

NORTH TEXAS NEWS

International Right of Way Association, Dallas-Forth Worth

FEBRUARY 2023

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FEBRUARY LUNCHEON

Speaker: Jordan Miller

Topic: "Common Issues with Utility Relocations"

Jordan A. Miller is an Equity Partner with Baker | Moran. He is licensed to practice in Texas and Oklahoma. Jordan represents parties to real estate transactions and property disputes involving fraud, breach of contract, breach of warranty, negligence, DTPA claims, property damage, trespass, and other property related matters. Jordan also represents condemning authorities and landowners in all facets of right of way acquisitions, from initial negotiations through litigation and appeal, and he has been involved in the acquisition of hundreds of tracts of land for electric transmission lines, oil and gas pipelines, roadways and related facilities, water and wastewater pipelines, as well as other public projects.



Tuesday, February 14th, 2023

11:30 AM - 1:00 PM

The Clubs of Prestonwood

15909 Preston Road

Dallas, TX 75248

Member - \$20

Non-Member - \$25

First-Time Guest - Free!

Register at

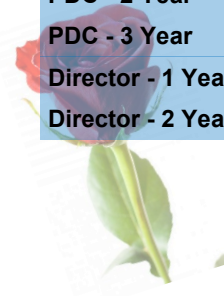
www.irwachapter36.org



Walk-ins Welcome - \$25 (walk-in spaces are limited)

Registration will be cut off at 5pm on Friday, February 10th

President	Michael Hale, SR/WA, R/W-URAC, R/W-NAC, R/W-RAC
Vice-President	Will Snider, MAI, RWA, R/W-AC
Secretary	Leighton Gambill
Treasurer	Matt Lance, SR/WA, R/W-RAC, R/W-URAC
PDC Chair	Tommy Matthews, SR/WA, R/W-AC
PDC - 2 Year	Gina Phalen, R/W-AC
PDC - 3 Year	Clara Castañeda, R/W-RAC
Director - 1 Year	Dalton Vann, MAI, RWA, R/W-AC
Director - 2 Year	Sarah Riebe, SR/WA, R/W-NAC



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International Right of Way Association, Dallas-Forth Worth

FEBRU-

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President’s Message

I wanted to let everyone know about our Region 2 forum coming up. This year, Region 2 and Region 6 will be holding their Spring Forums together, in conjunction with the International Transportation Committee (ITC) Symposium in Hilton Head, SC. The 2023 ITC Symposium and Spring Forum will be held at the Beach House Hilton Head Island, SC. The dates are March 30th to April 1st, 2023. The cost for this event is \$150. To register for the event visit the Region 2 website. They are also hosting Course 902 on March 30th, 2023 in conjunction with this event. The forum and symposium are great opportunities for education, networking, and finding out what our region is currently doing. We have our local chapter meeting coming up on February 14th, 2023, I look forward to seeing you there.



Michael Hale

SRWA, RW-URAC, RW-NAC, R/W-RAC
Right-of-Way Regional
Manager at Cobb, Fendley and
Associates, Inc.
817.445.1016
MHale@cobbhendley.com

-Michael Hale



**Value People.
Value Property.**

Spring Seminar & Golf Tournament

By: Will Snider, Vice President

Chapter 36 Members,

It's that time again! The IRWA Chapter 36 Spring Seminar and Golf Tournament are right around the corner. This year's Steve Baggett Memorial Golf Tournament will be held at The Golf Club at Champions Circle in Fort Worth on Thursday, April 20th, and the Spring Seminar will be held at The Marq in Southlake on Friday, April 21st. Additionally, a one-day course (Course 102 – Elevating Your Ethical Awareness) will be offered on Thursday, April 20th, at The Marq in Southlake.



Will Snider

MAI, RWA, R/W-AC
Director at Lowery Property
Advisors
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WSnider@lowerypa.com

The information packet on the following page gives you all the details you need to help decide which event you can be involved in. As in years past, we are going to need a lot of support to make this event successful. We hope that you will take a look at our very exciting sponsorship opportunities and find additional value in the exposure your company will receive at the Golf Tournament and Seminar. Proceeds from our golf tournament and seminar not only make it possible for Chapter 36 to provide continuing education to attorneys, agents, brokers, surveyors, and appraisers at such an affordable rate, but it also allows the Chapter to provide other education benefits for our members. Income from our Spring Seminar allows Chapter 36 to continue to provide discounted educational opportunities and incentives at monthly meetings all made possible by your generous giving.

To fit your needs, there are FIVE levels of sponsorship plus specific items to sponsor. Several of these opportunities are on a first come first serve basis. Please see the following page for a breakdown of each level and the marketing potential they offer for your company. With your support we look forward to making this the best year yet!

If you have any questions about becoming a sponsor or if you wish to get involved with these events, we look forward to hearing from you. Please [contact me](#), [Leighton Gambill](#) or [Ana Salazar](#) for more information or if you are interested in a sponsorship. As always, thank you for your continued support.

Spring Seminar & Golf Tournament (Cont.)

By: Will Snider, Vice President



SPONSORSHIP OPPORTUNITIES

Sponsors are valuable partners with IRWA Chapter 36 and will receive advertising benefits at particular events and on the Chapter 36 website. All registration and sponsorship payments can be made online and we encourage you to take advantage of that convenience.

Deadline for sponsorships is March 31, 2023.

Online Registration & Payment Portal:
irwachapter36.org/meetinginfo.php

Pay by check: Please register online and click 'Bypass Payment', then mail check and registration form to:
 IRWA Chapter 36
 Attn: LPA/Will Snider
 1200 Summit Ave, Suite 750, Fort Worth, TX 76102

Sponsorship Options

Tiered Sponsorship Level/Benefits	Platinum * \$2,500	Gold * \$1,500	Silver * \$1,000	Bronze * \$500	Copper \$300
Logo recognition in seminar program	Y	Y	Y	Y	Y
Logo recognition on the sponsor signs placed throughout the seminar/meeting area	Y	Y	Y	Y	Y
Verbal recognition at the seminar	Y	Y	Y	Y	
Verbal recognition at the golf tournament	Y	Y	Y		
Complimentary registrations for the seminar	4	3	2		
Complimentary logo recognition on a golf hole	Y	Y			
Opportunity to have a tent at the golf tournament on a hole to hand out merchandise (<i>Must provide your own tent</i>)	Y				

*These sponsorship levels also come with recognition at the 24th Annual Steve Baggett Memorial Golf Tournament

Item Sponsorship Levels and Benefits	
Lunch Sponsor: \$1,500 <i>(Only 1 available)</i>	Logo recognition in seminar program, sponsor signs placed throughout the seminar/meeting area and verbal recognition at the seminar
Breakfast Sponsor: \$1,500 <i>(Only 1 available)</i>	Logo recognition in seminar program, sponsor signs placed throughout the seminar/meeting area and verbal recognition at the seminar
Break Sponsor: \$500 <i>(Only 2 available)</i>	Logo recognition on the sponsor signs placed at break tables and verbal recognition at the seminar
Beverage Cart Sponsor: \$1,000 <i>(Only 1 available)</i>	Logo recognition on the sponsor signs placed on the beverage cart during tournament and verbal recognition at the seminar

If you would like to add your **company's promotional items** to the goodie bags handed out to all golfers at the golf tournament, please plan to provide the items no later than April 14, 2023.
 Contact Golf Chair, Ana Salazar at (817) 901-2634 or asalazar@pinnaclegroup.biz



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Ask the Attorney

By: R. Scott Moran, Jordan A. Miller and Charlie Wilson



Scott Moran

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Plano, Texas 75093
469.351.3487



Jordan Miller

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jmiller@bakermoran.com



Charles Wilson

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cwilson@bakermoran.com

Question: Can a landowner recover lost business profits when the land their business sits on is being condemned?

Answer: A landowner generally may not recover lost business profits in an eminent domain proceeding.¹

The rationale for this is that business profits derived from a business conducted on property are too speculative, uncertain, conjectural, and remote to be considered as a basis for computing or ascertaining market value of property in condemnation proceedings.²

State v. Cent. Expressway Sign Associates, 302 S.W.3d 866, 871 (Tex. 2009), which is a seminal case on this issue holds that:

Texas law allows income from a business operated on the property to be considered in a condemnation proceeding in two situations: (1) when the taking, damaging, or destruction of property causes a material and substantial interference with access to one’s property, *see City of Austin v. The Avenue Corp.*, 704 S.W.2d 11, 13 (Tex.1986); and (2) when only a part of the land has been taken, so that lost profits may demonstrate the effect on the market value of the remaining land and improvements, *see City of Dallas v. Priolo*, 150 Tex. 423, 242 S.W.2d 176, 179 (1951). Absent one of these two situations, income from a business operated on the property is not recoverable and should not be included in a condemnation award. Courts have applied this rule for two reasons: first, because profits from a business are speculative and often depend more upon the capital invested, general market conditions, and the business skill of the person conducting it than it does on the business’s location; and second, because only the real estate and not the business has been taken and the owner can presumably continue to operate the business at another location. *Herndon*, 261 S.W.2d at 223. Absent one of these two situations, income from a business operated on the property is not recoverable and **should not** be included in a condemnation award.

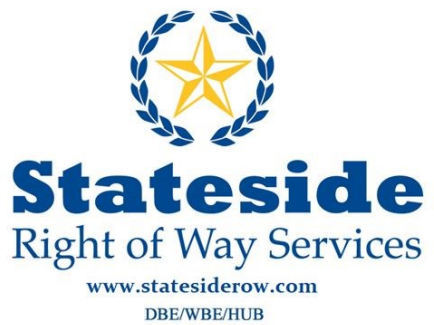
¹*State v. Travis*, 722 S.W.2d 698, 698-99 (Tex. 1987); *State v. Central Expressway Sign Associates*, 302 S.W.3d 866, 872 (Tex. 2009); *State v. Zaruba*, 418 S.W.2d 499, 502-03 (Tex. 1967) (where improvements are rendered valueless by a partial taking, the injury to the business, including the cost of removal and reconstruction on the remainder are considered, not as a separate item of damage, but as affecting the market value of the remaining land); *City of Dallas v. Priolo*, 150 Tex. 423, 242 S.W.2d 176, 179 (1951) (where damage to owner’s business was considered in determining the value of the remainder, an award for lost profits constitutes a double recovery); *Laird Hill Salt Water Disposal, Ltd. v. East Tex. Salt Water Disposal, Inc.*, 351 S.W.3d 81 (Tex. App.—Tyler 2011, pet. denied); *Dallas Cty. v. Crestview Corners Car Wash*, 370 S.W.3d 25 (Tex. App.—Dallas 2012, pet. denied); *Bridges v. Trinity River Auth.*, 570 S.W.2d 50, 53-54 (Tex. Civ. App.—Tyler 1978, writ ref’d n.r.e.); *Lower Nueces River Water Supply Dist. v. Sellers*, 323 S.W.2d 324, 332 (Tex. Civ. App.—San Antonio 1959, writ ref’d n.r.e.); *Sjolander v. City of Houston*, 551 S.W.2d 166, 168 (Tex. Civ. App.—Houston 1977, no writ); *State v. Sungrowth VI, California Ltd.*, 713 S.W.2d 175 (Tex. App.—Austin 1986, writ ref’d n.r.e.).

²*State v. Moore Outdoor Props., L.P.*, 416 S.W.3d 237 (Tex. App.—El Paso 2013, pet. denied); *Bridges*, 570 S.W.2d at 53-54; *Sjolander*, 551 S.W.2d at 168; *Reilly v. State*, 382 S.W.2d 116 (Tex. Civ. App.—San Antonio 1964, writ ref’d n.r.e.).

The views, thoughts, and opinions expressed in this article belong solely to the author(s) and not necessarily to the author’s law firm or its clients, or any organization, committee, or other group of which the author is a member.



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Professional Development Committee News

By: Tommy Matthews, PDC Chair

Hope everyone stayed warm during the winter blast the last days of January. Once again, the Cowboys can't get the job done. Not sure how much more my heart can take. A little joke to helpfully make everyone smile. Why is it ok to lie to a dentist? Because the tooth hurts.

The Professional Development Committee is available to help you reach your right-of-way goals. Our success and the Chapter's success are not only measured by the sheer number of members we attract, but also by the professional advancement our organization can offer.



Tommy Matthews
 SRWA, R/W-AC
 Edgestone Realty Valuation
 214.556.4035
tommy@edgestonerealty.com

Congratulations to the following Chapter 36 members for achieving their recent designations.

Specialist Certification

- Kellen Hope, R/W-NAC (WSP)
- Leo Sumner, R/W-NAC (Texas Appraisal Team)

Industry Generalist Certification

- Chris Singleton, RWA (City of Denton)
- Silverio Garza, RWP (Pape-Dawson)
- Mark Laird, RWA (City of Denton)

For any questions on obtaining a certification or if you have any other questions regarding your Professional Development goals, please contact the PDC Committee.

PDC Committee Members:

- Tommy Matthews - SR/WA, R/W-AC – PDC Chair*
Gina Phalen – R/W-AC - PDC Committee (2 Yr.)
Clara Castaneda – R/W-RAC - PDC Committee (3 Yr.)



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Professional Development Committee News

By: Gina Phalen, PDC Committee (2 Yr.)

Hello Chapter 36 Members!

In honor of Greg Cook, a mentor and legacy of Chapter 36, we are accepting applications for the Greg Cook Memorial Scholarship.

The completed application packet must be submitted to Gina Phalen, Chapter 36 Professional Development Committee 2-Year, at gina.phalen@cushwake.com no later than 5pm on Friday, May 26, 2023.



Gina Phalen

R/W-AC
Cushman & Wakefield
Senior Director Infrastructure
602.510.3900
gina.phalen@cushwake.com

Greg Cook Memorial Scholarship

In Honor of Greg Cook – a mentor & legacy of Chapter 36

*Live as if you were to die tomorrow.
Learn as if you were to live forever.*
~ Mahatma Gandhi

[Application located on IRWA Chapter 36 website:](#)

Education Tab at top/PDC & Scholarships/Greg Cook Scholarship/Click here to download

Scholarship Criteria

- Chapter 36 member
- Currently working towards an IRWA Designation

Summary of Application Contents

See application for more details

- Completed and signed application
- Proof of Candidacy / Declaration for a current IRWA designation
- Current photograph

Deadline is Friday, May 26, 2023

There will be NO extensions or late applications considered

Send submissions to Gina Phalen, R/W-AC, PDC Committee, at Gina.Phalen@cushwake.com

Questions? Email or call/text 602-510-3900



[Click here to download](#) scholarship applications.



Education Committee News

By: Lauren McCarthy, Education Committee Chair

Lauren McCarthy

McCarthy Partners
972.693.1783
lmccarthy@mccarthypartners.net

Hello Chapter 36 Members!

Hello everyone! The education committee is focused on scheduling courses that are most beneficial for you to attend in-person, while also being cognizant of what other chapters are hosting and when. We are happy to announce Course 102 this coming April in Southlake!



Course 102: Elevating Your Ethical Awareness
April 20, 2023
Southlake, TX (Sponsored by Chapter 36)



Course 102: Elevating Your Ethical Awareness

Course Description:

This course is intended to help resolve ethics and compliance issues by providing the information, tools and resources necessary to make good decisions. Participants will leave this course with an overview of IRWA's Code of Conduct, Rules and Standards. These are what guide us and provide an understanding of how to apply this knowledge in serving our clients and members in the utmost ethical manner while always striving to fulfill our purpose of "improving the quality of people's lives through infrastructure development."

Course Level:

Core

Topics:

- To elevate ethical awareness in our industry to ensure we serve our clients and the profession to the highest standard
- To provide a clear understanding and clarity of our Code of Ethics, Ethical Rules and Standards
- To be educated on the risks associated with non-ethical behavior
- To cultivate an active presence of ethical awareness in daily work and life
- To nurture an understanding of Ethics as a concept and social construct

Course Materials Provided as PDFs:

- Learning Guide
 - Supplement – "The 10 Rules of Professional Conduct & Standards of Practice for the Right of Way/Infrastructure Professional"
- *Printed materials available for additional charge.*

Who Should Take This Course:

- New and experienced right of way/infrastructure professionals worldwide
- Professionals desiring to raise their standard of ethical and fair business practice

Thanks to everyone who has reached out and offered to host a course. If you would like to host a class please let someone on the committee know—we are always looking for great spaces around the DFW area to host a class.

Likewise, if your company would like to host a private course, we will be happy to work with you on scheduling the instructor and help coordinate the class. Just send us an email. <https://irwchapter36.org/education> This would be especially helpful if you have a group of new employees you are looking to bring up to speed on all things right of way.

If you don't see the class you need, headquarters has a calendar of virtual classes that are coming up. They are located at [IRWA Virtual Classes Calendar](#).

If time is not on your side and you cannot wait for a scheduled class or if a class has reached full capacity prior to your registration, then there are several courses that can be taken on demand. They can be accessed by going to [IRWA U](#).

Which Courses Do I Need?

Our PDC and the credentialing concierge can tell you which classes you need to complete the education requirements for the designation and certification. If you are planning to get certified in any discipline the IRWA offers, the list of courses you need to complete your credentialing are located at www.irwaonline.org. Just visit the "Credentialing" tab.