



Friendswood Historical Society Hosts Brown House Reception

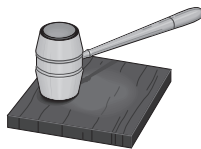
The historic Cecil Brown home, recently converted to the Law Office of Alton C. Todd, was the setting for an invitation-only gala reception hosted by the Friendswood Historical Society on Saturday evening, February 16. The event was the kickoff of a fund raising effort to benefit the reprinting of the book *Friendswood: A Settlement of Friendly Folks* by Joycina Day Baker. All proceeds from the sale of the book, the long out-of-print definitive history of Friendswood, are donated to the historical society.

Guests at the gala were greeted, as they entered the former-home-turned-law-office by Historical Society President Evelyn Newman. Society officers and docents were stationed in various rooms to explain their functions when the Cecil Brown family occupied the three-story residence. Guests were treated to refreshments as they enjoyed the musical stylings of Mitch Wright on the keyboard. Members of "The Victorian Lady" costume dress troupe strolled through the crowd.

The highlight of the evening was the informal talks on the history of both the Cecil Brown home and the town of Friendswood, given by author and Historical Society Historian Baker. Baker pointed out architectural elements that had been painstakingly preserved by Todd in renovating the home into his law offices. Todd also made a lasting impression with his permanent display of historic Friendswood photographs.

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Top Ten Verdicts of 2001 Reflect Trends In Jury Awards or Effect of September 11

The ten biggest damage awards in 2001 included two handed down by juries in Texas, \$312.7 million for nursing home abuse, and \$108 million in an inheritance dispute.

The fact that only one verdict made the top ten after September 11 led some to believe that the national tragedy profoundly affected jury attitudes, causing even horrible injuries suffered by plaintiffs to pale in comparison. Research of jury consultants, however, does not support a correlation between events of September 11 and jury decision-making.

Many cases that might have contributed to the lull in top verdicts in the last quarter of the year were continued, bumped into 2002.

Although the top ten verdicts in 2001 were for the most part far more conventional than those of recent years, an exception was the stunning \$115 million medical malpractice verdict that included \$100 million for pain and suffering. The plaintiff's attorney had asked for only \$10 million, but the jury, after deliberating for just one hour, awarded his client ten times that much. Despite a strong case for contributory negligence—the plaintiff was a long-time drug user who had gone to the emergency room with severe breathing problems caused by smoking crack cocaine—the jury

attributed 100 percent responsibility to the hospital medical staff for removing a breathing tube too early, resulting in brain damage.

In a departure from purely symbolic verdicts and awards by juries who knew that defendants had no money to pay them, which characterized the 2000 list, all but one verdict in 2001 were substantially collectible. Another significant change was that in 2001 only half of the verdicts included punitive damages, compared to 80 percent over the last four years.

Few of the top 2001 verdicts will survive as juries awarded them. Most will be settled or shrink in size on appeal. A dramatic example is observed in the Texas nursing home case, number 4 on the list. Two mega verdicts were awarded against the same company, Horizon/CMS Healthcare Corporation, both involving patients who died of malnutrition and bedsores. Yet, one jury awarded \$312.8 million (the largest nursing home verdict ever), including \$310 million in punitive damages, while the other awarded \$82 million, including \$75 million in punitive damages. In the end, however, the two awards were the same. The larger verdict settled for \$20 million, while the smaller was reduced to \$20 million.

Record Nursing Home Case in Texas Shows Disturbing Cycle of Neglect at All Levels

A number of important factors contributed to the largest nursing home verdict in history, \$312.8 million, for the neglect of an elderly Texas woman who lived in the Heritage Western Hills Nursing Home in Fort Worth for two years.

- Because the woman suffered from dementia, she was unable to tell her children about the neglect even though they visited often.
- When removed from the facility, Wyvonne Fuqua was malnourished, dehydrated and had 16 bedsores, some of which exposed fatty tissue or rotting of skin away to the bone. She died two months later.
- Fuqua's neglect was largely due to understaffing; the company continued to cut back on personnel despite warnings from

employees, the Texas Department of Human Services and family members of patients.

- Ruling that the corporation repeatedly failed to turn over records to the plaintiffs, U.S. District Court Judge Terry Means barred Horizon from presenting any defense, leaving the jury only to deliberate how much the corporation should pay.
- The jury was so outraged that they awarded \$10 million more in punitive damages than the plaintiff's attorney asked for.
- Most jury members identify with nursing home patients who are, by and large, helpless and completely dependent on their caregivers.

One of the most disturbing aspects of this case, in addition to all of the above, is that the Texas Department of Human Services had cited Horizon/CMS twice because of

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Texas Law Firms Rate State Law School Grads

Which of nine law schools in Texas produces the most marketable graduates? According to *Texas Lawyer*, which recently released its first survey of 15 of the 25 largest Texas law firms, the University of Texas School of Law earned the highest rating with a score of 4.66 based on a perfect 5.

The hiring partners, employment and recruiting directors and managing partners gave UT law students a 4.85 on their communication and interpersonal skills and a similarly high score on the efficiency and helpfulness of the school's career services office.

Rating No. 2 was Southern Methodist University Dedman School of Law (Alton C. Todd's alma mater), which earned an overall score of 4.12. SMU received its highest marks in the categories involving available resources at the career services office for students to learn about firms and in the knowledge students had of the firms during the interview process. The school also received high marks for its students' abilities to work within teams and their ability to hit the ground running.

Baylor University School of Law placed third overall with a 3.88. The school's highest grades were in its students abilities to work within a team and their leadership potential.

Overall scores of the remaining state law schools were University of Houston Law Center, 3.78; St. Mary's School of Law, 3.58; Texas Tech University School of Law, 3.38; South Texas College of Law, 3.28; and Texas Southern University Thurgood Marshall School of Law, 2.8.

No responses were received on Texas Wesleyan University.

Nursing Home Case

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neglect involving the patient, which the agency discovered during routine inspections. However, the family did not know about these citations, despite the fact that by law the nursing home was supposed to disclose this information to the family.

Doesn't this suggest a very large crack in the system?

Despite settlement, which avoided lengthy appeal and the risk to the clients of recent conflicting interpretations of the courts, comments from nursing home owners and lobbyists that this verdict sent shock waves through the industry was the whole point of the trial. An industry perceived to put profits over patients will be held accountable.

Rampant E-mail Rumors Include September 11-Related Deceptions

"You've got mail" may be a warm, welcoming touch to the impersonal Internet but too often an unfortunate outlet for circulation of sensational untruths.

Even the national crisis of September 11 occasioned a rash of deceptive digital communications.

One ill-conceived email message, originating on the Internet in 2001 and continuing into the new year, examined various automobile manufacturers' contributions to September 11 relief efforts. "Please think about this when you buy your next car," the author admonishes. Then, after referring to a short news item on CNN Headline News regarding Ford and General Motors' contributions to relief and recovery efforts in New York City and Washington, D.C., the Michigan writer (purportedly unconnected to any automotive company) tells of visiting leading news and automotive sites one week after the terrorist attacks and finding zero contributions listed by major manufacturers outside the United States. The email ends with a vow to purchase only from companies that gave to America in our time of need.

This is pretty appalling, reacts the patriotic American recipient, and automatically

clicks on "forward" to every name in his address book. "Time to trade in my Toyota."

A thorough investigation into the donations of automobile manufacturers was neither attempted nor necessary to contradict this outrageous claim. A sample of four, which is a matter of public record, is sufficient:

- A September 14 news release from **BMW** reports a contribution of \$1 million cash, 10 new BMW sports utility vehicles to the Red Cross and 100 police motorcycles. Total donation valued at \$2.4 million.

- **Honda's** combined efforts totaled \$1,549,068 plus donations of all-terrain vehicles to provide immediate aid in speeding recovery efforts in the World Trade Center area.

- **Nissan** donated \$1 million to the Red Cross and contributed an additional \$337,000 in direct and matching contributions from employees.

- **Toyota**, on September 18, announced a direct corporate contribution of \$1 million and later added \$930,000 in donations. Total \$1.93 million.

As evidenced by the existence of hoax-busting sites, email rumors are rampant. Unless a message received can be verified, the appropriate button to push after "read mail" is "delete."

"911" INACCURATE REFERENCE TO EVENTS OF SEPTEMBER 11

I have read only one editorial criticism, the source of which I have forgotten, of the tendency to refer to *our* "day of infamy," September 11, 2001, as Nine-One-One. The term *911* had its own emergency connotation prior to the incredibly tragic terrorist act of last September, and the use of that number will not change, whether activated to report a murder or domestic disturbance.

I find the linking of *911* and the terrorist attack not only inappropriate but callously casual. On December 7, 1941, a day that history will never forget and which President Franklin D. Roosevelt called "a date that will live in infamy," the planes attacking Pearl Harbor came in two waves. The first hit at 7:53 a.m., the second at 8:55. By 9:55, it was all over, and 2,403 were dead.

December 7, 1941 will never be recorded in history as 127.

September 11 earned its own deadly distinction and, despite the great emergency it represented, should not be defined as 911. In the memories of those who survived and in honor of those who didn't, the most trying time in history on American soil warrants precise reference. **That is September 11, 2001.**

Todd Family Enjoys Spring Skiing Break

Alton and Nari Todd and their children Seth and Kamilah spent the March 11-18 spring school break in Lake Tahoe, along with Nari's sister Yasmin and family. Nari, having suffered a severe leg fracture in a 2000 skiing accident, opted not to ski this year, and Alton, having just completed one trial and preparing for another, also elected some quiet time, while Seth, Kamilah and their cousin Caleb took full advantage of the slopes.

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Friendswood Teacher Indicted In School Shooting Incident

Last November 30, a reported shooting at Friendswood Junior High, where our son Seth is an 8th grader, resulted in a 4-hour lockdown and police search of the school. The incident tied up multiple emergency services including Friendswood EMS, Friendswood Volunteer Fire Department and Galveston County Precinct 9 Constables. All students were eventually released to the custody of many waiting and worried parents.

Norvella Gibson, reading and language arts instructor, was publicly praised for reporting three sounds, believed to be gunshots, between 9 and 10 a.m. Although no weapon has been recovered, a bullet was found on the floor of Gibson's portable classroom.

On March 1, after three months of intensive investigation by the Friendswood Police Department, the Galveston County Grand Jury indicted Gibson, charging the veteran teacher with carrying a weapon in a place where possession is prohibited, a third-degree felony.

Friendswood Police Chief Robert Wieners said the indictment was the result of a broad-based investigation which revealed that only one shot was fired, estimated at shortly after 7 a.m. when no students would have been in the building. He said the gunshot appeared deliberate and would not comment on why the 19-year teacher, who had no prior disciplinary record, was a suspect and placed on administrative leave shortly after the shooting.

The Friendswood School District, regarded as an academic powerhouse, recently won the academic decathlon for the 10th consecutive year and, for seven years straight, has earned exemplary status in the Texas Assessment for Academic Skills.

While reaction of this well-educated community is immense relief and gratitude that no injuries resulted from the November incident, the indictment of an educator, whose guilt or innocence will be determined by trial, is a bewildering blot on a school system known for strong parental support of its students.

Brown House Reception

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The Historical Society plans to have the next printing of *Friendswood: A Settlement of Friendly Folks* ready for sale for the city's annual 4th of July celebration. Donations for reprinting of Friendswood's history can be made to the Friendswood Historical Society, P.O. Box 474, Friendswood, TX 77549-0474, or contact Baker at (281) 482-7226 for information.



Runner-Up Mustangs

Kamilah Todd Participates in Championship Basketball

The Mustangs, 9-10-year old division of the Friendswood Girls Youth Basketball League, ended their season in 2nd place. Although beaten by 2 points by the only undefeated team in the league, the Mustangs, of which **Kamilah Todd** is a member, surprised everyone by winning their way to the championship game.

The team played 10 games for seeding in the post-season tournament, lost the first 4

games and then won 4 of the next 6 and were seeded low in the tournament.

Pictured in the above photo are first row, left to right, Kelsie Curry, Meghan Lewis and Kamilah Todd; second row, Afton Parker, Samantha Bentley, Taylor Magers and Alex Escamilla; back row, coaches Tony Escamilla, Alton Todd and Ron Escamilla. In 1984, **Alton Todd** coached **Tony Escamilla's** 9-10 year-old boys' Mustang team to the Friendswood Youth Basketball League tournament championship. Alex Escamilla, on this year's girls' team, is Tony's niece.

Goodyear Tire Case Marks Victory For Public Safety

Claims of confidentiality by the Goodyear Tire and Rubber Company will be rigorously tested as a result of a December decision by the Superior Court of New Jersey.

The court's ruling allows Trial Lawyers for Public Justice (TLPJ) and Consumers for Auto Reliability and Safety (CARS) to intervene in the tire safety case of *Frankl v. Goodyear* and to review records that Goodyear has tried to keep secret.

The case was filed after three U.S. Air Force personnel were killed and three others injured in a General Motors Suburban when a Goodyear tire came apart and the vehicle rolled over. The protective order in the case was issued improperly, the judge indicated, giving TLPJ access to previously sealed documents and an opportunity to prove that Goodyear failed to show good cause for keeping the documents secret.

Frankl was one of some 31 lawsuits filed against Goodyear after these documents came to light.

TLPJ represents CARS, a national, non-profit automobile and consumer safety organization that works to promote auto

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A Child's E-mail Echoes The Spirit of a Patriot

The 11-year-old daughter of a West Virginia judge and personal acquaintance, acting on her own mature initiative, directed an email to President George W. Bush shortly before Christmas. In her resourceful communication, she complimented the President on his excellent performance following the terrorist attack of September 11 and wished him a Merry Christmas.

The little girl ended her email with a political revelation: "I am a Democrat."

I supported George W. Bush, not in his first, but in his second candidacy for Governor of Texas. I did not support his Presidential aspirations. However, I share completely the observation of the perceptive 11-year-old.

Baptized by fire, President Bush became a war leader overnight. He has responded to the agony of September 11 with confidence and the highest resolve to restore our national equilibrium, and it is unlikely that he will ever be looked on as a lightweight again.

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Tide is Turning in Texas

Democrats Back in Running For Statewide Judicial Races

In a departure from recent judicial elections in Texas, 11 Democratic lawyers will challenge Republican incumbents on the state's top criminal and civil courts. Even veteran incumbent Texas Supreme Court Chief Justice Thomas R. Phillips, first appointed to his post in 1988, faces opposition from Richard G. Baker, 39-year-old Liberty lawyer.

Currently, there are no Democrats serving on the state's high courts.

The return of Democratic interest in the judgeships is attributed to several factors, including former Governor Bush's departure and last year's Florida debate over the Presidential election. Also, judicial candidates may benefit from the vigorous get-out-the-vote effort of Texas' Democratic gubernatorial candidate Tony Sanchez.

All but two Democrats seeking to serve on the high courts were unopposed in the primaries. Clearly an important message of last November's meeting of the Texas Democrat Party was a call for cooperation and coordination of prospective candidates at the primary level.

Margaret Mirabal, a 1st Court of Appeals justice in Houston, is running for a position on the Supreme Court. Justice Linda

Reyna Yanez, who sits on the 13th Court of Appeals in Corpus Christi, will face Republican Chief Justice Mike Schneider of the 1st Court of Appeals in **Houston**. Yanez and Schneider will be vying for the Place One seat on the Texas Supreme Court.

Houston Travel "Advisory" Features Unique Road Rules

Someone who has obviously spent some driving time navigating Houston highways has compiled and circulated a few practical guidelines for surviving the frustrations of traffic in the nation's 4th largest city. The only thing I might add to the following excerpts is that by the time I get to the Harris County Courthouse, I am in the right frame of mind to try a lawsuit.

- Houston has its own version of traffic rules. There is no such thing as a dangerous high-speed chase in Houston. They all drive like that.
- All directions start with "Go down to Loop 610"...which has no beginning or end.
- The morning rush hour is from 7-10 a.m. The evening rush hour is from 3-7 p.m. except on I-10 where it's rush hour all day every day and where construction is a way of life and a permanent form of entertainment.
- If someone actually has their turn signal on, it's probably a factory defect.
- The minimum acceptable speed on Loop 610 is 85. Anything less is downright wimpy.
- If you are in the left lane and going only 70 in a 60 mph zone, people are not waving when they pass you on the right.

Goodyear Tire Case

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safety and prevent motor vehicle-related deaths, injuries and economic losses through public policy and advocacy. At issue are the Goodyear Load Range E tires, which have been linked to 86 crashes, resulting in 158 injuries and 18 deaths in accidents involving tread separations. These tires are primarily used on 15-passenger vans, ambulances, large sports utility vehicles and light trucks.

An alarming increase in tread separations of Load Range E tires was noted back in 1995. Goodyear hid this discovery from customers, continuing to sell the suspect tires while it hunted for the cause of the problem and phased in a fix.

On February 2, Goodyear announced that the tires will be replaced because of a 2001 NHTSA (National Highway Traffic Safety Administration) investigation into the rollover risk of 15-passenger vans.

TLPJ's challenge in *Frankl* is part of Project ACCESS, its 12-year, nationwide campaign against court secrecy. Through this project, TLPJ supports opposition to unduly restrictive protective orders, intervenes in specific cases to fight for the public's right to know and educates the courts and the public about the problems posed by secret litigation.

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.

ALT-RUISM

A CYNIC KNOWS THE PRICE OF EVERYTHING AND THE VALUE OF NOTHING.