Tribute to Professor Bill Dorsaneo

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TRIBUTE TO PROFESSOR BILL DORSANEIO

Elizabeth G. Thornburg*

CIVIL justice in the State of Texas would not be what it is today without the decades-long work of Bill Dorsaneo. It’s a blessing to a state, especially one with its own unique rules of procedure, to have the careful attention of a person who is both a thoughtful scholar and a practicing lawyer. Those dual viewpoints elevate the entire system: the academic insights ground the system in the need for procedural fairness, and the practitioner experience leads to rules that actually work. Theory on its own can turn out to be impractical; technocratic detail loses sight of the purpose behind the rules and their influence on those who use the courts. There are so many ways in which Bill kept both balls in the air, and Texas is much the better for it.

First, consider his role in making procedural law. His work on the Advisory Committee to the Texas Supreme Court guided the process of writing and amending the procedure rules in ways both large and small. His work on various task forces (and, if rumor can be trusted, long conversations over beer with procedural movers and shakers) has also guided the drafting of statutes that regulate court procedures. Second, the Texas Litigation Guide (so many volumes!) helps all lawyers and judges understand what those rules mean, how they have been interpreted by the courts, and how to use them in practice. The Guide also identifies issues that have not yet been decided, and sometimes gently critiques misguided decisions. Because it is both comprehensive and reliable, the Guide thus became both an aid to individual lawyers and a compass for the future development of the law.

Bill’s career has shaped Texas procedure in a third way: his influence on the generations of law students that he taught at SMU. Partly that comes through his textbooks—casebooks on pretrial, trial, and appellate procedure lead students through the intricacies of Texas courts, from pre-action remedies through to the final Supreme Court appeal. A student learning from those texts gains a rich understanding of how to litigate properly in Texas and what to do when things go wrong. Those who learned from Bill personally came away with an additional gift: an understanding of how the different bits of the system relate to each other, so that they are not just tiny bits of detail but parts of a logical whole. It could be confusing at first. “Why,” a student might wonder, “is he talking

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about the joinder rules when we’re studying venue?” But by the end of
the semester, the ability to see those connections becomes both knowl-
edge and practice skill. One of Bill’s former students once told me that
she has a little “Bill Dorsaneo” voice in her head when procedure issues
arise. Multiply that by the thousands of students he has taught, and again
his deep and nuanced understanding of Texas procedure has permeated
the system.

On the academic side, Bill has written articles that speak directly to the
core values of our procedural system. He has shown a particular passion
for defending the role of the jury, pointing to the ways in which its traditio-
nal powers have been undermined by pretrial rulings and appellate re-
view in articles such as Reexamining the Right to Trial by Jury1 and Judges,
Juries, and Reviewing Courts.2 His firm grounding in the history of both
Texas and federal procedure also led to articles that provide crucial infor-
mation about where the rules came from and how they relate to areas of
substantive law, which in turn points the way to future reform, as in The
Flawed Nexus Between Contract Law and the Rules of Procedure: Why
Rules 8 and 9 Must be Changed (co-authored with SMU’s Professor Paul
Rogers).3

Bill also nurtured and mentored the next generation of procedure
scholars. Speaking for myself, he got me involved in teaching continuing
education programs and introduced me to many of the lawyers and
judges who made the system work. He was always available to talk
through research ideas, read and comment on drafts, and provide support
during the tenure and promotion processes. Collaborating with Bill on
the Texas procedure casebooks and the federal Questions & Answers:
Civil Procedure was stimulating and enjoyable. As a co-author, he is both
generous and reliable and makes the work, well, fun. While nobody likes
proofreading for typos, it turns out that crafting multiple choice questions
with the right partner leads to some mind-bending conversations, at least
for procedure nerds like me.

It’s been my privilege and pleasure to be Bill Dorsaneo’s colleague
here at SMU. I’m grateful for his devotion to his faculty colleagues, his
students, and the institution and for this opportunity to celebrate his
work.

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1. William V. Dorsaneo, Reexamining the Right to Trial by Jury, 54 SMU L. Rev.

2. William V. Dorsaneo, Judges, Juries, and Reviewing Courts, 53 SMU L. Rev. 1497
(2000).

3. William V. Dorsaneo III & C. Paul Rogers III, The Flawed Nexus Between Con-