



Super Lawyer Distinction Earns Publication Listing

As a result of being named a Texas Super Lawyer, Alton C. Todd was scheduled for listing in the October issues of *Texas Monthly* and *SuperLawyers*, a joint project of *Law and Politics*, which has been published for 13 years.

The selection of Texas Super Lawyers was based on four months of research by a blue ribbon panel of attorneys, followed by *Law and Politics'* own attorney group, who graded the nominees, using a 10-point criteria. Points from each step in the process were then totaled, and the list was cut off at 5 percent of the Texas bar.

TODD LAW FIRM WEB SITE RE-DESIGNED IN UPDATE

The web site of The Law Firm of Alton C. Todd has had a makeover. The updated design for www.altontodd.com has been finalized by Findlaw, a service of West Legal Directory, which developed and hosts the site.

Some of the sections featured in the new format include Firm Profile, Practice Philosophy, Why Choose The Law Firm of Alton C. Todd, Attorney Biography and Frequently Asked Questions.

As reflected in the web site content, the firm is expanding its Business Contract and Tort Litigation availability. Experience in the personal injury area enhances our ability to communicate with juries in business litigation.

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Case For Disclosure Clear

Lawsuit Targets Secret Practice Of Elected Supreme Court Justices

How the Supreme Court of Texas decides whether to hear a case has never been a matter of public record. All that is known in regard to potential cases is that four of the nine justices must agree to accept a litigant's "petition for review." Beyond that, how each of the justices voted is kept secret.

Revealing that information could mislead the public by suggesting that the vote on a specific case would be indicative of the court's ultimate ruling, according to Chief Justice Tom Phillips. A detailed announcement of every decision would slow an already busy court, the Chief Justice said.

Many do not agree. The lawsuit filed by a broad coalition of public interest groups in May 2002 challenged the Court's policy of secrecy as a violation of the public's constitutional rights, contending that because justices in Texas are elected, they are accountable to the public for their decisions. Under the First Amendment and federal common law, government information must be disclosed where disclosure serves an important public purpose and where there is no overriding reason for secrecy.

About 90 percent of the cases taken to the court are not accepted for review. For those litigants, there is no way to know if a justice voted yes, or abstained in their case.

Texas voters will elect five Supreme Court justices next month who will join the ranks of a partisan judiciary whose expensive campaigns are privately funded.

The influence of large contributors is exposed in the "Pay to Play" report by Texans for Public Justice: the justices are ten times more likely to accept a petition for review submitted by a large donor (over \$250,000) than one submitted by a non-contributor. Keeping these votes secret prevents any accountability—to lawyers and parties to civil actions, citizen groups and voters, none of whom can ever determine whether campaign cash influenced the justice's votes.

Plaintiffs in the case pending before federal district court in Del Rio include Texans for Public Justice, Common Cause, the League of United Latin American Citizens-Texas, the *Texas Observer*, the Texas Civil Rights Project, Texas voters, lawyers, and current and future Texas Supreme Court justice candidates.

Texas judges raise millions of dollars from the litigants and lawyers who bring appeals to them, then cloak with secrecy their votes on those appeals. Even an insider acknowledges the problem of accountability: "If our votes on applications [for review] were always public, some would change. I am forced to conclude that the time has come for the Court to make public its votes on applications," wrote Supreme Court Justice Nathan Hecht in his 1996 dissenting opinion in *Maritime Overseas Corp. v. Ellis*.

As long as Texans continue to elect their Supreme Court justices, the court has no justification for secrecy.

Todd Family's Summer Cruise Sails From Osaka to Bangkok

Memorable ports of call on their Southeast Asia cruise in June were as varied and colorful as any parts of the world the Todd family has been privileged to visit. This year's summer vacation aboard the *Princess* began in Osaka, Japan. The second stop was Hiroshima and on to Shanghai after a day at

sea. It would be difficult to pick a favorite port among such exotic sojourns as Hong Kong, Okinawa, Ho Chi Minh City, Singapore, Shanghai, Taipei and Bangkok. It was an incredible voyage, a fun-filled summer break for Alton, Nari, Seth and Kamilah. (See pictures, page 4.)

John Edwards Strengthens Democrat Ticket

(Editor's Note: Vice-presidential candidate John Edwards wrote in *Four Trials*, moving account of four of his cases: "Just about all the cases that came into the office were walking disasters, horrible tragedies. If we took on a client's case, we took it as a cause." **This law firm can easily relate to that priority; for many, many years our motto, as always expressed in The Altlaw, has been *Your Case Is Our Cause.***)

Although the November 2 election is first and foremost a contest between President George W. Bush and Senator John F. Kerry, and, as always, the Vice-Presidential candidates are on the periphery, the blue collar mill worker's son from Robbins, North Carolina, brings an upbeat, compelling message, a voice of fairness and relief to this campaign season.

The media focus on the courtroom savvy of Senator John Edwards on behalf of plaintiffs largely overlooks how his skills as a trial lawyer can benefit him and the country as the next Vice-president. The choice of Edwards as the Vice-presidential candidate offers this best representative the opportunity to improve the public perception of trial lawyers if people listen to what he has to say and take the time to become informed of his record as a lawyer and a senator.

For openers, he is so opposed to lawsuits that waste valuable time and harm real victims that he has proposed that lawyers who bring frivolous cases should face tough mandatory sanctions with a "three-strikes" penalty. He also believes that lawyers in medical malpractice lawsuits should have to bring their cases to independent experts who certify that the complaints have merit before they are filed.

Anyone who has studied the more than 50 verdicts and settlements that John Edwards won in the 80s and 90s, totaling \$110.4 million, knows that there was nothing "frivolous" about the families that came to him for help. John Edwards should not have to apologize for becoming a brilliant trial

lawyer because he took the tough cases of ordinary people who were terribly wronged and won them with the greatest professional integrity.

Tom Donohue, president of the U.S. Chamber of Commerce (which is closely tied to the Bush White House) called Edwards "a wide-eyed liberal," and warned that a ticket with Edwards on it might lead the Chamber to abandon its traditional neutrality in Presidential elections and dedicate its resources to defeating the Democrats. Replacing the "liberal" label, South Carolina Senator Fritz Hollings, in a floor statement, called Edwards a "business Democrat." "He could not be a Senator—he could not have won any election in the state of North Carolina if he had that character," Hollings said, while challenging his colleagues to come to Edwards' home state if they wanted to see a business-oriented climate, a "bellwether of industrial development."

In Congress, Edwards has championed quality health care, better schools, protecting civil liberties, preserving the environment, saving Social Security and Medicare and campaign finance reform—issues that impact American families. As a member of the Select Committee on Intelligence, he has worked tirelessly for a strong national defense and to strengthen homeland security.

As a defender of victims' rights, Edwards as Vice-president, could have a strong impact not only on the federal bench, in selection of judges who would advocate for individual liberties, but within the office of attorney general.

"When he took a case, you knew it was going to be prepared better than you'd ever seen," said Bob Wicker, defense lawyer and former president of the North Carolina State Bar, who opposed Edwards in a case that settled out of court.

He will bring that same level of preparation to the office of Vice-president of the United States. The country has not had a trial lawyer as President since Abraham Lincoln, whose vision for a united America will once again be restored by the election of John Kerry and his trial lawyer running mate, John Edwards.

TEXAS TRIVIA

- The first word spoken from the moon was "Houston."
- King Ranch is larger than Rhode Island.
- Texas is the only state to enter the U.S. by TREATY
- Beaumont to El Paso: 742 miles
- Beaumont to Chicago: 770 miles

GOVERNMENT ACTION ON AUTOMOBILE SAFETY SHORTCHANGES PUBLIC

Buried deep within the Federal Register, a massive daily publication, obscure to most Americans, is a two-paragraph decision issued by the National Highway Traffic Safety Administration (NHTSA) which specifies that data relating to unsafe automobiles or defective parts will be kept from the public.

While few are aware of the rule finalized earlier this year which bans the release of vehicle warranty-claims information, customer complaints and early-warning reports about defects from dealers, automakers and rental-car companies, one consumer-advocacy group, Public Citizen, has sued the federal government, arguing that this information should be made public and calling the decision "a paternalistic ruling that basically argues consumers are stupid and would be easily misled."

Normally, such records are available under the Freedom of Information Act (FOIA), but last year the Department of Transportation (DOT) issued a rule exempting early-warning reports from disclosure because that could "cause substantial competitive harm" to manufacturers, an allowable FOIA exemption.

Automakers, thrilled with the decision, say that it would be unfair if other automakers learned from the mistakes of their competitors. Adding to this shocking and callous admission, automakers and their Washington lobbyists argued further that auto safety information would be too confusing and overwhelming to the public. Keeping the information private, says the NHTSA, "is part of the tradeoff of getting good, honest data from automakers."

In the complaint filed in March, Public Citizen had asked the U.S. District Court for the District of Columbia to strike down the regulations as a violation of FOIA and beyond the DOT's authority. "It is truly outrageous that the Bush administration would move to seal such essential auto safety information from the public," said the group's president Joan Claybrook. "Public access to this type of data could mean the detection of problems like the deadly Ford Explorer/Firestone tire combination and could save lives."

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**Law Must Be Stable,
Yet Not Stagnant.**

THE ALTLAW™

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Tort 'Reformers' Invade Privacy

A zealous coalition of more than 230,000 medical specialists which is active in several states and calls itself Doctors for Medical Liability Reform (DMLR) is the subject of a lawsuit in Georgia, home of an aggressive public relations campaign financed by the \$7 million the group has raised to support its ongoing advocacy efforts. The campaign included print and radio ads and a 30-minute tort reform infomercial that aired on both network and cable TV.

Bob Blisset was watching TV when the infomercial ran last July, saw the interviews with doctors who had left their practice or left the state, as well as patients they had left behind, and footage of injured patients in emergency room scenes. He listened to the words of the infomercial host, stressing: "Remember, these are not actors. There are no scripts or re-enactments. This crisis is real and happening now."

What Blisset was shocked to witness in the footage, which focused on the shortage of doctors to provide emergency treatment, was pictures of his mother who had died several months earlier. The first shot of Sarah Blisset showed the elderly woman being lifted out of a stretcher and onto a hospital gurney. Wrapped in blankets, her mouth drooping as a result of a mini-stroke suffered previously, she was next seen from a side angle being wheeled on a stretcher, strapped down with oxygen hose leading up to her nose and her head propped up with at least three pillows.

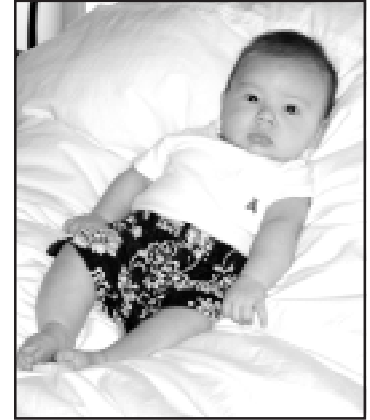
Incredulity, hurt and anger stirred the son's memory to his mother's February visit to the emergency room at St. Joseph's Hospital in Atlanta for treatment of a spiral fracture to her tibia and fibula. He recalled the family's surprise at seeing a film crew from DMLR and being told that the crew was filming an "in-house video" to show how the emergency room team related with the emergency room technician teams as they brought in patients.

Although the Blisset family was never told the true purpose of the film or that their mother had been filmed and the hospital had no record of written consent for her filming, the infomercial continued to be available to the public on the DMLR web site. In September the family filed suit against the hospital and DMLR, charging them with invasion of privacy, seeking

unspecified general as well as punitive damages. In addition to the privacy claims, the hospital faces a count of breaching fiduciary duty.

While the coalition to change medical liability laws actively and successfully petitions U.S. senators and representatives to "protect patients now," at least one politician, Erskine Bowles, Democratic candidate for John Edwards' open U.S. Senate seat in North Carolina, has refused to sign the DMLR's pledge. North Carolina is one of the states targeted for "medical liability reform," and Texas may be next, since the AMA considers Texas to be in crisis, one of the states "unhealthy for business."

TODD FAMILY WELCOMES BABY KAI, 1ST GRANDSON



Kai Holden Todd is Alton and Nari Todd's first grandson. Born June 4, 2004, Kai is the son of Michael and Rhonda Todd of League City.

Confusion in Courtroom

JURIES FACED WITH OBSTACLES, PASSIVE TRIAL EXPERIENCE

The American jury system, while not perfect, is the only hope that an ordinary citizen has when wronged, and the flaws that do exist in the system are not the fault of jurors.

Actually, the mechanics of our jury system seem almost rigged to make a juror's job as difficult as possible.

For one thing, the efforts invested to prevent bias are conducive to producing a jury that may be too unfamiliar with issues at hand in that anyone even vaguely familiar with the subject of a given trial is usually excused from service.

Contributing to a jury's difficulty in interpreting testimony or even understanding it is the fact that jurors are often not told precisely what they will be asked to decide until the end of a trial nor given the opportunity to seek clarification when evidence and testimony is still fresh in their minds. Jurors may not have access to relevant documents displayed by lawyers at important stages of a trial. Witnesses' testimony, following a question answer-format, can be incomplete and confusing to a jury. A judge's instructions, often couched in legal jargon, are the last words a jury hears before being charged with a case. When the instructions are difficult to understand, jurors may simply rely on gut reaction and base damage awards on a primary emotional response to defendant or plaintiff.

In Texas, the proportionate responsibility measure passed by the legislature in 1995, which barred recovery in negligence or strict liability cases if a claimant's share

of responsibility is greater than 50 percent, has further added to jury confusion. Here, a jury is never informed that unless a defendant's percentage of responsibility is fixed at more than 50 percent the plaintiff will not receive a dime. Because jurors are kept in the dark regarding liability, they wrongly assume that a plaintiff who is found 70 percent responsible will receive at least 30 percent compensation for damages and discover too late—after a trial—that that plaintiff's chance of any recovery is forever gone.

A transformation is underway to change the incredibly passive nature of jury duty. Incoming American Bar Association President Robert J. Grey Jr. has launched a major revision of jury standards in the "American Jury Initiative" that provide for more active jury participation during the trial process. Among provisions to be drafted and submitted to the House of Delegates at the ABA's midyear meeting in February include allowing jurors to question witnesses and to discuss evidence as a civil trial unfolds, reforms already practiced in some states.

It is past time to apply to a jury trial everything we know about how people learn and process information. Clear instructions need to be delivered at the start of a trial, including what proportionate responsibility really means, and jurors need to be able to identify and focus on relevant testimony during a trial.

Serving on a jury is a privilege of citizenship and should be a rewarding, enlightening experience—not an exercise in frustration and uncertainty.

Your Case Is Our Cause

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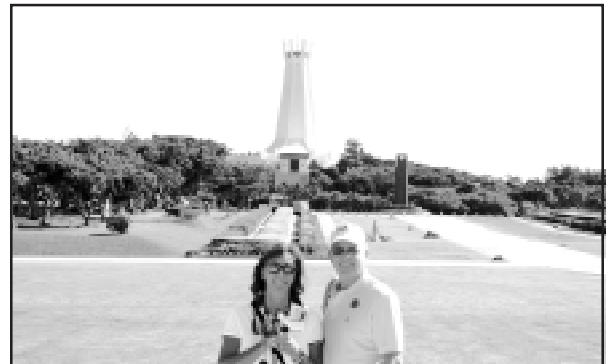
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TEXAS TOURISTS' ASIAN ADVENTURE

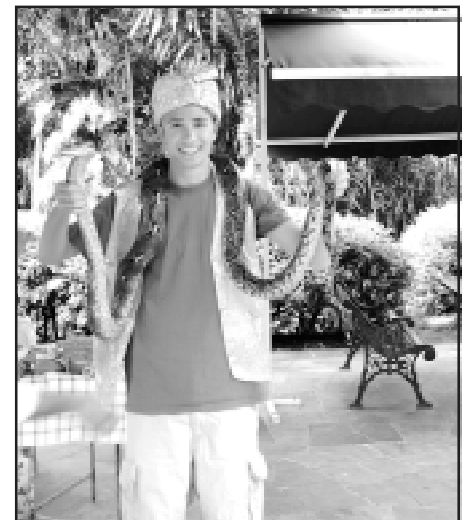


Taiwan's majestic *Grand Palace* v. *tiny Texas tourists*



Nari and Alton Todd at World War II Memorial, Okinawa, Japan

Pictured Right:
Seth and
friend in
Singapore



Seth at Hindu Temple, Singapore



Kamilah and the Shanghai scene

CLOSING STATEMENT

*We value your trust and your referral.
Thank you for the opportunity to represent
your interest and for recommending
THE LAW FIRM OF ALTON C. TODD.*