



Todd Law Firm Opens Atlanta Office

The Law Firm of Alton C. Todd is proud to announce the October 1 opening of an office in Atlanta, Georgia. Jeff Todd, admitted to practice in Texas, New York, New Jersey and Georgia, practiced personal injury law in Georgia for several years before moving back to Texas. His wife Dana is also licensed in Georgia, Texas and her home state of New Jersey.

The Atlanta office is located at 1170 Peachtree Street, Suite 1200, phone 770.645.8633, fax 281.648.8633, website www.altontoddlaw.com

The firm is excited for the opportunity to help the fine citizens of Georgia whenever they may need personal injury trial attorneys to seek justice in their behalf.

Court of Appeals Affirms Victory For Railroad Workers

On October 18, the 13th Court of Appeals affirmed the 2010 jury verdict of \$810,000 in favor of injured railroad worker Carlos Donaway in the matter of *Donaway v. BNSF*. Attorneys Clint McGuire and Jeff Todd of The Law Firm of Alton C. Todd obtained the verdict in Montgomery County on behalf of Donaway who sustained injuries when the engine he was operating collided with railcars on a foggy morning in March 2009.

BNSF challenged the jury's verdict on several grounds, but the Court of Appeals concluded that the jury's verdict should stand.

TODDS ATTEND MEETING OF ACTL IN NEW YORK

Alton and Nari Todd attended the 62nd annual convention of ACTL (American College of Trial Lawyers) in New York City October 17-20. The meeting held at the Waldorf-Astoria coincided with the Alfred E. Smith dinner, at which both President Obama and Governor Romney spoke. The Todds did not see either candidate but were only a few feet away from Mayor Bloomberg at a later event that evening.

Prominent speakers included The Honorable Donald B. Verrilli, Jr., Solicitor General of the United States, and Robert S. Mueller, FACTL and Director of the Federal Bureau of Investigation. The Todds also attended the Broadway show, *Once*, a disappointing choice.

President Obama Validates Priority of Courts

Based on their "talent, expertise and fair-mindedness" and continuing his commitment "to ensure that the judiciary resembles the nation it serves," President Obama announced seven nominations for federal district courts just one week after the presidential election. Because "too many of our courtrooms stand empty," the President asked the Senate to promptly consider the new judicial nominees.

When Obama took office, there were 55 vacancies on the federal bench. During his first term, that number rose to 82, largely due to a campaign of obstruction by Senate Republicans. Eight additional federal judiciary vacancies are anticipated before the end of his current term. As of November 14, the Senate had confirmed 160 Obama nominees, two justices to the U.S. Supreme Court, 30 judges to the U.S. Courts of Appeals and 128 to the U.S. District Courts. Obama named 72 women to the federal bench, the most ever appointed in one presidential term.

In January, a brief window will open up permitting the Senate to enact major filibuster reform with only 51 votes. Republican

retaliation is predicted to a seldom-used procedure that could allow Democrats to change rules without GOP support.

Conservative attacks on voter enfranchisement and the problem of partisan gerrymandering represent important issues facing the judiciary. Although Democratic House candidates received over half a million more votes than Republican candidates in the last election, because of gerrymandering, Republicans will have a comfortable majority in the incoming House of Representatives.

Many of the Roberts Court's decisions have favored powerful corporations, and that is because of the abundance of former corporate attorneys who serve on the federal judiciary and are sympathetic to former clients. To address an obvious imbalance, plaintiffs' attorneys are needed on the federal bench to insure that workers and consumers are also represented.

The Court's conservatives seem also determined to undermine decades of progress on women's rights, an issue that Justice Ruth Bader Ginsburg has championed as director

(Continued on Page 3)

From Our Firm To Your Family

Happy Holidays, New Year's Blessings



First Row: L to R: Attorneys Clint McGuire, Alton C. Todd, and Jeff Todd
Second Row: Nari Todd, Karen Hoisington, Heather Ybarra, CiCi Montalvo, Dena Kana, Wayne Salee, Carole Brooks, Julie Gongalez, Jennifer Evans, and Faith Falcon. Not Pictured: Janice Christensen

LAW SCHOOL DEAN FUNDS STUDENTS' ABA MEMBERSHIP

Trial lawyer and dean at Missouri's Saint Louis University School of Law, Tom Keefe, is financing American Bar Association memberships for all 836 of the school's students. According to an ABA spokesman, Keefe's benevolence makes Saint Louis one of five law schools in which each student belongs to the ABA's Law Student Division. Previously, only 20 percent of the school's students were ABA members.

A Saint Louis alumnus, Keefe announced, following his August appointment, that he would donate his dean's salary to the university while continuing his law practice.

The ABA memberships will cost about \$14,212 and provide students the opportunity to seek ABA grants and participate in ABA committees and sections.

Teresa Todd Elected County Attorney in Far West Texas

On January 1, Teresa Todd, sister of Alton C. Todd, will assume the position of Jeff Davis County Attorney, having defeated incumbent Bart Medley in the November 6 election. Todd won the majority of votes in all precincts on Election Day and all but one precinct throughout early voting. She received 59 percent of the vote to her opponent's 41 percent.

Todd attributes her victory to "working hard" and "sheer numbers," citing the high voter turnout in the tri-county area of Jeff Davis, Brewster and Presidio. A 1988 Magna Cum Laude graduate of Texas A&M, she earned her law degree at the University of Texas School of Law in 1991. The Presidio County attorney from 1994 to 2004,

she currently serves as attorney for the cities of Marfa and Valentine, as well as legal counsel to the Development Corporation of Presidio.

A top priority for the new Jeff Davis County Attorney is to change the county's non-compliant status with Chapter 60 of the Texas Code of Criminal Procedure, which states that in order to receive state grants each county should have a 90 percent completion rate of reports of criminal cases in the state's criminal history system. Of 254 counties, Jeff Davis County, according to the Texas Department of Public Safety, is at 48



Teresa Todd

TEXAS CAN SECEDE BUT WON'T

Only the states of Texas and Hawaii were recognized as independent nations before volunteering to join the union. Their decision did not come with an explicit agreement that they could never leave. On February 1, 1861, with a state convention vote of 166-8, over the objections of Governor Sam Houston, Texas seceded.

Now, Texans have filed another secession petition. By November 16, the petition to "peacefully grant the State of Texas to withdraw from the United States of America and create its own NEW government" had more than 100,000 signatures. Having crossed the White House's 25,000-signature threshold, the stage was set for an official U.S. government response.

The Altlaw predicts that the petition will go nowhere. However, because there is no law forbidding or allowing secession, confusion keeps alive the question of its legality. When Texas joined the United States in 1845, there was at least an *assumption* that it could also leave, as Governor Rick Perry said in 2009, "any time we want. We're kind of thinking about that again." Now, it seems, since he has not endorsed the petition, the governor is no longer interested in withdrawing.

There is no provision in the Texas Constitution that reserves the right of secession, although it is stated that "Texas is a free and

(Continued on Page 4)

percent and ranks 253rd and ineligible to even apply for criminal justice or homeland security funding.

Todd, who campaigned on a track record of hard work and dedication, looks forward to Commissioners' Court meetings each month and advising elected officials on legal issues as requested. Her self-directed mandate is to treat everyone fairly and ethically despite whatever they may bring to court. "Another reason I ran, and am really excited about being elected," Todd says, "is that it will allow me to do the majority of my work closer to home in Jeff Davis County and to spend more time with my family." Her husband Marc has worked at McDonald Observatory for 23 years, and sons Shadix, 11, and Haden, 8, attend elementary school in Fort Davis.

Cousins Enjoy an Autumn Day of Fun and Frolic



Presley Evans, Major Todd, Avery Evans, Cooper and Tyler Todd, grandchildren of Alton C. Todd. Twins Presley and Avery are the daughters of Jennifer Todd Evans and Chris Evans, and the boys are sons of Dana and Jeff Todd.

ALtruism
*Blessed are those who
can give without
remembering and take
without forgetting.*

Hurricane Sandy Gives Pause To Remember, Cause To Contribute

This holiday season it is important to keep in mind the story of Superstorm Sandy and its cruel impact on millions of people from the Caribbean to the northeastern United States. For the millions more who were geographically unaffected, this sacred season offers a timely opportunity to remember those who have lost everything.

There are many organizations involved in relief and recovery work in areas devastated by the storm that tailor their attention to meet the changing needs of people and communities. Monetary donations help them to react immediately in critical sectors including search and rescue, health and medical, water, sanitation, communication, veterinary care and others. Nearly 8,800 Red Cross workers have been deployed to operations in several states with the majority in Greater New York and New Jersey. A remarkable relief effort organized by two women who live north of New Orleans in a community hardest hit by Hurricane Katrina resulted in the delivery by an Amtrak train, renamed "The Train of Hope," of five tons of relief supplies to Newark. The goods were then trucked to the Jersey shore.

The greatest gifts come from the opening of hearts.

Obama Validates

(Continued from Page 1)

of the ACLU's Women's Rights Project. If, as expected, Justice Ginsburg retires during Obama's second term, it is vital that her replacement demonstrate a similar commitment to equality for all Americans.

THE ALTLAW™

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Todd legal team (Jeff, L. Alton, r.) present settlement check to Mike McCraven, a crane operator employed by Austin Industries, who was burned in 2007 when he fell into an open sluiceway full of boiling water at a Pasadena Refining System Inc. plant.

Injured Refinery Worker Collects Damages Awarded by Jury

Five years after the accident that resulted in second and third degree burns and permanent loss of feeling in his feet, Mike McCraven has achieved justice. In his lawsuit against PRSI, (Pasadena Refining System, Inc.) McCraven was represented by Alton C. Todd and Jeffrey N. Todd, and the resolution of the case earned **Verdict of the Week** in the state of Texas. The suit alleged negligence in leaving drain covers off a sluiceway which created continual flooding of the area with boiling water. PRSI then sued Austin Industries for failing to adequately communicate the existing conditions to McCraven.

The plaintiff's psychiatry and vocational rehabilitation and orthopedic experts agreed that McCraven suffered from post-traumatic stress disorder and was unable to return to work as a crane operator. In the three-week trial in Harris County in 2010, the jury found PRSI 75 percent, Austin 20 percent and McCraven 5 percent liable and awarded McCraven \$5,695,370 in damages.

The jury's decision and the judgment of recently re-elected Judge Michael Englehardt were affirmed in a unanimous decision of the 14th Court of Appeals sitting in Houston. The case was settled after the appeal.

INSURERS' CONSPIRACY CHEATS THE LIVING AND THE DEAD

A multistate investigation that began in 2008 to determine how the life insurance industry handles unclaimed death benefits has determined that insurers have failed to pay more than \$1 billion in death benefits over the years. At issue was the industry's selective use of the Social Security Death Master File database. Regulators say that insurers used the database to cut off annuity payments to deceased policy holders but not to identify beneficiaries who failed to file claims.

In a negotiated settlement involving seven states—California, Florida, Illinois, New Hampshire, North Dakota, Pennsylvania and Ohio—Nationwide agreed to pay \$7.2 million to state insurance departments and to change how it handles life insurance death benefits. The agreement requires the company to crosscheck its life policies against the Master Death File every month to locate beneficiaries of unclaimed policies. If unable to locate beneficiaries, the insurer must pay the policy

benefits to the unclaimed property division of the state where the deceased resided.

Similar settlement agreements were achieved with Prudential, who paid \$17 million to state insurance departments and Met Life, who paid \$40 million. Penalties for AIG totaled \$11 million, Lincoln Financial was also under task force review, and John Hancock Life Insurance Company reached an agreement with Florida before the task force was formed.

According to the Florida Office of Insurance Regulation, Nationwide has identified 4,747 unclaimed death benefits and has already paid \$144.1 million to beneficiaries.

While the intervention of the National Association of Insurance Commissioners is a positive step in reforming the unethical practices of life insurers who still deny any wrongdoing, a continued crackdown on this unthinkable travesty is demanded beyond the payment of their penalties.

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**COMPROMISE NOT A DIRTY WORD, SAYS BARBARA BUSH;
VOTING HISTORY SHOWS HEEDLESS, GRIDLOCKED CONGRESS**

At a November conference in Austin celebrating “The Enduring Legacies of First Ladies,” former First Lady Barbara Bush displayed the candor, humor and goodwill for which she is known. “I’m tired now of the election,” she said. “I want to get on and have people do positive things and not be ugly and mean.” Both Democrats and Republicans are going to have to compromise, she warned. “It’s not a dirty word.”

As Mrs. Bush noted, the ability to compromise is part of the way to get things done in politics and in life. Sadly, the 112th Congress has not demonstrated that faculty. *The Washington Post* U.S. Congress Votes Database shows that the 51 Democrats in the Senate voted with their party an average of 94-95 percent of the time. The 48 Republican Senators voted straight party 41 to 92 percent of the time, only 12 voting with their party over 90 percent of the time. Senator Dean Heller, NV, distanced himself from his party in 59 percent of his votes.

The 244 Republicans controlling the House voted 69 to 100 percent of the time with their party, a majority well over 90 percent. Speaker John Boehner, OH, and Christopher Lee, NY, voted straight party every time. Like their Republican counterparts, the 197 Democrats in the House voted with their party over 90 percent of the time. Oklahoma Congressman Dan Boren voted straight party only 50 percent of the time.

This conservative Congress laid the foundation for Republican obstruction when Democrats captured the Senate in 2007 and Senate Minority Whip Trent Lott offered a successful strategy for derailing the new Democratic majorities. During his first four years in office, Republicans blocked Obama’s agenda through an unprecedented use of the filibuster, a stark contrast to the treatment afforded past presidents. Fewer judges were confirmed during Obama’s first two years in office than during the same period of the Carter administration although the judiciary was 40 percent smaller when Carter was president.

A broken Congress is stuck in partisan gridlock. Even as the president and Republicans explore an ability to compromise on top tier issues, a potentially bitter fight over Democratic efforts to curb filibusters threatens to inflame tensions in the Senate.

Anyone can say “no.” It takes strength and resourcefulness to effect a workable compromise.

**TEXAS CAN SECEDE
BUT WON’T**

(Continued from Page 2)

independent State, subject only to the Constitution of the United States.” It also states that “the people have the right to alter their government in such manner as they might think proper.” The U.S. Constitution is silent on the issue.

Some argue that the U.S. Supreme Court decision in *Texas v. White* a few months before the readmission of Texas to the union in early 1870 proved that secession is unconstitutional. The decision was actually in conflict with the actions of President Grant who had to sign an act to “re-admit” Texas. If Texas had never left, the Court declared it would not have needed the president’s signature to be re-admitted. The argument over whether the readmission of Texas violated the Court’s decision persists. No wording in the Constitution addresses the statutory process for readmission of states.

Today’s secessionist cause is strikingly different from events in 1861. The specter of a major slave insurrection and the ascendant Republican party with the election of Abraham Lincoln created pressure on Houston to call a convention to consider secession. The text of the Texas petition in 2012 cites “economic difficulties stemming from the federal government’s neglect to reform domestic and foreign spending.” It further claims that citizens are suffering “blatant abuses of their rights.” Considering that the state of Texas is the 15th largest economy in the world, the petition considers that secession is practically feasible to protect citizens’ standard of living and their rights and liberties.

Regarded by many as “ridiculous,” the Texas petition will be subject to the voice of reason. The will of the current administration will prevail in determining the outcome.

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*