



# Newsletter

**AUSTIN CHAPTER**

**AMERICAN BOARD OF TRIAL ADVOCATES**

**EDITED BY: JASON SNELL**

## Table of Contents

<b>Karen Burgess – Building the Foundation</b>	-	<b>2</b>
<b>Hon. Tim Sulak (Ret.) – Reflections on Professionalism &amp; Civility</b>	-	<b>3-4</b>
<b>Robby Alden – A Note About the Trial Academy and Ad-Litem Program</b>	-	<b>5</b>
<b>Potential New Members – April 1 Deadline</b>	-	<b>6</b>
<b>April 14 CLE</b>	-	<b>6</b>
<b>A Statement from San Francisco ABOTA</b>	-	<b>7</b>
<b>Mark Your Calendar</b>	-	<b>8</b>

# Building the Foundation

By: Karen Burgess, Chapter President

[https://www.abota.org/Foundation/Foundation/Donation\\_Type.aspx](https://www.abota.org/Foundation/Foundation/Donation_Type.aspx).

Dear Austin ABOTA:

A couple of years after I got involved with ABOTA, I tried to electronically vote in the Foundation's trustee elections. I thought my link was defective and asked Eric for tech help, but no—I was not a fellow of the Foundation.

Austin could be a leading chapter in Foundation participation if we just knew about it and how to join. Let's spread the word and the mission of promoting the 7<sup>th</sup> Amendment and the civil justice system.

Today I have the honor of serving as one of those trustees, and I can attest that the ABOTA Foundation carries out the work of our mission directly, through grants and through chapters, with three main programming focuses: Civics Education, Professional Education and Public Education.

## **Civics Education** includes

- professional education programs for teachers (the Teachers Law School),
- field trip opportunities for students (the James Otis Lecture Series),
- literacy programming on social justice for k-6 through the Civics Education Literacy Program and
- online library of written and video resources for teachers (<https://www.teacherspayteachers.com/Store/Abota-Civics-Education>)

## **Professional Education** assists chapters with

- Masters in Trial
- other substantive CLE
- Civility Matters

**Public Education** partners with Save Our Juries (<http://saveourjuries.org/>) to inform the public about and, involve the public in, preserving the jury system and encouraging jury service.

Please consider getting involved in this work and joining the Foundation. The \$1,500 commitment can be spread across five \$300 annual payments.

# Reflections on Professionalism and Civility

By: Hon. Tim Sulak (Ret.)

I recently received a very great honor from the Austin Chapter of ABOTA, giving me the opportunity to express my sincere appreciation through some comments to the membership. Apparently, that provoked a request that I share some of them for publication in the newsletter. While both flattered and humbled by the request, I question what I may offer without seeming to be overly simplistic, sanctimonious, or both, to a group of consummate professionals. Being committed to the principles of ABOTA, the members are well aware of the importance of preserving and protecting trial by jury and due process of law. Nevertheless, I venture into the breach, if only to attempt meet the request of our leadership.

I acknowledge some of my inherent biases as a fourth-generation Texan and an Austinite for all of my adult life. But having practiced law here for more than thirty years, followed by ten years as a trial judge, I am of the firm opinion that Austin has more than its fair share of trial lawyers of the highest quality, with ABOTA members being among the best of the best and, therefore, among the best in Texas, and in the entire nation — a matter of justified pride.

Reflecting on these things, I recall the sense of awe and respect for the rule of law that I felt upon seeking admission to law school. I also recall the sense of accomplishment upon passing the bar exam, giving me license to speak on behalf of clients who entrusted me with significant matters of their rights, dignity, and equities in times of conflict, fraught with emotions of fear and uncertainty. Beyond all that, I was then honored with the opportunity to preside over those kinds of disputes (which carries societal recognition of

being referred to as “honorable”). I encourage you to regularly revisit and rekindle your own feelings in those regards as a source of inspiration and motivation, especially in times of stressful day-to-day adversities (which are our collective stock and trade).

Having held those positions of privilege, I am struck with my duty to preserve the foundations provided by preceding generations for our use, and to improve upon them for succeeding generations.

As a law clerk and young lawyer, I was fortunate to have the guidance and kindness of mentors who were themselves ABOTA members held in high regard. They provided lessons in how the practice of law was really done; how it should really be done; how to disagree without being disagreeable. They recognized and confirmed for me that in order to earn respect, one must give respect.

I commend periodic review of ABOTA's Code of Professionalism and Principles of Civility, Integrity and Professionalism (which were provided upon admission and which are accessible through the Association's website). They speak, much better than I can, of a profession (rather than an occupation) committed to public service, education, charitable and pro bono activities, encouraging respect for the law, the courts, and the right to trial by jury. Similarly, an at-least annual review of The Texas Lawyer's Creed (which may qualify as self-study for the ethics requirements of continuing legal education) can help refocus and clarify the role of the legal profession to the system, the client, the adversary, and the judge.

Additionally, I fully recognize that judges are fallible and subject to error (having both appeared before many, and having served as one). In that regard I also commend ABOTA's Protocols for Responding to Unfair Criticism of Judges which furthers those efforts when unwarranted criticism would unfairly diminish that respect for our institutions (as differentiated from particular requirements, outcomes or individuals).

Lawyers throughout history have understandably been subjects of derision — after all, we zealously advocate for outcomes that opposing parties resist. It is, therefore, incumbent on the profession to earn respect by showing respect for the system, the process, and the rules (and, where necessary or desirable, work for their improvements). Our founders recognized the importance of these things, enshrining them in our most essential and consequential creeds, which require constant vigilance.

Provide mentoring to those who will follow us, entrusted with preserving our legacy. Use your powers of persuasion to actively educate others on the importance and majesty of the rule of law, for if we lose the trust and confidence of the public, we lose our prospects for peaceful and productive co-existence.

I thank you for your devotion and dedication, and I congratulate you on your accomplishments which benefit not only your self-interests, but more importantly, those of our community at-large.

**By: Robby Alden, Member**

ABOTA/Inns of Court Trial Academy

In May 2019 the Austin Inns of Court and Austin ABOTA chapter conducted their first Trial Academy at the University of Texas School of Law. This program is designed to give younger lawyers that are members of the AIC an opportunity to learn trial strategies and techniques from experienced ABOTA members, many of whom are also Inns of Court members.

The program takes place over two consecutive weekends, with the first dedicated to practice performances and the second to mock trials. Before the first weekend the students are provided case materials, like those used in typical mock trial competitions or NITA programs. The first weekend is dedicated to working on opening statements, direct and cross examination, and closing arguments. After hearing a presentation made by an ABOTA faculty member, the students perform while being videotaped. The ABOTA faculty provide feedback during the performance, and an ABOTA member also sits with each student when they view the video of their performance.

Prior to the second weekend, the students are paired with a partner and assigned the role of either plaintiff or defense. In 2019 the trials were conducted in the UT courtrooms, with real jurors, and with Judges Tim Sulak and Bill Henry presiding. As in mock trial competitions, the lawyers for each two-person team divided opening and closing, and each side presented two witnesses, giving each lawyer an opportunity to handle both direct and cross. One of the unique aspects of this program was the opportunity for the students to view the jury deliberations via closed circuit television. This two-week program provides the students with on-on-one instruction, and feedback from accomplished lawyers, judges and jurors.

Austin's second Trial Academy was scheduled for the end of May 2020, but was canceled due to COVID. We hope to conduct our second Trial Academy before the end of 2021.

ABOTA Foundation's Ad-Litem program

Several years ago members of the Dallas ABOTA chapter came up with the idea of ABOTA lawyers serving as guardian ad litem in minor settlements and donating their fees to the ABOTA Foundation. Since the program started, over \$475,000 has been raised to support the great work of the Foundation. To serve as a guardian ad-litem, a lawyer must be approved by the Travis County courts. The application for approval as a GAL is posted on the Travis County courts website: <https://www.traviscountytx.gov/courts/files/civil-district>. If you chose to donate all or a portion of your fee to the Foundation, you can ask the insurer writing the check to make it payable directly to the foundation.

## Potential New Members

As the Nominations Committee Co-Chairs, Dan Richards and Matt Dow have set April 1, 2021 as the deadline for submitting nominations for consideration by the Executive Committee and potentially by the membership at our Annual Meeting on May 19, 2021.

Here are some guidelines and a link to the application:

[https://www.abota.org/Online/Membership/Membership\\_FAQs.aspx](https://www.abota.org/Online/Membership/Membership_FAQs.aspx)

Regardless of the number of trial experience equivalency points an applicant may have accumulated, an applicant **MUST** have tried at least 10 civil jury trials to jury verdict or hung jury as lead counsel for the minimum requirements to have been met, and those civil jury trials **MUST** be listed on the application.

Lead Counsel is an attorney substantially responsible for the personal representation of the client during the trial. “Substantially responsible” means, at a minimum: (1) Selecting a jury, or opening, or closing, and; (2) Presentation of live witnesses through direct or cross examination.

Please consider your colleagues and opposing counsel for potential membership. Diversity—ethnicity, gender, age—is encouraged.

## April 14 CLE

### **Remembering the Trial Strategy of Roy Minton and Charlie Burton**

Speakers Martha Dickie, Randy Leavitt & Hon. Alan Albright will regale us with the trial strategies of the late, great trial lawyers Roy Minton and Charlie Burton

**Attend Virtually by Zoom**

[us02web.zoom.us/j/83412494611](https://us02web.zoom.us/j/83412494611)

12:00 PM (CST) Wednesday, April 14, 2021

Meeting ID: 834 1249 4611

Passcode: 922191

## San Francisco ABOTA Stands with its Asian American and Pacific Islander Community

Dear [San Francisco] ABOTA Chapter Members:

It is with a heavy heart but great hope that we share the [Statement](#) that ABOTA National issued today. This past year, we have witnessed increasing violence against individuals of Asian descent, including vicious attacks on elderly Asian Americans right here in the Bay Area. The racist sentiments have been insidious, beginning as harassment and escalating to killing. It cannot be ignored that these acts of bigotry strip away human dignity and erode our sacred bonds of humanity.

As guardians charged with preserving and promoting the Seventh Amendment right to a civil jury trial, we recognize that inequality outside the courtroom means inequality inside the courtroom. All members of our justice system – plaintiffs, claimants, defendants, advocates, jurors, court staff, judicial officers – deserve equal protection and a level playing field in a safe forum. Our own trial lawyers cannot effectively advocate in a climate already suffused with discrimination and bias. We therefore raise our voices and stand up for our fellow ABOTANs, who during these times of despicable animus are overcoming prejudice due to race, ethnicity, national origin, religion, sex, and gender.

As ABOTA trial lawyers committed to equal justice for all in a vibrant and civil democracy, we are voices for the Asian victims who have been subjected to bullying, intimidation, aggression and violence. We resonate ABOTA National’s declaration that all forms of racism, xenophobia and misogyny, whether explicit or implicit, conscious or unconscious, individual or institutional, against any person are intolerable.

As human beings, friends and allies to all who are suffering from the recent spate of anti-Asian racism, bias and xenophobia, we express our grief and extend the comfort of our support and alliance. By standing up and speaking up, we encourage our community here and throughout the world that silence is not an option. Bobby Kennedy expressed it best in his Cape Town speech in 1966: “Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current which can sweep down the mightiest walls of oppression and resistance.”

WILMA GRAY  
President

NIALL McCARTHY  
Vice President

AMEE MIKACICH  
Treasurer

KEVIN MORRISON  
Secretary

# MARK YOUR CALENDAR

## NATIONAL/TEX-ABOTA

April 10, 2021:  
TEX-ABOTA Board Meeting #2 (Zoom)  
- 9:30 - Noon

June 10, 2021:  
TEX-ABOTA Board Meeting #3 (Zoom)  
- 9:30 - Noon

May 14-15, 2021:  
National Board Meeting (Zoom)

August 4-8, 2021: National Board Meeting - Denver, CO

October 16, 2021:  
TEX-ABOTA Board Meeting #4 (Zoom)  
- 9:30 - Noon

October 22, 2021: National Board Meeting - Asheville, NC

**\*October 28-31, 2021:**  
**Tex-ABOTA Annual Santa Fe CLE Roundup**

October 31, 2021:  
TEX-ABOTA Board Meeting (Santa Fe, NM) – 8-5 p.m.

December 2021: International Meeting (Peru)

## AUSTIN ABOTA

**\*Please make special note of the changed date.**

April 14 at Noon:  
Dicky Grigg Speaker Luncheon CLE - The Honorable Alan D. Albright, Martha S. Dickie and Randy T. Leavitt - Sharing Stories about Roy Minton and Charlie Burton

May 5 at Noon:  
Quarterly Executive Committee Meeting

May 19: Annual Meeting

July 21 at Noon:  
Dicky Grigg Speaker Luncheon CLE - TBD

August 4 at Noon:  
Quarterly Executive Committee Meeting

TBA September: Ethics Trivia

TBA Fall 2021: Trial Academy

November 3 at Noon:  
Quarterly Executive Committee Meeting

December 1:  
Holiday Party, Four Seasons

April 1: Deadline to submit potential new members