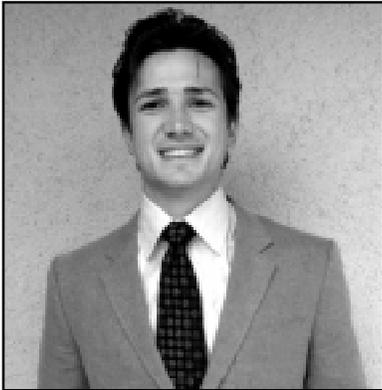




Seth Park, 3L, Enjoys Summer Internship At HDBD Law Firm



Seth Park

Seth Park, 3L at Emory University, is benefitting from on-the-job experience this summer. At Hartline Dacus Barger Dryer, a nationally recognized firm of trial lawyers with extensive experience in a broad spectrum of litigation matters, Seth is working primarily with three associates of Attorney Darrell Barger.

At "a great little office with a window" on the 36th floor of the firm's office in downtown Houston, Seth has focused on defense work, researching and drafting all types of motions after reading relevant documents and correspondence to learn about individual cases. He has been to court, sat in on a deposition, and journeyed to Alice, TX for an expected week-long wrongful death case, which settled the day he arrived, all highlights of Seth's valuable summer activity in the legal arena.

Hartline Dacus Barger Dreyer, which also has law offices in Dallas and Corpus Christi, moved its Houston location to the Galleria in July.

Alton Todd Earns State Bar Honor

For his continued service and willingness to serve the public and the legal profession, Alton C. Todd, on July 11, received a commendation from the State Bar of Texas, officially advising him that he had been appointed, by their board of Directors to serve on the Texas Board of Legal Specialization for a three-year term, through June 30, 2017.

Todd Law Firm Obtains Top Texas Verdict in 2013

The case of *Lopez v. Pena* tried by Attorneys Alton C. Todd and Larry Tylka last October in Galveston County Probate Court was rated by VerdictSearch 3rd in motor vehicle awards and 16th for all verdicts in Texas in 2013. The leading provider of verdict and settlement research, only VerdictSearch uses consistent data collection criteria for precise results across all jurisdictions. It has been tracking the most noteworthy civil jury verdicts and settlements selected from a national database since 1980.

The plaintiffs' lawyers from The Law Firm of Alton C. Todd in Friendswood and the Tylka Law Center in League City represented Manuel and Nina Lopez, parents of Christina Lopez, deceased, against Hector Pena and Altom Transport Inc.

Eleven-year-old Christina was waiting at a school bus stop in Texas City when she

was struck by a tractor-trailer driven by Pena, employee of Altom Transport. Massive head injuries resulted in immediate death. A police report determined that the truck's right front tire was 3-6 inches off the road at the time of the collision. Plaintiffs' counsel argued that the driver, due at work in Pasadena 8 minutes after the incident, attempted to turn the corner at an excessive rate of speed without keeping a proper lookout which caused him to leave the road and strike the child. Todd and Tylka further maintained that Altom failed to provide Pena with the appropriate training required under federal regulation and on operating the truck without an attached trailer.

The jury found Pena 70 percent liable and Altom 30 percent liable and awarded the plaintiffs \$6,711,147.47.

Texas Civil Practice and Remedies Code

APPLICATION OF CHAPTER 95 PROTECTIONS QUESTIONED

Although cases involving the Texas Civil Practice and Remedies Code have never reached the Texas Supreme Court, most, if not all intermediate appellate courts have interpreted Chapter 95 of the Code broadly, meaning no win for injured plaintiffs. Recently, however, that one-sided, defendant-friendly approach, has begun to be challenged in decisions narrowing Chapter 95's scope, excluding from its area of authority common law negligence claims.

Representing a departure from the usual application of Chapter 95 protections in lawsuits brought by injured workers, in *Elmgren v. Ineos USA*, the 14th Court in March held that Chapter 25 does not apply to negligence claims. Joe Elmgren, a contract boilermaker, was hired to replace valves on a furnace at a plant owned by Ineos. A valve he was replacing released superheated gas, and he suffered burn injuries. He subsequently sued Ineos and the Ineos furnace maintenance leader who had told him it was "safe to proceed" with his work.

The defendants argued that they qualified for Chapter 95 protection because Elmgren could not satisfy the elements

necessary to establish liability: a right of control over his work and actual knowledge of the dangerous condition that caused his injuries. The trial court agreed and granted summary judgment on all of Elmgren's claims. The 14th Court concluded that summary judgment was proper on all claims arising from the condition of the gas improvement system on which Elmgren was working when he was injured. Citing the Texas Supreme Court's recognition that premises liability, negligent activity and negligent undertaking are distinct liability theories, the Court found that Elmgren's negligence claims were not subject to Chapter 95's protection.

The unsettling nature of the law, regarding the scope of Chapter 95's applicability, suggests, as one headline writer once wrote, "those that can, usually can't sue." Is it fair to bar personal injury claims against a property owner that arise from the repair of an improvement to real property? Last year the El Paso Court of Appeals affirmed a premises liability suit filed by a

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'THOUSANDS OF HEROES' RECORDS COMMITMENT BY LEGAL PROFESSION

When the National September 11 Memorial and Museum officially opened its doors to the public on May 14, a significant report to Congress from the American Association of Justice became a permanent part of the museum's collection.

Called "Thousands of Heroes, The Rest of Us Could Only Help," the Trial Lawyers Care report memorializes the largest pro bono legal effort in the history of American jurisprudence.

The non-profit Trial Lawyers Care was launched immediately after the September 11th Victim Compensation Fund was enacted into law on September 21, 2001. Within three days, more than 1,100 trial lawyers joined forces to provide free legal services to the families of victims of 9/11. They counseled 4,000 families, representing more than 1,700 families free of charge. According to David S. Casey, Jr., who helped form the organization and to oversee its conclusion in 2004 while president of the ATLA,

awards of more than \$2.2 billion were secured. He wrote in the *Daily Journal* that "the average death award was more than \$2 million, the average injury award was nearly \$50,000, the value of the pro bono legal services provided exceeded \$300 million, and the hours donated by attorneys totaled more than 100 years. Nearly 100 percent of the families of a deceased victim participated. Within 2 ½ years, all cases were closed, and the families fully paid.

After the initial fund was closed, Gary M. Paul, 2011-2012 American Association of Justice president, noted that hundreds who helped remove the debris at the World Trade center had contracted asbestos-related illnesses and cancers. "To this day," he said there are hundreds of police officers and firefighters permanently disabled because of their severely diminished lung capacity. The AAJ advocated a bill (now Public Law 111-347) to provide compensation for these permanently injured Americans."

Sam Houston Deserving, Electable Candidate

Ethically Challenged Ken Paxton No Match for Democrat Opponent

Unrelated to the fiery 19th century governor from Tennessee who made his way to the Lone Star state to begin a new life and political career, Sam Houston, the little known Democratic nominee for Texas Attorney General, is in a hard-fought race to create his own Texas history.

He has never held public office and has raised a mere fraction of the campaign cash of his Republican opponent, state Sen. Ken Paxton. Paxton, the Tea Party favorite, easily won the Republican runoff in May despite reports that he had violated a state securities law which he chose not to publicly address. After being reprimanded and fined \$1000 by the Texas State Securities Board for acting as the unregistered representative of an investment adviser, at least two police associations withdrew their support for his candidacy, including the McKinney Police Association from Paxton's hometown.

This is not Houston's first campaign. In 2008, although he lost his race for the Texas Supreme Court, his bid was the most competitive among Texas Democrats in statewide races. He lost with 46 percent of the vote.

Paxton's campaign spokesman dismissed the fine levied against the Republican front runner, calling Paxton's failure to register as an investment adviser "an administrative oversight." To protect the integrity of the state's chief law enforcement officer, Sam Houston, the 26-year Texas attorney, owns the clean record and will honestly and honorably fulfill the constitutional duties of the Attorney General.

TIME FOR THE HAMMER TO SERVE HIS TIME

Will the Hammer get to keep his get-out-of-jail-free card issued by highly-partisan Republican judges, which has kept him free on bond, while his co-conspirators pled guilty to illegally using corporate campaign funds?

The former House Majority Leader Tom DeLay, convicted in January 2011 of money laundering and conspiracy in a scheme to influence 2002 Texas elections, was finally summoned last month to appear for a hearing before Texas' highest criminal court. Last year, his conviction was tossed out by a lower court who cited "insufficient evidence."

Although he has spent not a day of his three-year sentence in prison, DeLay, appearing before the Texas Court of Criminal Appeals in June, had the audacity to announce: "A little justice might still exist in the Texas judicial system."

During the long reprieve that the Hammer has enjoyed, the flamboyant Republican dealmaker has enjoyed his "free" time, even appearing, in a pitiful performance, on the ABC reality show, *Dancing With the Stars*. In orthopedic shoes, wearing a sequined, leopard-print lined vest as something he called "Elvis meets animal print," the disgraceful dancer, who said that "Wild Thing" was an apt description of him in college days, received a score best forgotten.

The decade-long odyssey of DeLay's wrongdoing began in Austin on criminal charges of conspiracy to violate election law in 2002 by a Travis County, Texas grand jury. Any thinking Texan knows that anti-corruption laws have barred state candidates from using corporate funds since 1903. Yet, DeLay's Texans for a Republican Majority PAC raised almost \$700,00 in corporate dollars and used those funds to help Republicans win a Texas House majority in 2002.

Texans for Public Justice (TBJ) filed a brief on June 3 with the Texas Court of Criminal Appeals, urging the high court to reinstate DeLay's convictions for criminal conspiracy and money laundering. The brief asks the court to ignore the high profile case's many distractions and to focus on the fact that the jury reasonably concluded that DeLay conspired to raise, launder and spend illegal corporate funds on Texas elections.

If the court rules in DeLay's favor, the years-long case is over. If not, the court could reinstate the conviction or send it back to a lower court. The court will issue a ruling at a later date on whether to reinstate the conviction.

THE ALTAW™

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Magical Old World Itinerary On Tap For Todd Tourists

The Todd family of four—Alton, Nari, Seth and Kamilah—and senior travel companions, Florida residents Diane and Don Podnar, Nari’s mother and stepfather, are all looking forward to their first Viking River Cruise, a passage to Eastern Europe, beginning in early August.

From Houston, the six will depart for Frankfurt on July 29. A short flight from Frankfurt will take them to Prague, where they have added a pre-cruise extension to visit the acclaimed “City of a Hundred Spires,” the Czech republic’s vibrant capital. Here, for the viewing, will be many other palaces, churches and museums, as well as the opportunity to experience local culture in Wenceslas Square.

From Prague, an eight-hour train ride will end in bustling Budapest and a two-night stay in the “Paris of the East.” Embarking, on August 4 on Viking’s long ship *Aegir*,

the voyagers’ first stop will be in Kalocsa, Hungary. The next day they will wake up in Osijek, Croatia and the next in Belgrade, Serbia.

After scenic cruising through one of the most picturesque areas of the Lower Danube and passing the Iron Gate, one of Europe’s most spectacular natural wonders, the voyage proceeds to Vidin and Belgradchik, Bulgaria and on to Bucharest, Romania, named the “Little Paris of the East” and Romania’s cultural capital.

Disembarking in Giurgiu, the Todd assemblage will enjoy a two-night stay in the heart of Bucharest where they may encounter Romania’s mysterious Transylvania region and tour the famed Dracula Castle.

On August 13, all will return to the United States and to Houston and Tampa, marking the end of an amazing summer voyage.



Elizabeth Westphal

FUTURE LAWYER BENEFITS FROM LEGAL EDUCATION AT TODD LAW FIRM

Elizabeth Westphal, who will soon begin her third year of law school at SMU Dedman School of Law, has realized valuable training as a summer intern at The Law Firm of Alton C. Todd, where she has performed receptionist duties and “most excitingly,” she says, “I also get to complete legal work. I have done some research projects, gained more understanding about the BP case, organized information into charts and graphs, summarized trial exhibits, attended hearings at Galveston County Court House, sat in on a deposition and attended strategy meetings with a group of lawyers to really see the thought process behind litigating a case.”

A 2008 graduate of Friendswood High School, Elizabeth earned an academic scholarship to TCU, where she received a Bachelor of Science degree in political science with minors in history and English and graduated magna cum laude. A four-year tennis player at Friendswood, during her college career, she taught tennis for the City of Houston inner city youth program during the summers. That experience of actively giving back to the community and connecting with a diverse group of people “positively changed and strengthened me,” Elizabeth says.

At TCU, Elizabeth realized that she truly wanted to be a lawyer. She was fortunate to have a great mentor and professor, Dr. Riddlesperger, who supported her drive to pursue her dream, both challenging her in class and helping her to gain knowledge about the necessary steps to go to law school. Accepted at SMU’s law school, she was grateful, humbled and profoundly aware that her legal education was just beginning. There, two very diverse areas—tax law and civil litigation—particularly captured her interest. During the past tax season she

(Continued on Page 4)

Major Todd Completes ISR Program

Little Major Todd, 2-year-old son of Jeff and Dana Todd, is one of over 260,000 graduates of the unparalleled successful Infant Swimming Resource (ISR) program. The global leader in survival swimming



Major Todd

lessons for children 6 months-6 years, ISR focuses on one-on-one customized lessons taught by highly trained certified instructors. In all cases, even the youngest child will learn to roll onto his or her back, to float,

rest and breathe and to maintain this position until help arrives.

Major was able to learn the full ISR Self-Rescue steps emphasizing safety and competence, leading to confidence in the water. The Self-Rescue sequence instructs children in swimming until they need air, rotating onto the back to float and then rolling back over to continue swimming.

Featured on the *Today* show (www.today.com/video/today/37313517), ISR is supported in its mission, “Not One More Child Drowns,” by community sponsors and corporate partnerships. Founded in 1966 by Dr. Harvey Barnett, ISR believes that children are the most important part of a drowning prevention strategy and their 800 documented survival stories are proof that children can save themselves.

Major was fortunate to benefit from the expert lessons provided by Donna Penney at ISR Swim Safe Houston (<http://isrswimsafehouston-com1.webs.com/>) and thrived under the intense personal attention. Because of this life-saving program, Major can truly enjoy safely swimming with his older brothers, Tyler, 9, and Cooper, 7.

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Future Lawyer

(Continued from Page 3)

volunteered as a VITA (Volunteer Income Tax Assistance) tax preparer at the Habitat for Humanity location in Dallas.

Having previously clerked at an employment defense firm in Houston, this summer, before her 3L year, Elizabeth wanted to learn more about civil litigation. An internship at The Law Firm of Alton C. Todd gave her the opportunity to be associated with a firm that she had known from a young age and one that she had admired as consistently influential, ethical, and, “most of all, a place the community truly believes will help them, fight for them, if they call.” “Mr. Alton Todd stresses understanding and care for each case. He also explains facets of legal education that I will never find in a classroom, and, for that, I am truly grateful because it is the ultimate practical learning experience for my legal career.”

This internship has “truly been a fulfilling experience,” Elizabeth says, adding that it benefits her daily “to advance in applying a strong work ethic, progress in my ability to think and analyze efficiently and strengthen skills outside the classroom. Most importantly, I have a chance to learn what cannot be taught in a class.”

CLOSING STATEMENT

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‘Abortion Barbie’ Campaign Tactics Keeping It Classy in Abbott’s Texas

Funded by a Greg Abbott supporter and created by a conservative street artist, the pernicious poster depiction of Wendy Davis as a plastic “Abortion Barbie,” is a new low in crass campaigning in Texas. Designed to diminish the gubernatorial candidate, treating her as a toy, the malevolent poster preceded Davis’ arrival at a Los Angeles fundraiser. The shocking image of Davis’ face cut and pasted on a doll’s body with her stomach open and a fetus exposed while menacing scissors wait inches away is, as Davis has said, “demeaning and degrading to every woman.”

Although Matt Hirsch, campaign spokesman for her opponent, said that the posters were “not affiliated with our campaign, and we find it appalling,” it was only last year that Republican Attorney General Abbott thanked a supporter who called Davis “retard Barbie” on Twitter. The official response by the Abbott campaign to Davis’ fundraising in California was the

release of a new web ad, “Wendy Davis Gone Hollywood” with a Star Wars theme.

Abbott’s refusal to denounce the crude campaign posters was not surprising to Davis’ campaign spokesman Zac Petkanas who issued a statement that “this is just another in a long line of offensive actions and comments by Greg Abbott in an attempt to demean Wendy Davis and women across Texas.”

In an open letter to her attackers on her website www.wendydavistexas.com, which invited readers to sign in support, Davis wrote: “Mom said it, a co-worker shared it, my girls brought it to life, and most Texans prove it every day—true leaders just don’t promote and condone the brand of shameless attacks Greg Abbott has unleashed and refused to denounce in his campaign.” Expressing pride in her fight on behalf of Texas women and hardworking Texas families, the education-focused candidate concluded, “*I am proud to have hundreds of thousands of grassroots supporters working with me.* If we work together, we can create an economy built for the jobs of tomorrow and give our kids the 21st century education they need to compete in it.”

CHAPTER 95

(Continued from Page 1)

mother whose daughter, working for a roofing company, fell through a corroded roof area and died. The court concluded that Chapter 95 applies in situations where contractors are injured or killed repairing the object they are hired to repair, in this case a roof.

Traditionally restrictive on a plaintiff’s right to access the civil justice system, as interpreted by various appellate jurisdictions, Chapter 25 and its historic function as a contractor’s exclusive remedy, is prime for testing by the Texas Supreme Court.

ALTruism

It’s not whether you win or lose but how you place the blame.