

The Texas Lawbook

Free Speech, Due Process and Trial by Jury

Asked & Answered with Bracewell's Steve Benesh: Legal Deserts, Star Trek and Gold

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Second-generation lawyer and Bracewell partner *Steve Benesh* went to the University of Texas, following in the footsteps of his brother.

“For my 18-year-old mind, I needed no other reasons, other than having a brother there and Longhorn sports,” Benesh said.

Benesh’s father, G.A. Benesh, was a lawyer and judge, but he wanted to do something different.

He initially studied petroleum engineering and worked his way through college as a night doorman at a high-rise in Austin, where he met many lawyers who lived in the building.

“As I got to know more lawyers, other than my dad, I obtained a broader view of all the various kinds of legal practices and decided about halfway through college, as oil prices bottomed out, that maybe the law was an attractive option,” Benesh said. “So I switched over, got a business degree from [the University of] Texas and then moved straight from undergrad into UT Law School.

Benesh earned his law degree from the University of Texas School of Law in 1987. He clerked with Bracewell during his second summer of law school and then joined the firm as an associate after graduation. He has been with the firm for 39 years.

Benesh recently sat down with *The Texas Lawbook* to discuss his time as state bar president and the issues he’s seeing in the legal practice. The following conversation has been edited for length and clarity.



Photo of Steve Benesh

Texas Lawbook: What trends are you seeing in your practice area?

Steve Benesh: The biggest legal issue that I see — and it’s even bigger than AI — is access to justice. In Texas, there are, what are we up to, 29 million Texans, and of that, over five and a half million of them are low-income Texans who have current legal needs. The legal aid clinics in Texas are only able to take care of about 10 percent, year in year out, of the current legal needs of low-income Texans who can’t afford to pay for legal assistance. It’s the elephant in the room, and it needs to be addressed; it’s not just a matter of pro bono hours.

I think the most recent pro bono survey that the state bar performed was two-and-a-half years ago, in 2023, and there we determined that lawyers had

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rendered over 3 million hours of free legal services in 2023, and then another over a million in reduced legal fees for low-income Texans. But it's not enough, and part of the problem is we have what are called legal deserts in Texas. I just got back from the annual meeting of the Western States Bar Conference, and we discussed this very issue. The problem is twofold, and it's not just in the legal industry. Too few young men and women are staying in the smaller communities where they were born and raised in, and too many are moving to big cities to seek their careers and fortunes. And so in many of these communities throughout Texas, there just aren't enough lawyers living there to address legal needs, period, much less the legal needs of poor Texans, low-income Texans. And so that's an enormous issue.

I know from working with the law school deans it is challenging to encourage young lawyers coming out of law school to cast their lots in smaller towns in Texas when the positions in big cities command greater, higher salaries. The attraction of everything that big cities have to offer, from arts and entertainment to larger clients and things of that type, are just alluring to many. And so that's an enormous issue. In addition to that, particularly in the areas of Texas where there tend to be a higher percentage of low-income Texans — The Valley, the various communities in West Texas, the Panhandle, and the Piney Woods of East Texas, and in certain urban areas in larger cities — there just aren't enough lawyers, period, there to serve their needs.

So there are a number of ways to tackle the issue, and we will continue to beat the drum of the importance of attorneys giving back by every year, rendering a significant number of pro bono hours and free legal service to the poor. But the Supreme Court has a preliminary order that they are still mulling over regarding the creation of a paraprofessional program. This last legislative session, three bills were introduced that would have created a

paraprofessional program. None of them made it all the way through, but that would allow nonlawyer professionals who are authorized and licensed to practice only in the representation of low-income Texans and only in certain discrete areas like consumer debt, landlord-tenant and family law, the most common needs, the big three for low-income Texans.

There are a number of things that the profession is looking at to try to address it. Texas, like almost every other state in the United States, struggles with making sure there are enough lawyers where Texans have needs.

Lawbook: What lessons did you learn from being Texas State Bar president?

Benesh: I had turned down a couple of opportunities in the past to interview for the possibility, and I didn't think they were going to ask again. But I guess almost four years ago, I was approached at a Texas Bar Foundation dinner about whether I would be willing to be interviewed, to throw my hat in the ring, to be interviewed as a possible candidate. And I thought, "why not?" I just turned 60, and I'm approaching 65 now, and I thought, why not? Why not give back in a more substantial way to the profession that's given so much to me, and I don't mean monetarily, I mean the rich experiences and friendships and things of that type. So I said, "Sure," and it all worked out from there.

It was a busy three years, four years, if you count running — it was a yearlong campaign back then. We've shortened it since. Those three years, I traveled to 300 events in that period of time, slept in hotel beds as often as my own and drove 60,000 miles — which is, I think, two and a half times around the earth or something like that — to meet lawyers where they were. I'd have to tell you the best part about it was the relationships and friendships that I built and the ones that I renewed, and I was heartened and encouraged.

We live in a very uncivil society right now, and at least in my almost 65 years,

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the unwillingness of many to reach across the aisle to look for common ground and common good appears to be at an all-time low, but not in our profession. It was refreshing to see so many attorneys who were modeling the professionalism and professional courtesy that we ask of lawyers in their dealings, both in court and out of court, across the state. It was heartening to see it, because if ever there was a time for us to be a beacon to society in connection with courtesy and civility, now is it. That, for me, was my greatest joy. But we also had a number of initiatives that I was very pleased to advance. By best estimates, I met about 45,000 lawyers over the last three years, and that's almost half of the lawyers in Texas.

Lawbook: Do you use AI in your practice?

Benesh: I do. I mean, any of us has done a Google search and used AI in our practice. We leave it to our clients. We're a large law firm, a national law firm, with offices abroad. We have a firm AI policy, and our clients run the gamut. Early on, many of our clients said, "Absolutely not. I'm not comfortable with the efficacy and veracity of AI." We all heard the stories about the ghost cases, which are fictitious cases that, early on in the implementation of AI, if AI was trying to draft a persuasive brief and there wasn't a case out there, it would just create one. There were a couple of embarrassing instances here in Texas, not Bracewell lawyers, but folks who got to court and had a judge or opposing counsel point out to them that the case they were relying upon was not actually a case.

So early on, many of our clients said, "Let's steer clear of that now." But because of its cost efficiency and its increasing reliability now, many clients are saying, "Yes, please, rely on artificial intelligence," because many tasks, research and drafting, at least the initial stages, can be performed more quickly and in a less expensive fashion than attorneys performing the same task. We use AI in connection with our

representation of clients.

Lawbook: What has been a memorable case or moment in your career?

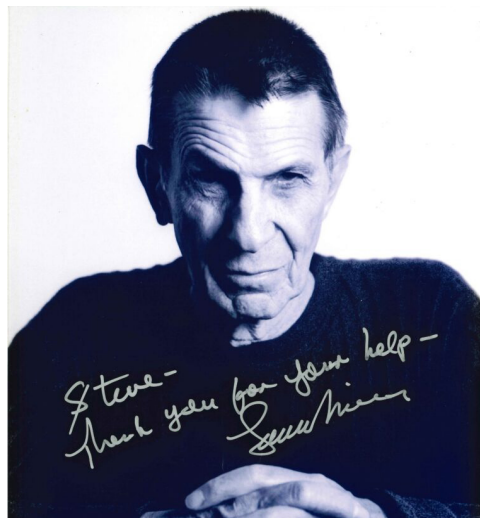


Photo of a signed photograph of Leonard Nimoy

Benesh: I was born in 1961, so *Star Trek* came out when I was 6, 7 and 8 years old. And it was on prime-time television, and it blew my mind. Instead of playing cowboys and Indians or soldiers, we played *Star Trek*. And being tall and skinny, I ended up as Mr. Spock all the time. And so it was great years later that I got to be Leonard Nimoy's lawyer here in Texas, in connection with some legal issues that he had. He's now passed away.

Another one was, years ago, I was involved in an issue involving the minting of Belarusian gold rubles, which, because you roll gold before you stamp gold coins, you roll them like you would cookie dough, and the rollers had not been cleaned since the last roll of a non-precious metal, and little bits of iron got embedded. And what does iron do? It rusts. And so when these gold coins were issued, they began having rust spots. And every Belarusian and every person on Earth knows that gold doesn't rust. So it made people question whether these were authentic gold coins or whether it was a fraudulent issuance. And it all blew up into litigation.

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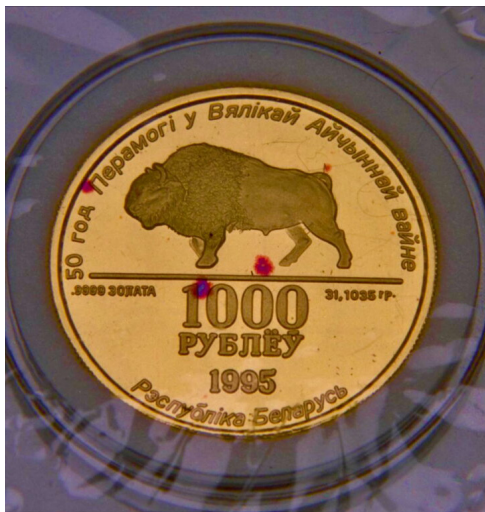


Photo of a 1995 Belarus 1000 Rubles commemorative coin

I got to go to Minsk, capital of Belarus, and depose the prime minister of Belarus and the head of their national federal reserve bank. When I tried that case in federal court in Houston, I called as a witness live on the stand the prime minister of Belarus, and to date I am the only attorney with my law firm that has ever been deposed or called as a witness the head of state of any nation. And so that was a fun case. We all have seen those *Indiana Jones* movies and *Pirates of the Caribbean*, where they throw open a chest, and the light goes yellow, and their faces are kind of bathed in yellow. That actually happens. We had a visual aid where we rolled in on a dolly these stacks of open boxes of coins, of these beautiful gold coins, and the light of the courtroom reflected off of them and bathed us all in yellow. It was the coolest moment. So that was a fun case.

I have been so blessed. It's been a great career. One of the reasons, as I began halfway through college, thinking about, well, maybe I do want to be a lawyer after all, as I thought to myself, my dad has all these great stories that he comes home with to tell around the dinner table. He loves what he does. He has happy clients who will stop by and drop off pies or turkeys or whatever on the holidays, and he's never gotten bored with it. And there aren't many careers where all of those things are true, and it has been true

for me. The firm, Bracewell, has been incredible, particularly while I've been so busy driving everywhere over the last few years. They have been incredible in supporting me, and they have been with me every step of the way.

It's never gotten old, and it's one of the reasons I think one of our sons went into it, is that he saw how much I have enjoyed doing it.

Lawbook: What has been surprising to you about serving on the Texas Board of Law Examiners?

Benesh: How much time it takes, for one thing. The law examiners do a number of things. It's a creature of statute. We work directly with the Supreme Court, and its principal function is to administer the bar exam twice a year, and the nine members of the board of law examiners don't grade them ourselves. We have teams of contract lawyers who do that, and each one of us is responsible for a particular section of the bar.

A couple of folks have served 18 years on the board that are so diligent, hard-working and conscientious, I have just been impressed at the work ethic. One of the things I did not want to do was be given some position when I was finished being state bar president that had quarterly meetings and really interesting locations and interesting beverages, but no real responsibility. I wanted to roll up my sleeves and do real work that makes a difference.

That's what the board of law examiners is doing. And the folks who are doing it, and have been doing it for years, are really good, dedicated lawyers doing this work. It's a lot of work, but it's interesting work, and I love the colleagues that I'm working shoulder-to-shoulder with.