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ALM

VETO SOUGHT FOR BILL ADDRESSING CHANGE IN COLLATERAL SOURCE RULE

by MARY ALICE ROBBINS

A bill that allows plaintiffs in personal-injury suits to recover the difference between the medical expenses they incurred and the amount their insurers paid faced little opposition in the Texas Legislature, but at least two groups are urging Gov. Rick Perry to veto it.

Passed on a 139-0 vote in the House and a 28-2 vote in the Senate, H.B. 3281 addresses a controversy that has been brewing since the Legislature passed major tort reforms in 2003. The controversy centers on whether the sweeping reforms included

elimination of the long-standing collateral source rule.

H.B. 4, the 2003 tort reform measure, provided a new §41.0105 in the Texas Civil Practice & Remedies Code, which reads: "In addition to any other limitation under law, recovery of medical or health care expenses incurred is limited to the amount actually paid or incurred by or on behalf of the claimant."

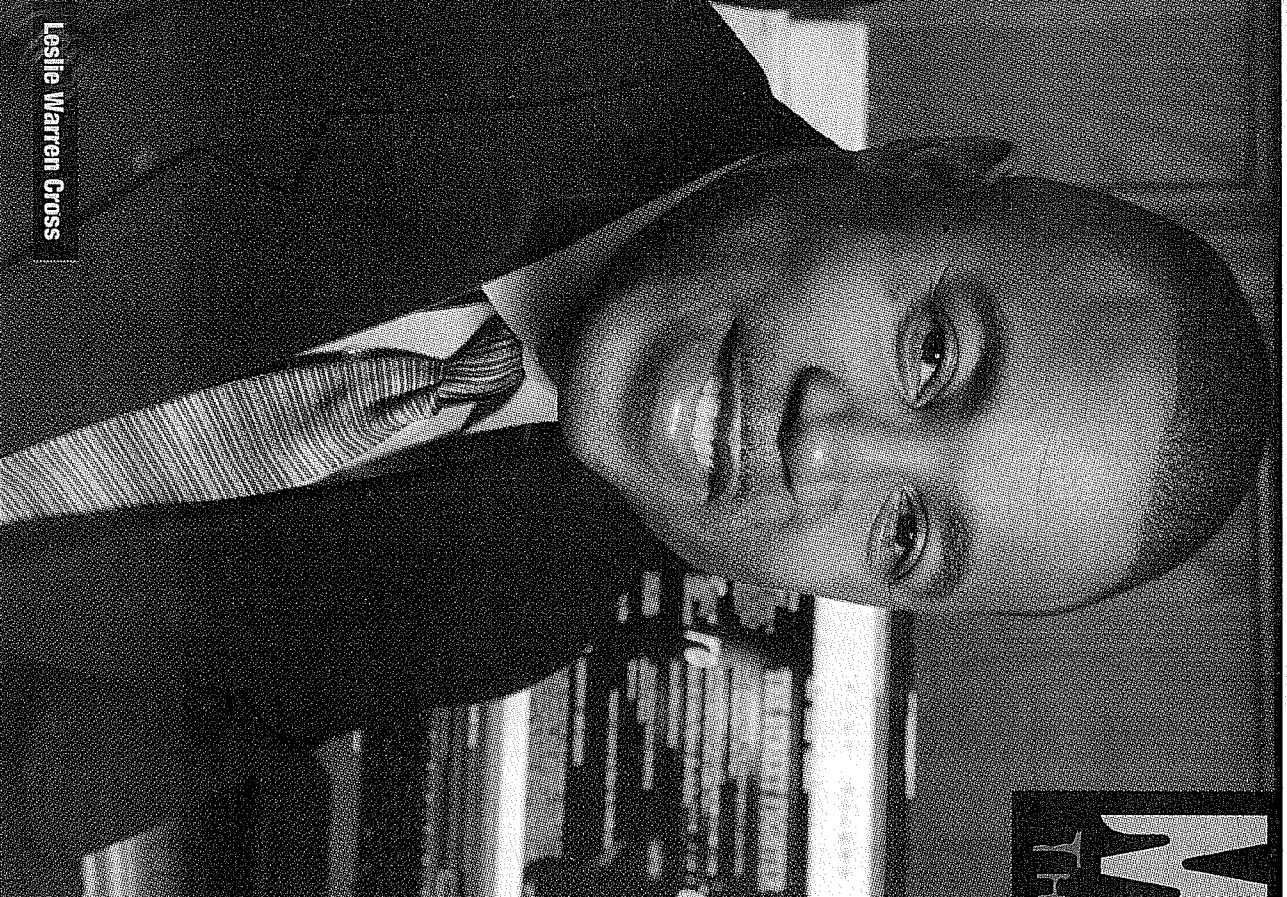
Jay Harvey, president of the Texas Trial Lawyers Association and a partner in Austin's Winckler & Harvey, says courts across the state have had dif-

ficulty understanding what this limitation means and how to apply it.

Harvey says H.B. 3281 clarifies that the Legislature did not intend for H.B. 4 to impose limitations on economic damages in suits other than those for medical malpractice or health care liability. H.B. 3281 specifically provides that the limitation in §41.0105 applies only to a health care liability claim and does not apply to a claim for future medical or health care expenses.

Bill Hammond, president of the Texas Associa-

► *see in Austin, page 4*



Leslie Warren Cross

MySpace, THE NEXT FRONTIER

Pages on Social Networking Site Help Some Texas Attorneys Befriend Potential Clients

by BRENDA SAPINO JEFFREYS

When Missouri City entertainment lawyer Leslie Warren Cross launched a MySpace.com page in 2006, he wanted a way to provide up-and-coming musicians basic information about the

legalities of music contracts.

But Cross says that as he acquired "friends" on his MySpace page, he realized the Internet social networking site is a great marketing tool for his firm, Les Cross & Associates, and a way to stay in contact with his vagabond musician clients.

"It's been really good," says Cross, a graduate of South Texas College of Law in Houston.

Cross, who opened his entertainment firm in 1997 and counts Paul Wall and Snoop Dogg among his clients, says he has landed a few clients through

► *see MySpace, page 19*

LOCKE LIDDELL, LORD, BISSELL, PLAN TO MERGE

by BRENDA SAPINO JEFFREYS

Locke Liddell & Sapp, based in Houston and Dallas, and Chicago-based Lord, Bissell & Brook have agreed to merge. They will form a 700-lawyer firm named Locke Lord Bissell & Liddell.

Jerry Clements, the Austin-based managing partner of Locke Liddell, says the firms signed a preliminary term sheet on May 22. The merger must be approved by at least 75 percent of the partners in each firm at votes set for mid-July and is expected to close by Aug. 1.

Clements will head a nine-member executive committee that will also include a vice chairman and three other representatives from each firm. The firm's headquarters hasn't been decided, Clements says, although she notes it may be Austin, because that's where she lives.

Lawrence Gray, the Chicago-based managing partner of Lord, Bissell, says the merger makes sense because "together we will both have much greater breadth and depth for our clients."

Clements says, "This represents a beginning of a new era for Texas law firms. To my knowledge, this is the first time a large Texas firm merges with a law firm from outside Texas with offices outside the United States."

Locke Liddell is the larger firm with 399 lawyers, but Lord, Bissell, which has about 300

► *see Locke, page 21*

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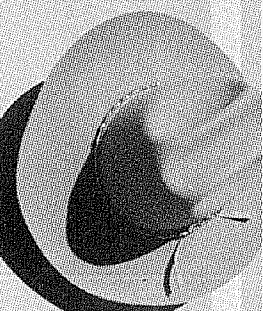
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MYSPACE PAGES HELP SOME TEXAS ATTORNEYS BEFRIEND POTENTIAL CLIENTS

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MySpace contacts, but he also spends a lot of time answering basic questions about music contracts from prospective clients who send him e-mails after seeing his MySpace page. He calls himself Music Attorney Cross (The Street Fighter) on his MySpace page, which features the music of client Jai Mike.

Cross and other Texas lawyers with MySpace pages that advertise their firms say it's a legitimate way to reach prospective clients, particularly younger people who aren't likely to look in newspapers or in telephone directories for a lawyer.

On MySpace, people can build a network of "friends" by giving other members permission to post on their sites.

"Most of my business is by word of mouth" either traditionally or through MySpace, Cross says.

Cross says he's preparing to launch a traditional Web site for his firm and expects most of his marketing to occur from that site. He notes, "MySpace is just to show them I do exist."

Cross isn't the only Texas lawyer who promotes his practice on a MySpace page, but he practices in one of the more common practice areas lawyers tout on MySpace. A search for "Texas lawyer" on MySpace brings up mostly entertainment lawyers and criminal defense attorneys, along with Dallas state district judges Carlos Cortez and Dennise Garcia. Both judges say they used MySpace to promote their election campaigns in 2006. Plaintiffs firm Jim S. Adler & Associates of Houston also has a MySpace page. But a search for MySpace pages for a number of large firms in Texas was fruitless.

Deborah McMurray, chief executive officer of Content Pilot in Dallas, who gives marketing advice to firms, says she wouldn't recommend MySpace to the large Texas firms.

"It might be appealing to the 20-something, the Gen X, Gen Y group, in terms of connecting with their friends or keeping in touch with law school classmates and that kind of thing, but I don't envision major law firms — major business-to-business law firms — thinking that would be a new source of new business," McMurray says.

While she sees opportunity for entertainment lawyers and some others on MySpace, she is fearful that some of the prospective clients who find a lawyer on MySpace may not have the money to pay for one.

"If any person is using MySpace as their sole advertising medium for new business, I can't imagine it's going to pay off," she says.

McMurray's assessment doesn't faze lawyers such as Catherine Tabor of Austin, who says she has been pleasantly surprised at how much her MySpace page has helped her practice. Tabor, an entertainment lawyer and singer who goes by the name of Torch-singer/Entertainment Lawyer in Austin on her MySpace page, says she opened a MySpace account in 2006 simply to be a "friend" to a client, Austin saxophone player Carlos Sosa.

Tabor says she started receiving inquiries from prospective clients who found her MySpace page, so she decided it made sense for her firm, Tabor Law Firm. She has picked up a few clients from MySpace, and she has nearly 3,400 friends on the page. Many are musicians promoting their albums, and some are current or prospective clients, Tabor says.

Tabor says MySpace works for her practice, because musicians use MySpace to communicate with each other.

"This wouldn't work for many industries, but for this one it does," says Tabor, whose site features numerous pictures of Tabor with musicians.

According to MySpace, which is owned by Fox Interactive Media, more than 3 million artists and bands use MySpace to promote albums and interact with fans.

Each month, more than 106 million people from around the world visit MySpace, according to statistics from comScore Media Metrics.

MySpace is also helping entertainment lawyer and singer Amy Mitchell of Austin build her part-time practice. Mitchell, a 2004 graduate of the University of Texas School of Law, says she gets one or two messages a day from people who see her MySpace page and may want to hire her.

Mitchell says she has a page because MySpace is such a band-heavy networking site. "The problem is the vast majority who contact me are not in Texas," she says.

She says she's careful not to give any legal advice on her Music Lawyer MySpace page, but she has landed a couple clients who located her on the networking site. She has also received referrals from Texas lawyers who saw her MySpace page.

Target Audience

MySpace pages can also help personal injury firms and criminal defense lawyers find clients.

Mark Meisinger, a 28-year-old criminal defense lawyer in Dallas, says his prospective clients are on MySpace. Meisinger says he defends people from charges involving drugs, driving while intoxicated and probation violations, as well as from traffic tickets. He also does juvenile law.

"This is my perfect age group. The people I'm going after [as clients] are on MySpace," says Meisinger, who graduated from Creighton University School of Law in Omaha, Neb., in 2004, and office shares at Gioffreddi & Associates in Dallas. "A whole bunch of people who party, who drink, whatever, those are the people on there who want to be my [MySpace] friend."

The MySpace page for the Law Office of Mark Meisinger features the slogan "Representing Those Who Mess With Texas."

Meisinger says he started using MySpace to promote his practice after a client told him she had 20,000 friends in her MySpace network and he should become one of the friends on her page to promote his practice. So Meisinger says he became a "friend" on the client's MySpace page and also posted a copy of his business card, which includes tips to "Be DWI Prepared." Meisinger says he then started becoming a MySpace friend to other women, added his business card to his own MySpace site and started networking with MySpace pages for bars in Dallas.

"I have gotten cases off there [MySpace]; there's no doubt. One month, I got four DWIs off of there. It's way more than the phone book's doing for me," he says, noting that promoting his practice through MySpace is inexpensive advertising, because his only cost is the time he spends networking on MySpace and managing his page.

"I've been licensed two years now. I don't have money to throw into the phone or TV ads," he says. "It works out perfect for me." In comparison, Meisinger says, he pays \$700 a month for his Yellow Pages ad.

The MySpace page for Houston plaintiffs lawyer Jim S. Adler, founder of Jim S. Adler & Associates, greets viewers with the "Rocky" theme song, a picture of Adler shaking his fist and a link to his firm's "The Tough



Catherine Tabor says she has been pleasantly surprised at how much her MySpace page has helped her practice.

7-month-old MySpace page.

"I've gotten, since October, two clients out of the two or three calls a month. It's usually low-end stuff. I usually recommend they get a court-appointed attorney. It's generally young people who don't have money," Trumpler says.

While the MySpace page hasn't been wildly successful for Trumpler so far, he says it does offer an opportunity for prospective clients to find him.

"Anytime they see you, it increases their chances of hiring you at some point," he says.

Not every Texas lawyer who has tried a MySpace page considers it a success. Austin's Clifford Swayze of the Law Office of Clifford Swayze says he received one phone call immediately after he launched a MySpace page citing his criminal defense practice, but none since then. He says he plans to shut it down.

"It's completely worthless," says Swayze. "I thought it would be a good idea, but . . . in criminal law, I don't think the people accused of things want to get a lawyer off of MySpace."

Swayze's MySpace page, which was accessible to the public on May 21, was listed as private on May 23.

Kim Davey, a spokeswoman for the State Bar of Texas, says no Texas lawyer has asked the Advertising Review Committee to approve a MySpace page.

Kathy R. Kelly, a lawyer in Fort Worth who is chairwoman of the Advertising Review Committee, says lawyers have an affirmative obligation under the Texas Disciplinary Rules of Professional Conduct to ask the committee to review their public advertisements. A 2005 revision of the rules related to lawyer advertising requires lawyers to seek review of all Web sites.

Kelly says lawyers need to be careful to follow Rule 7.02, which says lawyers may not make false or misleading communications about their qualifications or services.

But she says technology may be moving faster than the rules.

Notes Kelly, "The advent of MySpace, which may seem more like an online directory than a lawyer's Web site, might fall in a gray area that I don't believe we have directly considered."

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Smart Lawyer!" Web site.

"The world of technology is ever changing, so we are just trying to stay on the cusp of the wave. It's just a way of client development," he says.

Adler says he's not sure if his firm, which does personal injury work including automobile accidents, has landed any clients because of the MySpace page, but he believes it has led to prospective clients contacting his firm. The firm also uses television, billboards and a Web site to advertise.

Adler has close to 800 friends on his page. "People know me in Texas. Some of them might feel that being my friend on MySpace is a privilege, frankly," he says.

Jason Trumpler of the Law Offices of Jason Trumpler in Austin puts disclaimers on his MySpace page describing the page as an advertisement.

Trumpler, a former prosecutor who is working temporarily at a firm in Newport Beach, Calif., but will return full time to Texas in June, says he gets two or three calls a month from his 7-month-old MySpace page.

"I've gotten, since October, two clients out of the two or three calls a month. It's usually low-end stuff. I usually recommend they get a court-appointed attorney. It's generally young people who don't have money," Trumpler says.

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