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STATUS SYMBOL

I was surprised when the State Bar of Texas sent my annual dues check back to me with a new membership card that identified me as an emeritus member. Not only that, but I also no longer had to comply with MCLE. Wow. I got my license in 1972. After looking at the articles in the February issue [The Graying of the Profession, 2013], I took my 1972 bar card out of my wallet. It was brittle and faded—and minus the lower left and right corners. The emeritus card was in my desk, but I just couldn't replace that old '72 card in my wallet. I practiced for years as a sole practitioner in Houston, and one day I decided to become a cop. I'm now a detective as well as a lawyer, and last month I got thrown around on the mats in the Defensive Tactics Class. Damn those younger cops. My oldest son is in his second semester at South Texas College of Law, my alma mater, and to all the young lawyers and young lawyers to be, I say, "God Speed, enjoy your choice of careers. Study the law and keep studying forever." To my peers with the graying hair and stories to tell, let me encourage you to keep the spirit alive forever. To the directors of the State Bar, let me say, "Hey, guys, we older guys need to stay sharp, study the law, and tell our stories. How about making all of the CLE free to us older folks?"

George Schilter
Webster

The February 2013 issue was quite remarkable. However, it failed to give proper recognition and credit to the

one thing that allows the profession to successfully mature—namely, the emeritus status for attorneys. Fourteen years ago, I received "Recognition of Service" from the State Bar for having served in the military in World War II and for continuing to serve in the legal profession. I appreciated that 1999 recognition. It is the emeritus status that still allows me to take pro bono publico cases. It is unfortunate that the Texas Board of Legal Specialization does not also have an emeritus status.

Seldon B. Graham Jr.
Austin

BOOKKEEPING

In the Commercial Litigation update ["2012 Year in Review," January 2013], Brian Lauten compares *El Apple I Ltd. v. Olivas* to *Tony Gullo Motors I, L.P., v. Chapa*. Mr. Lauten argues that *Olivas* overturns *Chapa* and fundamentally alters the evidentiary requirements for proving reasonable attorneys' fees.

Olivas does not overturn *Chapa* or *Arthur Andersen*, but is limited to an assessment of reasonable fees using the lodestar method. *Olivas* involves a plaintiff's claim under the Texas Commission on Human Rights Act. To "calculate attorney's fees under the TCHRA, Texas courts utilize the lodestar method, that is, the number of hours worked multiplied by the prevailing hourly rates." *El Apple I Ltd. v. Olivas*, 370 S.W.3d 757, 758-59 (Tex. 2012). The court speaks favorably of billing records as evidence for proving reasonable attorneys' fees and holds that billing records are a prerequisite for proving fees using

the lodestar method. But the decision does not venture beyond a lodestar analysis.

According to Mr. Lauten, "*Olivas* is fundamentally at odds with *Chapa*." As a result, he is concerned "that *Olivas* does not even cite to *Chapa*." The Texas Supreme Court did not forget *Chapa*, a 2006 case, and it did not reverse decades of unmentioned precedent in a seven-page opinion. Mr. Lauten is right to highlight the dicta from *Olivas*—which should encourage all lawyers to maintain billing records to prove a reasonable fee. But *Chapa* has not been overturned. Not yet, at least.

Joshua P. Davis
Houston

Editors' Note:

Ruth Ann Spivey contacted the State Bar of Texas with questions about her father, Rufus Y. King. Archivist Alexandra Swast subsequently emailed Mrs. Spivey a PDF of his memorial from the *Texas Bar Journal*. While reviewing the write-up, Mrs. Spivey noticed several errors that she communicated to the *TBJ*. In the September 1972 issue, we incorrectly stated that Rufus Y. King died on May 12, 1917. He died on May 12, 1972. We incorrectly stated that Dean Simpson was one of King's professors at the University of Texas Law School. It was Dean William Stewart Simkins at the University of Texas School of Law. We also incorrectly stated that King was the county attorney of Donley County from 1928 to 1938. Mrs. Spivey wrote that he served twice, again from 1947 to 1956. We regret the errors.