



Happy 100th Birthday To Dear Aunt Nola!

On December 13, Nola Comfort will be 100 years old, entering the exclusive society of only about 0.7 percent of the 2,965,000 born in 1915 to reach the century mark.

Nola was the first of three daughters born to a Texas Panhandle farm family in 1915, 1920 and 1925. Her sister Lucille, now living in Webster, TX and the mother of Alton C. Todd, will be 96 years old on January 21. The youngest, Winnie Holsomback of Manford, OK, turned 90 on July 27.

While living with Lucille and her husband, Ruel Todd, in Dallas, Nola worked



Sisters Nola Comfort, left, and Lucille Todd



20th Century Nola Harris Comfort

(Continued on Page 4)

From Friendswood, TX To Friends Everywhere

Merry Christmas and a Peaceful New Year



The Law Firm of Alton C. Todd: Jeff Todd (L) and Alton Todd; Standing (L-R): Jennifer Todd Evans, Faith Falcon, Yvonne Freeman, Elizabeth Westphal, Dena Kana and Crystal Salinas

Doctors Who Advocate For Patients Risk Contract Termination in Texas

A Texas appellate court in August ruled in favor of Coventry Health Care’s expelling Dr. John C. McConnell from its workers compensation health care network. Dr. McConnell, a Board-certified orthopedic surgeon, detailed his displeasure with the Liberty Mutual Insurance Co. in his treatment notes after being denied authorization for procedures he had recommended for three injured workers. Liberty complained to Coventry, and Coventry terminated its relationship with McConnell, who sued Coventry for unlawfully disparaging his business, interfering with his business relationships and breach of contract. He also sued Liberty for tortiously interfering with his business relationship with Coventry. When Dallas County District Judge Emily G. Tobolowsky granted summary judgment favoring both defendants, McConnell appealed.

Attorneys Alton C. Todd and Iain G. Simpson represented McConnell on the appeal. Their appellate brief noted that neither defendant suggested that McConnell’s medical care was a basis for his contract termination. Doctors have a duty to advocate for their patients’ best interests, Todd said, observing that both

Coventry and Liberty agreed, but “they just didn’t like the way he advocated.”

Todd and Simpson urged the 5th District of Appeals at Dallas to reverse the trial judge’s finding, insisting that Liberty and Coventry’s treatment negated the purpose of the Texas Workers’ Compensation Act, which is designed to provide employees injured at work with medical care and weekly benefits without having to prove fault.

An undeterred 5th DCA affirmed the trial court’s judgment. Upon hearing the court’s decision, claimants’ attorney Mike Doyle of Doyle Raizner said “It’s outrageous that a doctor’s attempt to document the harm being done by an insurer to his patient can become a basis for wreaking economic devastation on the doctor.”

This case clearly illustrates the economic and ethical dilemmas doctors face when treating patients. A petition to the Texas Supreme Court, asking that the court reverse the Dallas Court of Appeals decision was denied. “The chilling effect, it seems to me,” Todd said “is that if a network can determine what a physician can enter in medical records and whether a patient should or should not have a procedure, what doctor is going to advocate for the patient and risk being terminated?”

No Billboards For Todd Law Firm

(Editor's Note: The first *ALTruism* featured in the first issue of *The AltLaw* in December 1995 was "A lawyer too big to try a small case is too small to try a big case." That philosophy has not changed.)

By Alton C. Todd

Over the years, we have been privileged to represent both single and multiple plaintiffs injured in minor and catastrophic accidents. In 2000, we obtained the world's largest verdict in a personal injury case ever rendered against Honda, \$65 million. Shortly after that, we obtained a verdict against the Flagship Hotel for \$11.5 million. A few years ago, we recovered a \$5.4 million verdict under Chapter 95 of the Remedies Code. Only 2 of almost 40 cases appealed throughout the state have been affirmed on appeal, and ours was one of them. Last year we recovered an \$8.4 million verdict following an offer of \$600,000. Along with many large monetary verdicts, we have tried cases equally important to the client and to us with the liability being a small car crash and the damages significantly less, but the result was still a win under the facts of the case.

To our philosophy that "a lawyer too big to try a small case is too small to try a big case," we add "we may not be good, but we are dangerous." A lawyer is only "dangerous" if unafraid to show up and answer, "the Plaintiff is ready, your honor." On the insurance defense side of Mills,

Shirley, McMicken and Eckel, we represented the largest workers' compensation carrier in Texas. I was assigned the defense of cases almost impossible to win. The advantage for the client was a cap on what I could lose, perfect for a young lawyer as I got to pick a jury, make an opening statement, cross examine witnesses, including experts, and argue to the jury in closing, the same thing you do in every case, large or small. I learned not just how to try a lawsuit, but to "have no fear." We hate to lose, but we are not afraid. We have lost both big and small cases, but from those experiences we learned how to be better. Often, where facts seem to favor the defense, defense counsel inevitably will brag about how they're going to kick us around in the courtroom. My response is, "we are defense lawyers' worst nightmare because if my side loses, we lose a case. If you lose, you lose a client." It's amazing how that observation fosters settlement in even difficult cases. Another thing that makes us dangerous is our faith in a higher power. We do not walk into a courtroom alone, and that is comforting and powerful.

It is important that clients hire a lawyer who will try their case, not one who looks just to make a profit and settle. We have found, on both sides of the docket, that true trial lawyers are a rare breed. I suggest that people ask potential lawyers how many similar cases they have tried and won and not settled but *tried*. We encourage settlement but on our clients' terms. There is a saying that if you prepare a case to settle, it will go to trial and that if you prepare a case for trial, it will settle.

Some fellow lawyers question the economic wisdom of taking this approach and the business model we have followed, including not actively advertising. If we were in the profession just for the money, that approach would not be wise, and we would be among the mass advertisers you see on billboards and television. That is not why we became lawyers. Our clients know us first as lawyers. We hope they leave as friends. Every day when we go to work we have the opportunity to make a difference in someone's life and make a hell of a living doing it. We think we have the best job there is.

ALTLAW MARKS 20TH ANNIVERSARY

Issue 1, No. 1 of *The AltLaw*, a newsletter from The Law Firm of Alton C. Todd, was published in the winter of 1995. (It seems like yesterday.) That inaugural issue addressed the political promise of "tort reform," the cost of medical mistakes and the record of plaintiffs' success records both in Texas and throughout the nation. Although there were no pictures, and the 11x17 format changed in the very next issue, the identifying motto, then, as now, was "Your Case Is Our Cause."

In 1999, the law firm, then located in Alvin, opened a Friendswood office and later purchased and renovated the historic Brown House in Friendswood, moving its principal office to that location in July 2000. Still later, satellite offices were opened in Houston, San Antonio and Atlanta.

The AltLaw, edited since its origin by Mother-in-LAW of Alton C. Todd, Diane Podnar, has covered gains and losses on both a personal and professional level, featuring items of human interest, as well as the hard news legal activity affecting the firm. Through these years, the firm has been enriched by many awards and accolades, earning Top Texas Verdicts and exclusive national membership by Alton C. Todd in the Top 100 Trial Lawyers in Texas by the American Trial Lawyers Association. In 2007, Jeffrey N. Todd joined his father's law firm, where his sister Jennifer Todd Evans is receptionist. In 1995, Alton's youngest, Kamilah Todd, was two years old. In May, she graduated from SMU. Her brother Seth, then 8, will receive his law degree from Emory University in May. Law lives on.

Correction

In the Fall 2015 issue of *The AltLaw*, Kai Todd, grandson of Alton C. Todd, was featured as an outstanding 5th grader at Bales Intermediate School in Friendswood. Regrettably, the name of Kai's father was omitted. Sincere apologies to Mike Todd, who graciously dismissed the omission: "No need to worry. I am so proud of Kai, and as long as he gets the recognition he has earned, I am totally happy."

THE ALTLAW™

The *AltLaw* is published as an informative service to clients and potential clients. Information in this newsletter is not a substitute for legal counsel. For legal counsel and free consultation, please call:

THE LAW FIRM OF ALTON C. TODD

Principal Office:

312 S. Friendswood Drive
Friendswood, Texas 77546

Toll Free: (888) 388-TODD (8633)
Alvin-Houston: (281) 992-TODD (8633)
Facsimile: (281) 648-TODD (8633)
<http://www.altontodd.com>

Houston Office:

4141 Southwest Fwy, Ste. 300
Houston, Texas 77027
Phone: (713) 623-2337

Facsimile: (281) 648-TODD (8633)
<http://www.altontodd.com>

Georgia Office:

1170 Peachtree St., Ste 1200
Atlanta, Georgia 30309
Phone: (770) 645-8633
Facsimile: (281) 648-8633
<http://www.altontoddlaw.com>

ALTruism

**If you argue right,
you are never wrong.**

Todd Lawyers Recall 1st Jury Contact

(Editor's Note: Looking back over the 20 years that *The AltLaw* has been a viable publication, representing The Law Firm of Alton C. Todd, occasioned a request of Alton C. Todd and his son, Jeff, to share memories of their very first trial. Responses, interesting and revealing, follow.)

My First Trial: A Defense Verdict!

By Alton C. Todd

On June 3, 1973, Mary Moody was cleaning corn at her kitchen sink at her home in Alta Loma, TX. She lit a cigarette, and flammable gas, coming from the faucet exploded, causing injury. She sued the City of Galveston for providing water that had flammable gas in it. At that time, part of the water supply of the city of Galveston was provided by 14 water wells in Alta Loma. Gas would accumulate in the water wells and, although treated, would be transported by main lines and ultimately to customers' homes. Because the gas would often interfere with the metering of the water when supplied to a customer's home, the city would give rebates on the water bill. Mrs. Moody sued the city for her injuries, claiming negligence, breach of warranty and strict liability.

The case was tried in the 212th District Court in Galveston before a jury with Judge William "Bill" Decker presiding. The courtroom was being used, so we tried the case in the jury assembly room of the old courthouse at 722 21st Street in Galveston. I was with the defense firm of Mills, Shirley,

McMicken and Eckel and designated as lead counsel for the Defendant City of Galveston. John McEldowney was my second chair. A lawyer named Thomas Harlan of the Crouch & Crouch Law firm in Alvin represented the plaintiff, Mary Moody. Much to everyone's surprise, the jury found for my client, the City of Galveston.

The case was appealed, and the court of appeals reversed the jury's verdict, one of the first courts in the country to hold that a city could be held strictly liable for the condition of the water. Although the case was scheduled to be retried, it was settled.

I was often asked how we were able to obtain a defense verdict with the facts of this case. As noted, the trial was in the old jury assembly room, and the acoustics were horrible. My answer was simple: "The jury never heard the evidence."

As an aside, in Crouch & Crouch, the firm defending the case, one of the partners was A. G. Crouch, a long time neighbor and one of my best friends. He has also served the Todd family as Santa Claus for the last 22 Decembers.

MY FIRST TRIAL: I LEARNED THE DEFINITION OF JUSTICE

By Jeffrey N. Todd

The first trial for any "trial lawyer" is truly a watershed moment. It is the moment you have prepared for but cannot truly practice for. It is the moment you will learn if you are cut out to actually stand before a jury of your so-called peers and advocate for your client. It is intense and there is no hiding.

My first real trial was with my father in 2008. Prior to that, I had tried more than 50 cases before administrative law judges and in small claims court. This was different. This was my first jury trial: the first time to pick the jury and first time to pursue the truth through the jury system.

It was a relatively straightforward auto collision case. Our client had been rear-ended, and the defendant driver was clearly at fault. However, the defendant denied responsibility, and we were forced to prove all the elements of our case at the expense of the jurors' valuable time and the taxpayers' money. Huge waste of resources, but the insurance company, unbeknownst to the jury, had determined through extensive studies and statistics that monetary awards are reduced when the defendant simply denies liability in every case. Even in obvious, no-brainer cases of fault, defendants should simply say "it wasn't my fault" and hope the jury will not punish them for refusing to accept responsibility and wasting their time. In fact, the statistics show that the at-fault defendant is rewarded for this behavior. The jury feels they have helped the plaintiff by finding him or her responsible, and then they help the defendant by awarding a low amount. They somehow feel bad that they found the defendant at fault and reduce the damages the defendant has to pay. They don't realize that the defendant isn't paying the judgment, and they have actually rewarded an insurance company for this time-wasting, manipulative trial tactic. Pretty stunning to learn of this strategy in my first trial but we had to march on.

My dad had told me so many trial stories over the years and of how unpredictable a trial can be. I guess it was my turn to experience it myself. Our client, a very likeable and stoic man, got onto the witness stand to testify about this relatively minor motor vehicle collision and the impact it had on him. I thought it would be easy and only take a few minutes. I was wrong. What I had believed was a very minor motor vehicle collision had actually changed my client's life forever. He was sobbing uncontrollably and it was difficult to proceed with the testimony. We got through it but I learned to never take your client's situation for granted and to be prepared for anything.

The jury ultimately returned a small verdict for our client. We won but it did not feel like it. It was a tough pill to swallow. We wanted more for our client because he deserved it. Our client, on the other hand, was

(Continued on Page 4)

Jeff Todd Inducted Into ABOTA



Alton and Nari Todd, Dana and Jeff Todd at the October 24 induction of Jeff Todd as a new member of the American Board of Trial Advocates. The annual event of the Houston chapter was held at LaColombe D'Or.

THE LAW FIRM OF ALTON C. TODD

312 South Friendswood Drive
Friendswood, Texas 77546-3904

RETURN SERVICE REQUESTED

PRESORT
STANDARD
US POSTAGE
PAID
ADVANTAGE
1800 S. Egret Bay Blvd, #6103
League City, TX 77573

My First Trial

(Continued from Page 3)

relieved and happy. Someone had fought for him and he was allowed to get some raw emotions out in the process. It was justice in his mind. In my very first jury trial, I learned that “justice” is defined differently by almost everyone depending on their situation. It is something that cannot be measured by anyone but the person to or from it is given or taken. It isn’t something for me to define or pursue. Rather, I learned that I can only seek the truth and hope that some measure of justice comes from that pursuit.

Although my notes from that first trial are sparse, the memories and lessons are many. I’m glad *that* trial was my first trial and that my father was there with me to experience it.

Happy 100th Birthday

(Continued from Page 1)

at her first job in a factory. In 1941, she found work sewing military uniforms. While riding a streetcar in Dallas, she met her future husband, a city boy named Cliff Comfort. They married in 1942, and nine months later, their only child, Cliff Jr., now a CPA in Arizona, was born. A farm girl, Nola added chickens and a garden to their little city home, which helped to support them during tough financial times. While shopping at Safeway, she was offered a checker’s job, which she held for 20 years. She is still sharp with numbers and often wins at dominos.

Now a widow, confined to a wheelchair due to a fall and hip replacement, and a resident of Laurenwood Nursing Home in Duncanville, TX, Nola always has a smile and kind words for everyone she meets. Her indomitable spirit keeps her moving all day long with a few naps along the way.



Nari and Alton Todd at Mt. Rushmore on 25th Anniversary

Todds Observe Anniversary in Western Regions

Alton and Nari traveled to South Dakota and Wyoming on the occasion of their 25th anniversary. They have long wanted to visit Mt. Rushmore, where they discovered there was too much to see on a four-day trip. They hiked around Devil’s Tower in Wyoming and enjoyed the colorful fall foliage in Custer Park. In Deadwood, reliving the days of the Old West, they gambled at Saloon #10, famous for the shooting death of Wild Bill Hickok. Later, they visited Mt. Moriah Cemetery, burial sites of Wild Bill and Calamity Jane. Apparently, she always had an unrequited crush on Bill and when she died 27 years later, her wishes to be buried next to him were honored.

From the Black Hills to the Badlands, South Dakota is a beautiful and majestic

state, and, fortunately, much of it is preserved as national parks and forests. The Todds saw buffalo, wild turkeys, bighorn sheep, deer and thousands of cute, chubby prairie dogs. Mt. Rushmore is impressive, but Crazy Horse is a magnificent work in progress. Alton and Nari were present on Native American Day and were able to witness a blast, a small step towards completing the huge memorial to honor our original Americans.

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