



The International Journal on the Reform of Family Courts

# The Mongoose

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Please forward this e-mail newsletter to everyone who cares about our family courts!

[Click here](#) for an archive of past issues of *The Mongoose*.

***"Together, attorneys can improve our family courts!"***



[Click here](#) to be inspired by an amazing video of a mongoose taking the fight to a pride of lions. I have seen the same look of surprise that those lions showed on the faces of a few judges in the last few years.

I know that after spending almost Alicia Franklin-like hours on writing and editing this newsletter (maybe 14 hours over a weekend, not 32.25 in a day), once I press "send," this newsletter will be seen by approximately 11,000 people within the next 24 hours. I have about 2,800 subscribers but this newsletter gets shared and sent far and wide. I have readers in Thailand, France, Mexico, New York City, Lufkin, Midland, Big Sandy and cities all over Texas. This newsletter goes initially to attorneys, judges, about 1,300 Republican activists, newspaper reporters and radio and television news directors and then they forward my work to many more folks. The chairs of both political parties in Harris County get my newsletter.

Hell, I have even been invited to speak to a big Tea Party group despite the "I'm Ready for Hilary" bumper sticker on my car.

My last newsletter generated a huge response and I heard from many attorneys, a few judges and even some parents whose children had been represented by Ms. Franklin. I got tips from some elected officials and county employees on problems with CPS appointments and fees that I had no clue even existed before last week. **This scandal is going to be so much bigger than I thought it could be just a week ago.**

One female attorney was offended by a cartoon of a busty woman getting lectured by Groot from *Guardians of the Galaxy* and another male attorney, who makes a stinking killing off appointments, said he would not attend a judicial candidate forum I have nothing to do with other than publicizing. This fellow, who makes six figure fees from "special master" appointments, said, "I will not have anything to do with any event associated with Greg Enos." Ouch. That sort of rejection from a prominent leader of so many family bar groups really stings.

However, I also received a lot of positive feedback, including these comments:

*I applaud your efforts, and admire your bravery in taking on these issues. The pay-for-play system in Harris County has hit the media before and died a quiet death. I hope that will not be the case this time.*

One comedian/attorney wrote:

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*In Franklin's defense, who could have foreseen the likelihood of some nut going out and getting all of her billing from six different courts, paying an expert to analyze them and then cross referencing to a specific day??!! She could sooner have expected a monsoon...as a mongoose!*

**Another attorney wrote:**

*We are not professional acquaintances, but as an attorney who does quite a bit of family law in Harris County, I would like to thank you for the work, time and resources that you have dedicated to ferreting out some of the bad actors in the in our local family court scene. I am by no means a "player" of any sort, but I practice honestly and ethically and I, like I am sure many others, feel jobbed on occasion by certain judges in courtroom battles. While I can understand the politics and general BS of the system, it is often very difficult to explain an unfair or obviously unlawful decision to a client - particularly when the client believes that our system is fair and unbiased. In any case, I just wanted to take a moment to thank you for your efforts.*

**I do not expect to win every case. I just want an efficient system in which my client gets a fair hearing before a judge who works hard, knows the law, and does not play favorites. I also expect judges to appoint qualified amicus attorneys who bill honestly and zealously look after children (and actually visit the kids in their homes). Is that asking too much? Stay tuned.**

**Greg Enos  
The Enos Law Firm**

## Criminal Complaint Filed Against Judge Alicia Franklin

[Click here](#) to read the criminal complaint I have filed with the Harris County District Attorney against Judge Alicia Franklin. The more I see of how Franklin billed the county in CPS cases and parents in her amicus cases, the less pity I feel for her. I know that at some point my perfect batting record in taking down elected judges for criminal behavior will fall below 100%, but this does not feel like the time when I will strike out.

I do not know that Franklin has committed a crime, but I have found 100% provable facts that need to be looked into by someone other than Republican District Attorney Devon Anderson, who bungled the Judge Pratt investigation and then made a "sweet heart" deal with Pratt that allowed her to avoid criminal prosecution. [Click here](#) to read a motion filed by a District Attorney who wisely recused herself and asked for appointment of a prosecutor pro tem under Texas Code of Criminal Procedure Sec. 2.07. Ms. Anderson has too many ties to the attorneys and judges involved in this CPS billing scandal and her office should not investigate this matter.

Franklin has still not responded to my requests to provide her side of the story. I hear that her defense is not "clerical errors," but rather the simple fact that those impossible hours she billed include time actually billed by an associate attorney. The problem with that defense is that Franklin's invoices to the county are all solely in her name and do not disclose that the work was done by someone else. Also, as shown by the following article, a specific statute on billing by attorneys and guardian ad litem in CPS cases says the voucher submitted to the county for payment by the ad litem shall list, "...the fees charged and hours worked by **the guardian ad litem or attorney ad litem.**" Texas Family Code Section 107.015(d). The statute does not say the voucher can include hours charged or worked by, "the attorney ad litem or her associate or designated representative."

At some point, Franklin may assert the "rubber stamp defense." It does appear that Franklin had a signature stamp that was used on some documents. For example, look at the petition filed by Franklin in Cause No. 2014-34324. This original SAPCR suit was filed by Franklin on June 13, 2014 at 4:02 p.m. June 13 was the day Franklin was appointed judge by the Governor and sworn in. I do not know the precise time when the rushed and secret swearing-in ceremony was performed by Judge Lisa Millard on June 13, so perhaps this petition was filed before Franklin officially became a judge. However, she knew by 4:02 p.m. that she had been appointed, so why file the petition in her name? The "signature" on this petition is clearly a signature stamp. However, when Judge Lisa Millard signed the Temporary

## Supreme Court Changes Rule on Business Record Affidavits

[Click here](#) to see the complete new Texas Rules of Evidence 902(10) and official comment from the Supreme Court. This new rule is effective September 1, 2014.

The Supreme Court has approved an amendment to Tex. R. Evid. 902(10) on business record affidavits. All attorneys need to know that now:

- Business records "proved up" by affidavits are NOT filed with the clerk.
- "Except for good cause shown," the affidavit and records must be served on opposing counsel and pro se parties "at least 14 days before the day on which evidence is first presented at the trial of the case."

The official comment to this new rule states:

*The word "affidavit" in this rule includes an unsworn declaration made under penalty of perjury. TEX. CIV. PRAC. & REM. CODE §132.001. A record and affidavit may be served electronically, including by email. TEX. R. CIV. P. 21 a.*

## A Law Firm Policy on Fairly Billing Clients

Me and a lot of attorneys are looking at our own billing practices after my articles on the outrageous and apparently false billing in CPS cases by Alicia Franklin. One excellent family law attorney, with much more experience than me, sent this e-mail:

*I just had 3 grueling non stop days in the office - totaled my hours for those 3 days - 18.5. I must be doing something wrong.*

I know few attorneys who work harder than my own Christina Tillinger, and she averages about 7.25 hours billed per day unless there is a trial or long mediation. I usually bill fewer hours than that.

I have written ten simple rules for honest billing that I have now adopted as my law firm's policy. [Click here](#) to read all ten rules. Here are a few of these ten rules:

2. Bill actual time spent and round up only a little. If you spend 3 minutes on a phone call, bill 0.10 instead of 0.25. If you literally were on the phone for 30 seconds with the client, do not bill for the call at all.

...

7. Unless you are in trial or a mediation that goes to midnight, your total hours in a day cannot exceed **10.0** without a written explanation for the firm manager of how you were able to bill those many hours in one day.

...

Restraining Order in that case on June 18, Millard knew that Franklin was a judge. Franklin is still the attorney of record in this case, although a motion to substitute was filed on August 27 (over two months after Franklin became a judge).

[Click here](#) to see once more the proof that Franklin billed Harris County for work Franklin claimed she did as an attorney on a CPS case after Franklin was sworn in as a judge.

## An Attorney Ad Litem is Not a Law Firm and Cannot Bill the County for Work Done By Others

Attorneys appointed to represent abused children and their parents in CPS cases as attorneys ad litem are routinely billing Harris County for work done by associate attorneys and non-lawyers who work for the person appointed ad litem. This is wrong and violates the law.

[Click here](#) to read the entire article. This is just a short summary of the full article.

A wise, ethical and experienced family judge explained to me how attorney ad litem in CPS cases are different than private attorneys:

*As a judge, I pick a specific lawyer to appoint as ad litem and I expect that lawyer to meet the child and foster parents and teachers and doctors and biological parents and appear in court for that child. If I appoint Sally Green to be the attorney ad litem, I want Sally to do the work because I selected her based on her skills and experience and performance in past cases. I did not appoint Sally's associate attorney or some lawyer she knows or her paralegal to be the ad litem, I chose her! Only in rare, unusual situations would I permit someone other than the attorney I appointed to visit the child at home and I had better be told up front exactly why it happened. Scheduling conflicts may require that a substitute attorney be occasionally sent to court for the ad litem, but the fill-in attorney must be familiar with the case and there had better be a real good reason why the ad litem is not in court.*

Good, ethical judges all think this way and they have all been universally amazed when I tell them what is happening in some courts that also hear CPS cases. In a few courts, judges are appointing attorneys to be ad litem but those attorneys are submitting pay vouchers for work done by other attorneys and even non-lawyers as if the ad litem himself had done the work.

In cases involving CPS, Texas Family Code Section 107.004(d)(1) says that in CPS cases, an attorney ad litem must meet with the child before each court hearing and then the statute says the ad litem shall:

(2) if the child or individual is not present at the court hearing, file a written statement with the court indicating that **the attorney ad litem** complied with Subdivision (1).

Texas Family Code Sec. 107.004(d-1) says that the meeting between the attorney ad litem and the child must take place:

(1) a sufficient time before the hearing to allow **the attorney ad litem** to prepare for the hearing in accordance with the child's expressed objectives of representation; and

(2) in a private setting that allows for confidential communications between **the attorney ad litem** and the child or individual with whom the child ordinarily resides, as applicable.

The use of "the" in Sec. 107.004(d) and (d-1) make it clear that the individual who was appointed by the judge to be "**the attorney ad litem**" must be the person who meets with the child. The statute does not say "the attorney ad litem or his/her associate or social worker" must meet with the child.

Texas Family Code Section 107.015(d) says the voucher submitted to the county for payment by the ad litem shall list, "...the fees charged and hours worked by **the guardian ad litem or attorney ad litem**." The statute does not say the voucher can include hours charged or worked by, "the attorney ad litem or her associate or designated representative."

[Click here](#) to read the entire story that includes all of the legal citations and arguments, including a rare exploration of the meaning of the indefinite articles "a"

9. False billing is wrong and unethical and will get you fired and reported to the State Bar by this law firm. We want to make money only by fairly billing our clients.

10. A staff member who sees something questionable about a lawyer's billing must bring it to the attention of the law firm's management.

[Click here](#) to read all of these rules on "Honest Billing" and you can count how many Ms. Franklin followed when she billed the county on CPS cases.



## First Annual Mongoose Limerick Contest

I have received the first entry in the *Mongoose* limerick contest. First prize is a *Mongoose* t-shirt and coffee mug.

*There once was a lawyer named Pollard  
Who had more money than tulips in Holland.  
He made a fortune on endorsements  
And even more from court appointments.  
Sadly, Gary never dreamed The Mongoose  
would come calling.*

*There was also once was a billing machine  
named Franklin,  
who knew less about her cases than she did  
about banking.  
The smart lady had time shifting powers  
since she was able to bill super human hours.  
Now, she just looks forward to her weekly  
Mongoose spanking!*

Please write your limericks on crisp \$100 bills and mail them to me!

and "an."

## The Alicia Franklin Billing Miracle - 32.25 Hours Billed Plus 5 Court Appearances All In One Day!

A future postulator writing a *positio* about Alicia Franklin will surely include as one of the two required miracles the amazing events of March 20, 2013, when Alicia Franklin billed Harris County, as well as the parents in a private amicus case, for the following all on one blessed day:

28.5 out-of-court hours in CPS cases  
3.75 hours on a private amicus case  
1 CPS trial appearance  
4 non-trial CPS court appearances

The hours billed for this one day total 32.25 hours plus Franklin claims to have been in court on CPS cases for one trial appearance and four other non-trial appearances on that same day. There may well be other private cases that Franklin also billed for on that day.

In CPS cases, ad litem bill per hour for "out of court work," but they are paid a flat rate per court appearance for trial or non-trial hearings. Ad litem are paid a higher flat rate for trials than they are for non-trial court work.

[Click here](#) to see documentation of this truly amazing feat that should at least qualify Franklin for beatification. One friend of Franklin's suggested that perhaps her over billing was a "rookie mistake." Forgetting to verify a motion for continuance is a "rookie mistake." Billing like this is a "mistake" just like a wedding that results in divorce is a mistake - the "mistake" was originally done intentionally and joyfully but only regretted much later. A lot of folks in prison will now admit that their fraud and stealing was, in retrospect, a mistake. I have yet to hear from Judge Franklin, so I do not know if she considers her false billing on CPS cases to be a mistake or just something she wishes Greg Enos had not discovered and shared with the world.

Another wag suggested that perhaps Franklin's \$700 Christian Louboutin shoes (which no other ad litem scrounging for CPS work could possibly afford) have magical powers.



Billing like this on March 20, 2013 could explain how Franklin has been able to visit Europe so many times in the past year.

My last newsletter said that the hours I found Franklin had billed per day in CPS cases did not include any hours she had billed in her private cases. At the time, I thought I could never know what she had billed in her amicus cases. I assumed it would take a grand jury subpoena to get those records. However, since my last newsletter went out, I have heard from several parents who were honored to receive bills from Alicia Franklin when she served as the amicus attorney in their custody cases.

In one amicus case, I am told that Franklin billed a total of **\$118,000** to the two parents for a case that never actually went to trial. I have represented millionaires in contested jury trials and never had my bill total \$118,000 and I charge more per hour than Franklin does.

Here is what the current spouse of one of the parents in this custody case wrote me about Franklin's work as an amicus:



Attorney Greg Enos has been through his own divorce and child custody battle (he won) and understands what his clients are going through. Enos graduated from the University of Texas Law School and was a very successful personal injury attorney in Texas City before he decided his true calling was to help families in divorce and child custody cases. Greg Enos is active in politics and in Clear Lake area charities. He has served as President of the Bay Area Bar Association and President of the Board of Interfaith Caring Ministries.

Alicia was appointed as the amicus by Judge Pratt. Both families were billed over \$118,000 total by Alicia. As an investigator for the court and the two children involved, Alicia Franklin never contacted a single family member or friend of my husband's to confirm his relationship with his children. The only thing that was consistent were the outrageous bills that appeared each month with nothing more than "communication" listed as the explanation. **When my husband and I were sitting at a child visitation with one of Alicia's assistants, my husband asked how families were able to afford these types of cases, Alicia's assistant replied, "most of our cases are paid by the state", paused then stated, "but that's good because we can bill them millions of hours".** My husband and I couldn't believe what we were hearing. We felt like from the very beginning it was about the money. Alicia never seemed to know what we were referencing when we would ask her about faxes we sent and told us on more than one occasion "I'm sorry, I have another case that's very similar to yours and I have a hard time keeping them straight".



Attorney Greg Enos

The husband's attorney in this custody case challenged Franklin's billing before Judge Denise Pratt, who had appointed Franklin. [Click here](#) to read this rather extraordinary motion assailing Franklin's billing practices. Pratt conducted an evidentiary hearing on Franklin's fees and sided with Franklin in October 2013. I am trying to get a copy of the transcript of that hearing.

I have received Alicia Franklin's detailed billing on three of her private amicus cases, but I need more! If you have any of her bills or know clients who have them, please send them to me.



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