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## A Lawyer's Speech Opens a New Venue In Ongoing Battle

By NATHAN KOPPEL  
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When Texas plaintiffs' lawyer Anthony Buzbee gave a provocative address last year to maritime defense attorneys in Lake Las Vegas, Nev., he says he had no idea that an audience member about 20 feet away from him was taping the speech.



**Tony Buzbee**

Now, in the ongoing battle between businesses and the lawyers who sue them, his words are coming back to haunt him as pro-industry lobbyists and Texas legislators use the speech to push for limits on where workers may file lawsuits if they're hurt at sea.

According to a transcript, Mr. Buzbee told the small gathering that he was particularly fond of Starr County, on the western edge of Texas' Rio Grande Valley. "That venue probably adds about seventy-five percent to the value of the case," he said. "You've got an injured Hispanic client, you've got a completely Hispanic jury, and you've got an Hispanic judge. All right. That's how it is."

In other parts of Texas, Mr. Buzbee went on, a plaintiff may have the burden of showing "here's what the company did wrong, all right? But when you're in Starr County, traditionally, you need to just show that the guy was working, and he was hurt. And that's the hurdle: Just prove that he wasn't hurt at Wal-Mart, buying something on his off time, and traditionally, you win those cases."

To his opponents, this was clear evidence of "venue shopping," a pervasive source of controversy in the legal world where one side seeks the friendliest locale to try a case. To Mr. Buzbee, he was just describing the advantages of a uniquely flexible provision in Texas law that allows plaintiffs in maritime cases the convenience of bringing suit in the county where they live. He was also making it clear to frequent courtroom opponents what he saw as the benefits of settling quickly rather than going to trial in places like Starr County.

In the past five years, thanks in part to Mr. Buzbee, there has been a surge in the Rio Grande Valley of lawsuits on behalf of seamen alleging injuries on dredging vessels from Florida to New Jersey to Bahrain. The predominantly Hispanic and relatively poor region in southern Texas has gained a national reputation for large jury verdicts. Mr. Buzbee says he has won several recent dredging verdicts in the Valley, ranging from \$450,000 to about \$1.4 million, and notes that he has settled many more for confidential amounts.

### Paradise for Plaintiffs


The American Tort Reform Association annually ranks the litigation venues it considers most hostile to defendants.

2006 rank	Venue	2005 rank
1	West Virginia	3
2	South Florida	6

Congress and various states have passed laws limiting plaintiffs' flexibility to choose favored venues. But "personal-injury lawyers can still often shop cases as fast as their little legs will carry them," says Darren McKinney, a spokesman for the pro-business American Tort Reform Association.

A former marine who served in the Persian Gulf and later graduated second in his class from the University of Houston Law Center, the 38-year-old Mr. Buzbee specializes in personal-injury cases. Lawyers

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describe him as bright, aggressive and flamboyant -- he is a fan of cigars and vintage automobiles. "He's the kind of guy who wants his presence to be felt when he walks into a room," says James Watkins, a Galveston, Texas, lawyer who has defended cases against Mr. Buzbee.

Last May, Mr. Buzbee was invited to speak at the three-day seminar at the Ritz Carlton in Lake Las Vegas hosted by law firms that defend maritime cases, the people he usually squares off against in court -- a circumstance that's not unusual in the legal profession.

Mr. Buzbee says his comments in Nevada reflect the fact that "under maritime law, a plaintiff is supposed to win if he gets hurt at work." In conservative Texas locales, however, he says, plaintiffs often must meet a higher burden, even though it's not required by law. He says that juries in places like Starr County do a better job of following the law.

The immediate reaction to his speech was muted. But late last year, Mr. Buzbee says, he was in court in Galveston, where his firm is based, when a colleague told him that he had heard about his Nevada speech. Since then, Mr. Buzbee estimates, 35 to 40 lawyers and state legislators have called him, saying that they heard about the speech or had seen a transcript of it.

The pro-business Texans for Lawsuit Reform has been aggressive in circulating a transcript of his remarks. "Mr. Buzbee is describing why we have to fix the [venue] system," says Denis Calabrese, a spokesman for the group.

In civil matters, plaintiffs generally must file suit where an alleged wrong occurred or where a defendant is based. That is also generally the case in maritime matters, and there are complex rules for figuring out which venue is closest to the site of an accident at sea. Texas, though, has a uniquely flexible rule, allowing maritime plaintiffs to file suit in the county where they reside. Maritime companies that hire workers are thus exposed to lawsuits.

Maritime companies report a recent surge in Valley suits. Illinois-based **Great Lakes Dredge & Dock Co.** faced its first-ever Valley suit in 2002, but says that it has since been sued 33 times there. "We have been hiring Valley workers for 20 years," says David Simonelli, a company vice president who says he recently bought cowboy boots, because he is spending so much time there. "There is no logical reason for the explosion of suits."

Weeks Marine Inc., based in Cranford, N.J., was sued three times in the Valley prior to 2003, but says that it has since faced 17 suits there, the majority based on dredging incidents that occurred outside Texas, says Thomas Langan, a risk manager for the company. Filings increased, once "attorneys realized what a lucrative judicial hellhole exists down there," he says.

Mr. Buzbee counters that he has filed more Valley suits recently because more Valley workers are getting injured. He says he believes that budget crunches at dredging companies have caused them to be less safe.

On Feb. 16, Corbin Van Arsdale, a Republican legislator from Houston, introduced a bill that would amend state law so that only in rare cases is a plaintiff's county of residence an appropriate venue for maritime-injury suits. Plaintiffs' lawyers "like the Valley, because they get more frequent and larger verdicts," says Mr. Van Arsdale, who says he has heard about the Buzbee speech but hasn't seen a transcript.

Texas plaintiffs' lawyers argue that injured maritime plaintiffs will have a harder time vindicating their rights if they are forced to travel to the venue of an accident or to a defendant's home base. "Most of us want to try lawsuits where we live, as a matter of convenience," says John Stevenson, a Texas lawyer who has filed many dredging suits in the Valley. "In the Valley," he adds, "the juries and judges are professional."

Still, not all plaintiffs' lawyers are rallying behind Mr. Buzbee. Texas plaintiffs' lawyer Ronald Krist says he faults Mr. Buzbee for stirring the venue pot. "Lawyers are always looking for a more favorable venue, but to say in a public forum that notwithstanding the evidence, an Hispanic jury and judge will allow you to win

undermines public confidence" in the system, he says. "Those are the sorts of things you shouldn't whisper to your wife in the middle of the night."

Mr. Buzbee, however, says he never expected his speech to reach the multitudes. As he approached the microphone at the Ritz Carlton last year, Mr. Buzbee recalls saying to an attorney who had helped organize the event: "This isn't going to be recorded, is it? You want me to speak candidly, don't you?" Mr. Buzbee says the attorney assured him there would be no recordings.

Earlier this month, Mr. Buzbee filed suit in Galveston state court, alleging that Great Lakes Dredge & Dock's Mr. Simonelli, "surreptitiously recorded" the speech. Later, Mr. Buzbee claims, the Dredging Contractors of America, a D.C.-based nonprofit, disseminated a transcript of the speech "throughout the state of Texas." The suit asserts that Great Lakes and the Dredging Contractors violated anti-eavesdropping laws.

The Dredging Contractors of America declined to comment. Mr. Simonelli says he taped many sessions at the Nevada event. "I did not know of any agreement prohibiting the recording of any seminar," he says.

Paul Yetter, counsel to Great Lakes, shines a light back on Mr. Buzbee. "He has no one to blame but himself for saying those things."

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