



MAY 2011

OUR ADDRESS:

**SALSA
P.O. BOX 367
SAN ANTONIO, TX
78292**

HIGHLIGHTS

Committee Form	3
Director's Report	10
Legal "Ed"	13
From NALS	16
Calendar	18

THE SUMMONS

**SAN ANTONIO LEGAL SECRETARIES ASSOCIATION
Chartered in 1957**

President Messages

From - Christy Coats, PLS, Co-President

Wow...has it been a year already? My how time flies! Here we are, at the beginning of a brand new fiscal year. This year our theme will be "Wine Party." We hope to have a little fun with that, and still find a way to get all of our work done. I am very excited to be co-chairing the presidency with Barbara Perez, this year, and I look forward to working with our new slate of officers. Please take a moment to look over the open committees in this newsletter. We need everyone's help in order to continue all of SALSA's valuable programs. Should you have any questions about any of the committees, please contact Barbara or me. Our contact information can be found at the bottom of the shortened version of the Committee Preference Form.



From ~ Barbara E. Perez, PLS, Co-President

I am very excited to be working alongside the officers, committee chairs, members and vendors slated for the fiscal year 2011-2012.

Please consider chairing, or co-chairing, a committee. Grab a buddy and make it happen. We cannot thrive without you.

When making wine grapes are the most important factor influencing the outcome of the finished product. Like the grapes essential in making a great wine, so are all the individuals essential to the association, adding their influence in making San Antonio LSA great!

Here's to a wonderful and memorable year! Cheers!!

2011 — 2012 Leadership Roster

Office	Name	Email Address
Co-President	Christy Coats, PLS	ccoats@coxsmith.com
Co-President	Barbara Perez, PLS	bperez@coxsmith.com
Membership	Bette Tower, PLS	btower@mdtlaw.com
Recording Secretary	Kim Busch	kbusch@coxsmith.com
Corresponding Secretary	Jane Harrison, PLS	Janeharrison30@yahoo.com
Treasurer/Roster	Aurora R. Cavazos, PLS, CLA,CPS	rorycavazos@ymail.com
Director	Janet Brown, PLS	jbrown@kjlawpc.com
Parliamentarian	Cheryl Wenzel, PP, PLS	cwenzel@coxsmith.com
Committee	Chairperson	Email Address

**SAN ANTONIO LEGAL SECRETARIES ASSOCIATION
2011-2012 COMMITTEE PREFERENCE FORM**

One of the best ways to learn about San Antonio Legal Secretaries Association is to work with the various committees sponsored by our organization. The committees below are those that are essential to our organization and are currently open. We welcome your ideas and encourage your participation. Only through teamwork will we be able to reach this organization's full potential and accomplish its goals.

Auditor

Responsible for auditing the books of the previous year

Award of Excellence

Responsible for obtaining nominations, preparing voting information, presenting award (formerly known as Boss of the Year and Legal Secretary of the Year) at Day-in-Court luncheon, and submitting Chapter's nomination for State LSY to State Committee Chair

Community Service

Responsible for making arrangements for various community service projects

Day-In-Court

Responsible for vendors, publicity, arrangements, etc. for annual Day-in-Court luncheon

Marketing/Public Relations

Responsible for all PR of Association (meetings, special events, press releases, etc.)

SALSA History

Responsible for keeping running history of events, special recognitions, etc. of San Antonio LSA

Scholarship

Responsible for forwarding information to schools, collecting applications, presenting applications to membership for vote, contacting students about scholarship, and submitting of chapter winner to state association for state scholarship award

Speakers

Responsible for obtaining legal education speakers for monthly membership meetings, greeting and introducing speakers at meetings

Vendor-of-the-Month

Responsible for obtaining one vendor for each evening meeting to make a marketing presentation during the membership meeting

Ways & Means

Responsible for organizing and promoting fund-raising efforts of Association

Please contact Christy Coats or Barbara Perez, Co-Presidents of SALSA for the 2011-2012 fiscal year, if you are willing to serve on any of these committees. Our contact information is as follows:

Christy Coats or Barbara Perez
San Antonio Legal Secretaries Association
c/o Cox Smith Matthews Incorporated
112 East Pecan Street, Suite 1800
San Antonio, Texas 78205
(210) 554-5536 or (210) 554-5397
(210) 226-8395 Fax
Email: ccoats@coxsmith.com or bperez@coxsmith.com

**SAN ANTONIO LEGAL SECRETARIES ASSOCIATION
MAY 2011 MEMBERSHIP MEETING**

Speaker: Joshua Sutin

Topic: H.I.P.A.A.
(Health Insurance Portability & Accountability Act)

Location: Cox Smith
112 East Pecan, Suite 1800
San Antonio, Texas 78205
*Parking is available in the Weston Centre Garage at \$6
and at the LAZ parking lot on Soledad at \$8*

Date: Wednesday – May 25, 2011

Time: Noon

Cost: \$13 – Druthers Boxed Lunches
*Please submit your lunch choice (see Menu Selections
attachment) with your RSVP; if no selection is made a
default selection will be ordered.*

*RSVP's and orders will be due by
Friday, May 20, 2011, at 5 p.m.*

RSVP: Please email **MICHELE HARMON** at
mrharmon@satx.rr.com or call her at 829-1938

*Cancellations must be made no later than FRIDAY prior to the meeting for you and/or
your guests or you will be billed for the meal.*

**FORMER SCHOLARSHIP RECIPIENT
2006-2007
CHRISTINE VASQUEZ**



(Christine and her mother - 2007)

Below is a message SALSA received on Wednesday May 4, 2011, from a former Scholarship Award Winner with an update. A card acknowledging her accomplishment will be made available to all members at the May 25th monthly meeting for all who would like to congratulate her on a job well done!

San Antonio Legal Secretaries Association:

I'm emailing you because I wanted to inform you that I'm the award winner of 2006-2007, and I wanted to thank you once again for this award because it definitely did help me through my years at Texas State University, I wanted to let anyone who made my scholarship possible that I will be graduating from Texas State University with a bachelors in Criminal Justice May 14, 2011 at 2 pm. Once again thank you for making me a recipient for 2006-2007.

Kindest Regards,

Christine A. Vasquez

DIRECTOR'S REPORT
FOR TALP ANNUAL MEETING—MIDLAND
APRIL 28 – MAY 1, 2011

Judy Smith and I drove to Midland on April 28, 2011; we arrived between 5-5:30 p.m. We got settled in our rooms and then we went to the Ali Bubba's Patio Restaurant to meet with other TALP members and had dinner. On our drive up, Judy and I discussed the benefits that changing SALSA's name would bring to the Association, we also discussed how and what to do to retain membership.

April 29, 2011. We began by having breakfast and then proceeded to the Business Meeting. There was a Welcome Lunch wherein we acquired one hour of CLE. The CLE was on "Effectively Dealing with Difficult People" presented by our very own Anne Hoover, PLS. The TALP Officers/Chairman Training and TALP Committee Meetings. The Open Forum was held, which included news about TALP and NALS. We attended a rooftop reception and proceeded to the Planetarium. Buses took all members and their guests to the Planetarium to view the stars and to learn more about our solar system.

Saturday, April 30, 2011, We again had breakfast before the seminars began. Seminars began at 9:00 a.m. with a special speaker from NALS—Jay Moore who spoke to us regarding the "Social Media" and how it affects each and everyone of us. We then had a wonderful seminar on "Oil & Gas 101" presented by Mary Lou Cassidy, Esq. very enlightening. Our third seminar of the day was "Ethics Jeopardy" presented by Jill Pennington, Esq., and our last seminar on "Estate Planning & Probate" presented by Kristi Franklin Hyatt, Esq. and Karen S. Schmidt, CPA, CSEP, CFFA. All of the Seminars were well-attended and all of the speakers were excellent, a lot of substantive information was given.

We had some wonderful vendors in attendance, everyone enjoyed talking with them and looking at all the new information and products.

After the Seminars were complete, we had a short break before the President's Reception followed by the President's Celebration, a fun time was had by all. Pictures were taken of all of the SALSA members in attendance.

At the business meeting on Friday, San Antonio was awarded the bid to put on the TALP Annual Meeting for 2012, where our very own Cheryl Wenzel, PP, PLS will be installed as President of the Texas Association of Legal Professionals.

The 2011 Fall Conference will be held in Waco on September 29-October 1, 2011.


Received a Registration Form to the 2011 NALS Region 6 Annual Meeting and Educational Conference to be held in Amarillo, Texas on July 15-17, 2011. The theme is "Boot Scootin' to the Panhandle" If anyone is interested, please contact me and I will be glad to send the Registration Form and information to you.

The 2011-2012 Budget was approved. Amendment to Standing Rule 22, Registration at Texas Association Conferences. This amendment was to insert language to pay for part of the chairmen registration fees. This Amendment was approved and passed. Amendment to Bylaws Article 13, Section 1. This amendment was to adequately describe the duties and purposes of the finance/fundraising committee as it assists in non-dues income on behalf of the Association and to change the status of Special Committees to Standing Committees as they are necessary to the functions of the Association. This amendment to the Bylaws was approved and passed.

If anyone is interested in finding out more about any of the seminars or obtaining a copy of the handout materials, please contact me.

It has once again been my pleasure and privilege to be Director for the San Antonio Legal Secretaries Association.

Respectfully submitted,


Bette A. Tower, PLS
2010-2011 Director



LEGAL "ED"



By Edward M. Lavin, Attorney
May 2011

Defending or Prosecuting Tort Claims **Part I - Damages, Exemplary Damages and Bifurcation**

Whether you are defending or prosecuting a tort claim, such as a personal injury claim, the centerpiece of the claim will be the plaintiff's claim for damages, and in appropriate cases for exemplary or punitive damages. These issues are regulated by Chapter 41, Texas Civil Practice & Remedies Code.

The chapter applies to any action in which a claimant seeks damages relating to a cause of action. "Claimant" includes not only plaintiffs but counterclaimants, cross-claimants, or third-party plaintiffs. The chapter does not apply to claims under the Texas Deceptive Trade Practices Act (DTPA) or claims filed under Chapter 21 of the Texas Insurance Code.

The principal purpose for Chapter 41 is to regulate claims for exemplary or punitive damages. Normally exemplary damages may be awarded only if the claimant proves by clear and convincing evidence that the harm with respect to which the claimant seeks recovery of exemplary damages results from fraud, malice or gross negligence.

This is a higher standard of proof than the usual "preponderance of the evidence" standard. "Clear and convincing" means the measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. This burden of proof may not be shifted to the defendant or satisfied by evidence of ordinary negligence, bad faith, or a deceptive trade practice.

Ordinarily in jury trials, a 10-2 verdict in district court or a 5-1 verdict in county court will support the verdict. Exemplary damages, however, may only be awarded if the jury was unanimous in regard to finding liability for and the amount of exemplary damages. The jury must be so instructed.

Before exemplary damages can be awarded there must be an award of actual damages other than nominal damages. Exemplary damages may not be awarded to a claimant who elects to have his recovery multiplied under another statute such as the DTPA.

There are detailed rules for when criminal conduct can lead to an award of exemplary damages. In an action arising from harm resulting from an assault, theft, or other criminal act, a court may not ordinarily award exemplary damages against a defendant because of the criminal act of another. There are exceptions to this rule, however, including:

- (1) the criminal act was committed by an employee of the defendant;
- (2) the defendant is criminally responsible as a party to the criminal act under the provisions of Chapter 7, Penal Code;
- (3) the criminal act occurred at a location where, at the time of the criminal act, the defendant was maintaining a common nuisance under the provisions of Chapter 125, Civil Practice and Remedies Code, and had not made reasonable attempts to abate the nuisance; or

(4) the criminal act resulted from the defendant's intentional or knowing violation of a statutory duty under Subchapter D, Chapter 92, Property Code, and the criminal act occurred after the statutory deadline for compliance with that duty.

In an action arising out of a criminal act committed by an employee, the employer may be liable for exemplary damages but only if:

- (1) the principal authorized the doing and the manner of the act;
- (2) the agent was unfit and the principal acted with malice in employing or retaining him;
- (3) the agent was employed in a managerial capacity and was acting in the scope of employment; or
- (4) the employer or a manager of the employer ratified or approved the act.

When there are two or more defendants, an award of exemplary damages must be specific as to a defendant, and each defendant is liable only for the amount of the award made against that defendant. Prejudgment interest may not be assessed or recovered on an award of exemplary damages.

In any case in which a claimant seeks recovery of damages, the trier of fact must determine the amount of economic damages separately from the amount of other compensatory damages. Then, the amount of exemplary damages awarded against a defendant may not exceed an amount equal to the greater of two times the amount of economic damages plus an amount equal to any noneconomic damages found by the jury, not to exceed \$750,000, or \$200,000. These limits do not apply to felony conduct committed knowingly or intentionally, including murder, capital murder, aggravated kidnapping, aggravated assault, sexual assault, aggravated sexual assault, injury to a child or an elderly or disabled individual, forgery, commercial bribery, any third degree felony, intoxication assault or manslaughter, or continuous sexual abuse of a child.

Any defendant may by motion request and the court must provide for a bifurcated trial under this section. Such a request must be made prior to voir dire examination of the jury or at a time specified by a pretrial court order. In the first phase of a bifurcated trial, the trier of fact shall determine liability for compensatory and exemplary damages and the amount of compensatory damages.

If liability for exemplary damages is established during the first phase of a bifurcated trial, the trier of fact shall, in the second phase of the trial, determine the amount of exemplary damages to be awarded, if any. Before making an award of exemplary damages, the trier of fact must be provided with and consider the definition and purposes of exemplary damages.

The determination of whether to award exemplary damages and the amount of exemplary damages to be awarded is within the discretion of the trier of fact. In determining the amount of exemplary damages, the trier of fact shall consider evidence, if any, relating to:

- (1) the nature of the wrong;
- (2) the character of the conduct involved;
- (3) the degree of culpability of the wrongdoer;
- (4) the situation and sensibilities of the parties concerned;
- (5) the extent to which such conduct offends a public sense of justice and propriety; and
- (6) the net worth of the defendant.

Evidence that is relevant only to the amount of exemplary damages that may be awarded is not admissible during the first phase of a bifurcated trial. Specific jury instructions, tracking language found in Sections 41.001, 41.003, 41.010 and 41.011, are required.

On appeal of a finding by a trier of fact concerning liability for exemplary damages or with respect to the amount of exemplary damages awarded, the appellate court is required to state, in a written opinion, the court's reasons for upholding or disturbing the finding or award. The written opinion shall address the evidence or lack of evidence with specificity, as it relates to the liability for or amount of exemplary damages, in light of the requirements of this chapter.

Corporate Members of San Antonio LSA

San Antonio LSA appreciates all of its corporate sponsors and the support they provide our Association. There are times when our corporate sponsors go beyond expectations and we would like to give all of our sponsors a big **THANK YOU**.

Alpha & Omega Records Retrieval
14080 Nacogdoches Road, Suite 281
San Antonio, Texas 78247
(830) 714-7575; (210) 797-6254
Contact: Cheryl Calaway
cheryl@aorr.net

Dependable Express LLP
5975 Babcock Road
San Antonio, Texas 78240
(210) 877-6161 or 837-8771
Contact: Shelly Miller
Shelly@DependableExpress.com

DEPOTEXAS – San Antonio
1383 E. Bitters Road, Suite 3
San Antonio, Texas 78216
(210) 481-7575
Contact: Rodney Magee
rodney@depotexas.com

Law Office of Edward M. Lavin
8918 Tesoro Drive, Suite 418
San Antonio, Texas 78217
(210) 829-1938
Contact: Edward M. Lavin

Legal Preference, Inc.
30448 Blueberry Ridge
Bulverde, Texas 78163
(210) 867-6426
Contact: Patty Hall
legalpreference@hotmail.com

Preferred Counsel Legal Placement
The Ariel House
8118 Datapoint Drive
San Antonio, Texas 78229
(210) 614-6400
Contact: Morgan M. Matson
mmm@preferredcounsel.net

Special Counsel
10999 I.H. 10 West, Suite 290
San Antonio, Texas 78230
(210) 824-0300
Contact: Rani Spaulding or Jessica
Hernandez (214) 871-0202
rani.spaulding@specialcounsel.com

Kim Tindall & Associates, Inc.
5119 Beckwith Blvd., Suite 101
San Antonio, Texas 78249
(210) 697-3400
Contact: Kim Tindall
ktindall@ktanda.com



THANK YOU

Calendar

May

- 4..... SALSA Board Meeting –6:15 pm
Cox Smith Matthews, 18th Floor**
- 25..... SALSA Membership Meeting—Noon
Cox Smith Matthews— 18th Floor**

June

- 1..... SALSA Board Meeting –6:15 pm
Cox Smith Matthews, 18th Floor**
- 8 Online Learning Center – 8:00 pm
UCC Searching and Filing: Ask the
Experts (www.nals.org) (1 hr. CLE)**
- 22..... SALSA Membership Meeting**
Online Learning Center – 8:00 pm
M a n a g i n g D o c u m e n t s
(www.nals.org) (1 hr. CLE)

