventure which suddenly came to a standstill, its arrival in Paris delayed by nearly two hours due to an engineering problem. Although not whisked through the English Channel in the time expected, traversing the 31-mile rail tunnel with its 23-mile undersea section was a memorable experience. The American Society of Civil Engineers has declared the tunnel to be one of the Seven Wonders of the Modern World.

Welcomed to Paris by Former NATO Assistant Secretary General for Defense Planning and Operations, Dr. Edgar Buckley, and his wife Jacqueline, Mr. Cheetham's sister, the group appreciated the Buckleys' gracious hospitality at an evening dinner at their home on Rue Jouffroy D'Abbans within walking distance of the Arc de Triomphe. The still jet-lagged tourists spent most of the next cold and rainy day exploring the Centre Pompidou, National Museum of Modern Art, featuring multiple disciplines, including photography, graphic arts, architecture and design.

With Nari driving a rental car and Seth navigating, the Todds and Podnars motored to Normandy on May 29, where they visited for the first time Memorial DeCaen, World War II museum, and the American Cemetery on a cliff overlooking Omaha Beach. The inscription on the monument to the first infantry reads: "No mission too difficult. No sacrifice too great. Duty first." The pristine rows of almost 5,000 white crosses and Stars of David on the edge of the sea are a moving reminder of the sacrifices made by a great generation in that war-torn time.

A beautiful drive the next day along the lush landscape of the Loire valley, known as the Garden of France, and crossing the Lorie, that country's longest river, took us through the historic towns of Amboise and Orleans, touring the home of Leonardo Di Vinci, and to our overnight destination and a regal French experience at the splendid 18<sup>th</sup> century Chateau De Perreux in Nazelles Negrin. The group also enjoyed a fantastic six-course meal in a

cave, a true cellar restaurant. More than 300 chateaux contribute to the architectural heritage of the Loire valley. A special highlight was walking through the estate of the Chateau de Chenonceau and viewing its remarkable Renaissance furniture, exceptional flower arrangements and important collections of art masterpieces.

Then it was back to Paris and time for a reality check with departure the next morning to Glasgow via a no frills European airline, a transportation choice that will not be included in future travel plans for this family.

landmark, the largest observation wheel in the world and most spectacular attraction featuring the animated London skyline, and taking the entertaining guided tour with Tudor-garbed Beefeaters at the Tower of London. Staying near Marble Arch was convenient to Oxford Street, the zenith of shopping or another opportunity to realize the weakness of the American dollar.

Leaving London, we drove to Stonehenge, a World Heritage site, its remains of a prehistoric monument in use thousands of years ago as old as many of the great pyramids of Egypt. Next stop was Salisbury and Britain's finest 13<sup>th</sup> century cathedral which, constructed in early English Gothic style, is still a working church and home of



*Chateau De Perreux, Nazelles Negrin, Loire Valley, France –*

**First Four (L-R):** Nari Todd, Yasmin Zughni, Diane Podnar, Kamilah Todd;  
**Five More:** Robert Cheetham, Seth Park, Caleb Pinson, Don Podnar, Alton Todd

While the Marriott in Glasgow was home base for three days, our party made use of the ScotRail for a 50-minute trip to Edinburgh and to the "bonnie bonnie banks of Loch Lomond," largest body of freshwater in Britain whose beauty has captured generations of poets, singers and story-tellers. Favorite sites in the capital city were the famed and stunning ancient Edinburgh Castle and the grand prize at the end of the historic Royal Mile—the Palace of Holyroodhouse, once the haunt of Mary, Queen of Scots and now Queen Elizabeth's residence in Scotland.

On June 4, we flew to London, where we packed a lot of sightseeing into our two allotted days, including Big Ben, Trafalgar Square, Parliament, Buckingham Palace, riding the London Eye, a millennium

one of the four remaining and best copy of the Magna Carta signed in 1215 at Runnymede. We spent the night in hilly Lyme Regis, a seaside resort and fishing port on the south Dorset coast and world famous Cobb harbor, known for geology and fossil finds, and site of the filming of *The French Lieutenant's Woman*. The narrow winding streets made for challenging navigation, whether walking, driving or trying to park a car, but the more vivid memory recalls the verdant vastness of the incredibly beautiful English countryside between destinations

The next day it was on to Bath, set in the rolling Somerset countryside 100 miles west

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## Exemplary Practice of Galveston Judge Exception to Corrupt Court Practices

Evidence of questionable billing and favoritism in Texas probate courts was carefully documented in a recent *Houston Chronicle* investigation with the most flagrant examples occurring in Harris County. The investigation, which involved hundreds of records and thousands of court-ordered payments, as well as interviews with judges and lawyers, found that judges allowed unusually high fees; one approved paying \$1,000 to a lawyer for attending her ward’s funeral and burial. Some appointees were paid more than \$200 an hour for nonlegal work, such as selling cars and visiting pawnshops.

Although the law requires that court clerks report all fees awarded by a judge of \$500 or more, at least \$1.8 million in probate court-ordered payments went unreported from 2003 to 2005 or were awarded to people not identified by name, based on the *Chronicle* review. The investigation also found that top probate-court appointees included judges’ relatives and friends in violation of the Texas Code of Judicial Conduct.

In Harris County, the report showed that lawyers and accountants who got the most business in probate cases contributed

tens of thousands of dollars for the 2006 judicial races.

While Harris County probate judges jointly approved their first-ever uniform fee guidelines after the release of the *Chronicle* investigation, in neighboring Galveston County there is a judge who is, thankfully, not a participant in the questionable conduct that led to this public scrutiny. Judge Gladys Burwell, who is serving her second term as Judge of the Galveston County Probate Court, has been honored for her work in mental health and guardianships by numerous statewide and local organizations. Among many awards, she was recognized by the State Bar of Texas for an innovative program with UTMB nursing students that created the Probate Court Volunteer Visitor Program.

Judge Burwell, whose two grown children are also attorneys, has lived in Galveston County since 1968, and prior to becoming a judge, practiced law here for 20 years, focusing on probate, guardianships, wills and family law. Her dedication, experience and persistence, both as a judge and attorney, have earned her the reputation of one of the most highly regarded authorities in the state regarding probate matters.

## Stunning Sites, World Wonders

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of London, home to author Jane Austin and site of the open air courtyard baths first documented as a Roman spa. After an overnight stay in Bristol and a quick trip to Windsor Castle where we missed the queen’s arrival by 20 minutes, it was back to London for the Todds and to Chesham for the rest of the party. The Podnars stayed at the historic bed and breakfast at Kings Arms in Amersham, site of the pub scene in *Four Weddings and a Funeral*. The origins of Amersham, 27 miles northwest of London, go back to pre-Saxon times, and the same general appearance displayed in the 17<sup>th</sup> and 18<sup>th</sup> centuries is preserved in the streets of the Old Town. Dinner at the 17<sup>th</sup> century home of Jonny and Denise and Peggy Cheetham was a delightful family event, assuring a lasting memory of Chesham which is located amidst the steep green Chiltern Hills.

On the last day of a busy vacation, we visited Tate Modern, created in 2000 to display a national collection of international modern art. The impressive unlikely museum was converted from a huge former power station and is ideally located on the south bank of River Thames opposite St. Paul’s Cathedral. Our sightseeing ended with a quick tour of the Covenant Garden market, and we stayed close to “home” at the Marriott Chancery Court on our last night in London, enjoying the now-familiar fish and chips and celebrating the graduation that the Todds’ nephew Caleb had missed. Bright and early the next morning it was off to Gatwick and on to Houston and Tampa, the summer respite ended, for parents and grandparents a return to work and retirement routines, and for the teens a few short weeks until it’s back to school, freshman Caleb to UTSA, sophomore Seth to SMU and freshman Kamilah to Friendswood High School.

### CLOSING STATEMENT

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