



# THE LOCAL COURTS SYSTEM

by Joe Davis

I recently had the most wonderful experience of running for Public office. Now, in some places in this country uttering that word would earn you a sure trip to the funny farm, but here in Boerne and the Texas Hill Country we are fortunate to have a vibrant yet civil political dynamic. Some cynics would say that is because we just have one party consistently in power. However, the recent primary elections demonstrated to us that not only do we have a diverse electorate in Kendall County (31% Democrat, and 66% Republican as well as 3% Libertarian), but also that two candidates from the same party can have an acrimonious race that ends up with one suing the other a la Bush-Gore 2000. Watching the Miller-Macias recount and re-recount process and observing its impact on our community and upon the various Republican factions was like watching two friends competing in an Ultimate Fighting contest. You can't stand to see the hard punches on familiar faces, but you just can't turn away and not root for someone.

My experience was markedly different. Four candidates, all good men and good lawyers were campaigning hard for the office of 216th District Judge. Though the race lasted only seventy days, in that time we managed to debate one another 14 times, once on live television. Through it all we remained not only cordial, but genuinely friendly, growing closer together as the common bond of campaigning hard was shared and by that sharing-lessened. We found ourselves calling one another to check

ers are about judicial races and about the court system itself right here in Kendall County. Many times I was asked, What does District Court do? Does it handle criminal or civil cases? Is this like a JP? I thought that (County Judge) Gaylan Schroeder was the District Judge, or (my personal favorite) do you get paid for doing this job? To each I tried to patiently explain and educate. Because the District Court is the work-horse court of the Texas legal system it is surprising to us who have spent most of our careers in District Court to find that everyone does not have a basic functional level of awareness of the importance of that court and the magnitude of the decisions made by it. I soon realized however, that my 30 second lessons were just another sound-bite in an already noisome political process.

When Boerne Business journal asked me to do a "legal piece" I thought that the best thing that I could write about was how the system here in Boerne is structured, to move past sound-bite knowledge to more substantial understanding of this third branch of our local government.

## 216th STATE DISTRICT COURT

Kendall County is one of the four counties (along with Bandera Gillespie and Kerr) which compose the 216th Judicial District. The District Court is a constitutional court, created by the State Legislature and funded by the State of Texas. Stephen B Ables is the current presiding Judge of the 216th District Court. Judge Ables is retiring this year after 20 years of public service including four terms on the bench. Beginning in January, Keith Williams of Kerrville will be assuming the robes of office. The District Court is the main trial court of the counties constituting the 216th District, in Kendall handling all of the felonies and half of all civil cases. The Court on a typical day might handle a custody dispute between squabbling parents, hold an evidence suppression hearing on a murder case and consider a motion for summary judgment on a complex land title case. Most of the "famous" trials in Texas history, from Sam Houston's slander case, to the "Slave Ranch" murder trial took place in a District Court. Odds are if you are a business person involved in a significant lawsuit-that suit will be heard in the District Court. Any appeal from this court would go to the 4th Court of Appeals in San Antonio. In addition to the judicial functions, the District Judge is also responsible for hiring and supervising the County Auditors of the

"The most sacred of the duties of a government [is] to do equal and impartial justice to all its citizens."

-Thomas Jefferson

appointments and events, coordinating schedules and commiserating on the trials and tribulations of life in the public lane.

Talking with hundreds of people over that two months made me realize several things, one of which is how uneducated most of the vot-

counties under his jurisdiction and the Chief of the Adult Probation Office. The Prosecutor in the District Court is the District Attorney, in Kendall County's case that is Bruce Curry from Kerrville. There are other specialty judges, for child support matter and Child protective issues. These are typically appointed by the District Judge for an area and serve at his or her discretion. The District Courtroom is on the second floor of the Kendall County Courthouse here in downtown Boerne.

**COUNTY COURT AT LAW**

Kendall County is also fortunate to have a County Court at Law (or CCL). The CCL is not a constitutionally created court, but rather is created and funded by the Commissioners Court of Kendall County. In our county the CCL handles all of the probate, the misdemeanor cases (DWI, simple assault, lesser drug offenses) as well as half of the civil filings. Recently the Phillip Shue case that made national headlines was handled in the Kendall CCL. Any appeal from this court would go to the 4th Court of Appeals in San Antonio. Judge Bill Palmer is the presiding judge of the CCL, serving now in his third term after a career as a board certified civil trial specialist here in Boerne. The prosecutor in the CCL is the County Attorney, Don Allee and his staff attorneys. The CCL courtroom is also on the second floor of the Kendall County Courthouse.

**COUNTY COURT**

Because of the similar names, folks

often confuse the County Court and the CCL. However there is actually very little in common between these offices other than the names. Judge Gaylan Schroeder is the County Judge, but his role is in essence that of CEO of Kendall County's Government. He is also the Presiding officer over the Commissioners Court. County Judges are not required to be lawyers. The use of the term "Judge" is a hold over from the days before the creation of CCL's when County Judges routinely handled misdemeanor and probate matters. Judge Schroeder's office is on the first floor of the Courthouse, while commissioners court is on the second floor of the Historical Kendall County Courthouse across the street.


**JUSTICES OF THE PEACE**

These courts handle a large volume of smaller criminal and civil matters. In Kendall County we have a JP for each of the four precincts of the County. Each handles the same type matters only in different geographic areas. This court is often also referred to as Small Claims Court. It is set up so that those with business before it can handle matters themselves without the aid of an attorney. Any appeals from this court go to the CCL. The judges of these courts are street level problem solvers—called upon to have the wisdom of Solomon, the patience of Job and the caring of a grief counselor. Their typical day might include processing traffic tickets, magisterating those who are arrested, hearing a trial over a small but unpaid bill, and making the

scene of an accident where someone has died but can only be officially declared so by the Justice of the Peace. Judges Debbie Hudson, Jerry Collins, Freida Presseler and Larry James, serve as Kendall County's Justices of the Peace. If a prosecutor is needed in these courts, the County Attorney serves here as well.

**MUNICIPAL COURT JUDGES**

Boerne and Fair Oaks Ranch both have municipal courts. Ed Phillips, a local attorney, and Dana Jacobson, an attorney from San Antonio serve on a contract basis as the judges for these courts. You get to meet them if you receive a traffic citation in one of these cities. Each city has its own prosecutors for these courts.

Each of these courts serves critical functions of keeping our rights intact and our laws enforced. The Judges that run them can and do have a gigantic impact on our business environment and upon our larger community. Now that you know a little more about them, next time you see one, thank them for their service. 

*Joseph M. Davis has been a partner with Nunley Davis Jolley Cluck Aelvoet LLP since the firm's formation in 1994, leaving the firm in December of 2007. Mr. Davis specializes in complex commercial, real estate and probate litigation. A native of Odessa, Texas, Joe graduated Magna Cum Laude from Angelo State University in 1981 with a B.A. in History, before receiving his Juris Doctorate from Texas Tech University, School of Law in 1984. Prior to founding the Boerne, Texas based firm of Nunley, Davis in 1993, Joe practiced in Uvalde and San Antonio, Texas where he handled a broad range of litigation oriented matters. An experienced trial lawyer, Mr. Davis became Board Certified in Civil Trial Law by the Texas Board of Legal Specialization in 1989, after only five years of practice and has been consistently recertified ever since. He is also a fellow in the Texas Bar Foundation. Joe is licensed to practice before all Courts in Texas, the Western District of Texas, U.S. Court of Appeals, Fifth Circuit.*



**If You Need A Thriving Business Environment  
And An Unmatched Quality Of Life...**

*Head For The Hills!*


- Business-friendly attitudes
- Resources to support business growth
- Highly educated workforce
- San Antonio amenities 25 minutes away
- Texas Hill Country lifestyle

Visit our web site or contact us at 830.331.9070 for more information about how Kendall County Texas can benefit your business



[kendallcountyedc.com](http://kendallcountyedc.com)

**ADKF**



*Accounting for your Success*

At Akin, Doherty, Klein & Feuge, we do everything in our power to assist you with your business and personal accounting, tax and financial needs.

Akin, Doherty, Klein, & Feuge, personally serving our clients Since 1991.

**830.815.1100 ■ [www.adkf.com](http://www.adkf.com)**

507 E. Blanco, Suite 101 ■ Boerne, Texas 78006  
8610 North New Braunfels, Suite 101 ■ San Antonio, Texas 78217