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Texas Practitioner's Guide to Civil Appeals

Robert Dubose
EDITOR

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Courts Prepare for Unaccompanied Minor Cases

by ANGELA MORRIS
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The "flood" of unaccompanied Central and South American children entering the U.S. last year has only trickled into Texas courts so far, although some experts are watching for a bigger rush further downstream.

Federal courts have jurisdiction over immigration, but state courts play a role in some unaccompanied

minor cases. As the so-called surge of unaccompanied children dominated the headlines last summer, David Slayton, administrative director of the Texas Office of Court Administration, said he was afraid that state courts might get hit with thousands of cases at once.

"If that does happen, that will tax the system," Slayton said, adding, "At this point, we are seeing them trickle into the system, and we believe if they continue in that fashion, we are probably able to handle it with

existing judicial resources."

But it's possible that many cases haven't made it to court yet, said 312th Family Court Judge David Farr of Houston. Six months after an unaccompanied child is relocated, the relative could file for conservatorship, he said. But Farr said he could imagine the scenario of an uncle who did not expect a nephew to come live

▶ see *Unaccompanied*, page 26



Adele Hedges and Dan Hedges of Houston

Love in Law

Legendary Lawyer Couples Talk About Life and Love

by BRENDA SAPINO JEFFREYS
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To mark Valentine's Day on Feb. 14, *Texas Lawyer* interviewed two married couples of Texas lawyers to learn how they have juggled two busy careers, raised a family and found time to spend together. The couples are Adele Hedges and Dan Hedges of Houston, who married in 1976, and Judge Barbara Lynn and Mike Lynn of Dallas, who married in 1973. Adele Hedges has her own firm, and Dan Hedges is a partner in Porter Hedges. Judge Lynn is a U.S. district judge for the Northern District of Texas, and Mike Lynn is a partner in Lynn Tillotson Pinker & Cox.

Adele and Dan Hedges

Dan and Adele Hedges first met when on opposing teams at a Texas moot court competition in 1973

▶ see *Love*, page 24

Is IP Case Exceptional or Just Bizarre?

by JOHN COUNCIL
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A Dallas lawyer is already attempting to use a 2014 U.S. Supreme Court patent decision to collect huge attorney fees after defeating what he believed was a legally "exceptional" trademark dispute.

But does the high court's important patent decision really apply to trademark disputes? And is a "bizarre" case necessarily an "exceptional" one?

Those are two big issues in *Baker v. DeShong*, a trademark dispute appealed from a U.S. district court in Fort Worth that

▶ see *Exceptional*, page 25

energybuzz

Bill Presses for Lifting Ban on Crude Oil Exports	4
The New Perry: Combining Politics With Pipelines	4
O&G Law Update: From Royalty Rifts to Data Disputes	5
Dealing With Fluid Times in the Oil Patch	6

INSIDE

Litigator of the Week:
Fernando Bustos

21



Special Focus:
E-Discovery

28-33



Is Unlawful Acts Doctrine
dead or alive in Texas?

38



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TEXAS LAWYER

Love

◀ continued from page 1

in Fort Worth, where Dan said he was so “dazzled” by Adele that his team lost the argument.

“Her team won the round. My team won the competition,” Dan Hedges recalled of that unforgettable meeting, where she was on the University of Houston Law Center team and he represented the University of Texas School of Law.

But the law students didn’t see each other again until 1974, when both started work as associates at Fulbright & Jaworski, now Norton Rose Fulbright, in Houston. Their relationship bloomed at the firm, and they married in 1976. Dan Hedges noted that they were the first married lawyer couple allowed to continue to work at the firm. Adele Hedges said they had decided before their marriage that if they both couldn’t stay at Fulbright, the one who got the best opportunity elsewhere would leave Fulbright.

More than 40 years since their first meeting, Adele and Dan Hedges said they each were able to build a successful legal career because they were totally supportive of each other and focused on their relationship, family and shared interests.

“We are best friends,” Adele Hedges said.

Both practiced at Fulbright for a few years, but Adele Hedges left Fulbright in 1978 to become general counsel of a real estate company. Dan Hedges left the firm in 1981 to serve as the U.S. attorney for the Southern District of Texas. After he left his federal job in 1985, Dan Hedges joined Houston’s Porter & Clements, which became Porter & Hedges in 1993. The couple shared a workplace for a few years when Adele Hedges worked at Porter & Clements as an of counsel lawyer before she was elected to the First Court of Appeals in Houston in 1992.

After serving for 11 years on the First Court, Hedges was appointed chief justice of the Fourteenth Court of Appeals in Houston in 2003. She retired from the court in the fall of 2013 and opened an appeals and mediation practice in Houston, where she also helps lawyers prepare for oral argument.

Adele Hedges said she and Dan Hedges were lucky throughout their marriage that their work was centered for the most part in Texas. Also, she noted, when she was of counsel at Porter & Clements, she did not always work full time, because it was a time when the couple’s son, now age 32, was in school.

Adele Hedges said it was easier to juggle things once she took the bench because their son was older, and because of the flexibility of working as an appeals court judge. She could work from home if needed.

Dan Hedges said that in the early years of their marriage, they were active in politics, supporting George H.W. Bush—Dan Hedges was a classmate of George W. Bush’s at The Kinkaid School in Houston—and Adele Hedges worked



Judge Barbara Lynn and Mike Lynn

in Texas for the Reagan/Bush ticket.

Even though they have busy schedules, Dan Hedges said he and his wife are connected because they spend their free time together. He said they take all vacations together, and go several times a year to their 200-year-old second home in rural Vermont, near his alma mater of Dartmouth College. The couple bought that house after selling a historic house in Galveston. They also sold their Houston house and built a sustainable house in 2008 that’s located across the street from Adele Hedges’ office.

The Hedges share an interest in healthy eating, fitness and the environment. In addition to their sustainable house that uses rainwater, solar panels and geothermal, Adele Hedges drives a Toyota Prius, and Dan Hedges drives an electric car that he charges with power from solar panels on their house.

Adele Hedges said she and her husband each have had a successful career because they respect each other’s career on all levels. She believes that ego and competition can lead to problems in a marriage.

For Valentine’s Day, Adele Hedges said the couple celebrates by going out for dinner, although they tend to eat light and early. For her recent birthday, they went to Brennan’s in Houston, because it’s a “celebratory” place, she said.

Barbara and Mike Lynn

Judge Barbara Lynn and Mike Lynn, who married in 1973, met at the University of Virginia, where their friendship and romance grew at Friday night meetings of the Jefferson Literary and Debating Society.

Judge Lynn, a member of the first coeducational class at UVA, was a high school debater who wanted to join the Jefferson Society, but women were not allowed at that time to be members. Judge Lynn said she was “very impressed” with Mike Lynn because he was a leader of the movement to coeducate the society.

Mike Lynn said he made that happen when he called for a vote at a time when the “conservative element” of the Jefferson Society had gone to Mardi Gras.

“We changed the bylaws, and I got her in,” Mike Lynn recalls.

They were a couple at Virginia by the time Mike Lynn graduated in 1972 and left for Dallas and the Southern Methodist University Dedman School of Law. Judge Lynn, who graduated a year early from UVA in 1973, said she had to decide at that time whether to move to Texas and go to SMU Dedman School of Law and marry Mike Lynn, stay at Virginia to go to law school, or go to Harvard Law School.

“I decided I’m willing to go to Texas, to SMU, have my cake and eat it too,” she said. “He didn’t put any pressure on

“I tried to not be too hard on myself ... I wasn’t every day an A-plus mom and an A-plus lawyer. I tried to get a passing score,” said Judge Lynn, who graduated top of her law school class at SMU.

me. He made it clear that he would be delighted if I came.”

Judge Lynn said she was 20 and Mike Lynn was 23 when they married in August 1973. Over the next 40-plus years, the Lynns reared two daughters while undertaking two busy legal careers by managing their time and working late at home.

“As far as I’m concerned, sleep is overrated,” Judge Lynn said.

After Mike Lynn graduated from SMU, he clerked for two years for U.S. District Judge Robert Porter of the Northern District of Texas, and then joined Akin Gump Strauss Hauer & Feld in Dallas. He practiced there until 1993,

except for a short stint as an assistant Dallas County district attorney.

In 1993, Mike Lynn helped found Lynn Tillotson Pinker & Cox in Dallas, a litigation boutique.

Meanwhile, after graduating from law school in 1976, Judge Lynn took a job at Carrington, Coleman, Sloman & Blumenthal in Dallas, where she worked until she was sworn in as a federal judge in late 1999.

Judge Lynn said she and her husband met the challenge of two busy careers and a family because they “just sort of pressed forward” and relied on family and friends who helped out in a pinch. Having a backup plan was necessary, she said, a situation Mike Lynn described as “ad libbing.”

“The worst of it was when we were both in trial, and that was awful,” Judge Lynn said. “It was very hard to have two small children and a professional life, and Mike and I were always very active in the bar,” she said. “You just have to keep going. It’s like breathing. If you think about it too much, you start hyperventilating.”

Mike Lynn said fortunately they were only in trial simultaneously on two occasions.

As a couple, Judge Lynn said, they went to almost all of their daughters’ soccer games, and would stay up until 2 a.m. to finish work if that’s what it took.

“I tried to not be too hard on myself ... I wasn’t every day an A-plus mom and an A-plus lawyer. I tried to get a passing score,” said Judge Lynn, who graduated top of her law school class at SMU.

Judge Lynn said that once she took the bench, the juggle got easier because she had more control over her schedule and because their daughters, now 32 and 28, were older.

Mike Lynn said that because his schedule as a trial lawyer is now less flexible than his wife’s as a federal judge, they tend to vacation and “rest” together on his breaks between a trial and preparation for the next one.

“We enjoy life together,” he said. “We will go to dinner and go to movies and go out with friends or go to dinner parties.”

Because they married young, Mike Lynn said, the couple “basically raised each other and became sort of best friends.”

As for Valentine’s Day, Judge Lynn said Mike Lynn is great about planning a celebration, particularly because it’s also the anniversary of the day of her judicial investiture. One year, Judge Lynn recalled, her husband told her he forgot to make a reservation for dinner, but one of his partners secured a last-minute reservation for them at a new restaurant in Fort Worth. On their way to dinner, Judge Lynn said she wondered out loud why they were driving through a residential neighborhood, but Mike Lynn told her the restaurant was new and in a house.

Judge Lynn said they walked up to the door of the house, and she found out it was a surprise party to celebrate her 10th year on the bench. The hosts were her first five law clerks.

“This was just a complete ruse, but I fell for it all of the way up to the door,” Judge Lynn recalled. **TLN**