

inside...

Local Heroes

Firm Commitments

HBA Nominees Take Top Honors in State Bar Pro Bono Awards

Third Harris County Bench Bar Pro Bono Awards

26th John J. Eikenburg Law Week Fun Run

Law Week Celebrates Legacy of John Adams

THE HOUSTON lawyer

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The 61st Harvest Party raised **\$527,500** in underwriting for the Houston Bar Foundation. The Lawyers for Literacy Fall Book Drive collected **9,111** books for shelters and literacy projects, and the HBA team won its 9th title in the Great Grownup Spelling Bee, benefiting

the Houston... readings in... the HBA's partnership with the Chronicle in

Education... there were more... than **13,600**... collected **5,559**

2,000 pro b... coats, jack... the homeless... ss for Success

in the Fall Coat... disadvantaged... Houston and **\$1,**

women entering... and IDEA Programs reached over **2,100**

fifth graders in fi... in the legal... and health conse... you provided

speakers for **202** programs, reaching **8,353** pe... participated... in presentation... answered

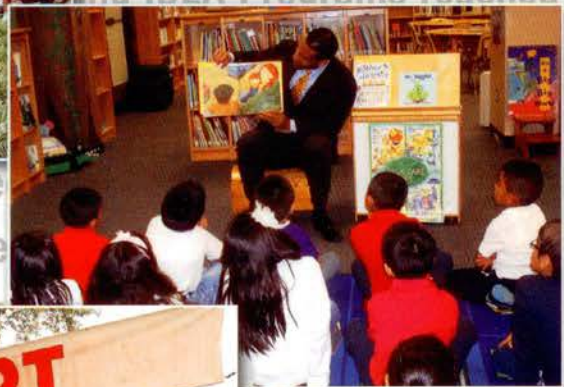
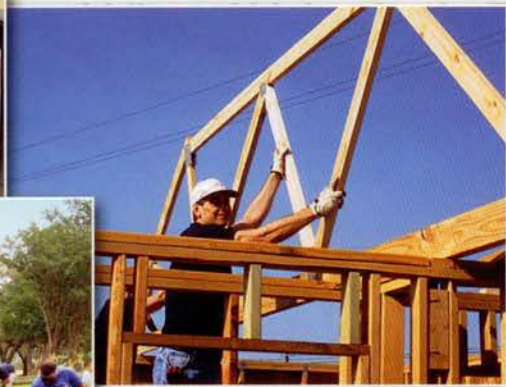
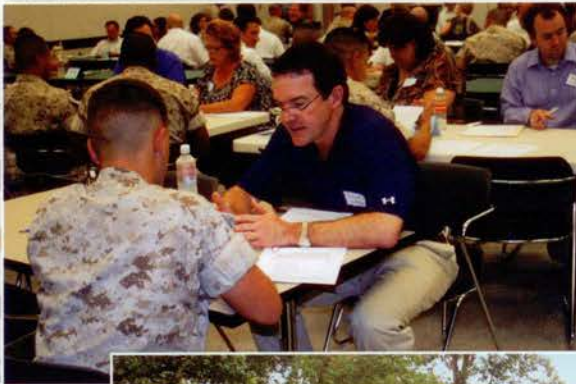
by volunteers... sequences... Program last... in 2010 an

provided info... the Senior La... HBA Volunteers: Not

items and a record **\$4,750** to purchas... Just Another Statistic... children and families through the Sprin... lters and agencies that serve

Justice Mock Trial Program taught **1,170** eighth graders about the justice system. **315** high... and Diaper Drive. The Juvenile

school students learned about the Voir Dire process this fall. 2011 Law Week programs... reached over **8,500** youth in Harris County through readings, contests, and other programs.



HBA Volunteers: Not Just Another Statistic

The U.S. Supreme Court Rules Corporations Do Not Have "Personal Privacy" Under the FOIA

By Jill Yaziji


The issue in *FCC v. AT&T, Inc.*, 562 U.S. ____ (2011) is whether the term "personal privacy" in Exemption 7(C) of the Freedom of Information Act (FOIA) should be interpreted to cover the privacy of artificial persons, *i.e.* corporations and other entities. In *FCC v. AT&T, Inc.*, the U.S. Supreme Court unanimously held that corporations are not protected under the FOIA's personal privacy exemption.

The FOIA generally requires federal agencies to make documents available to the public upon request, subject to certain exemptions. One such exemption is §552(7)(C), which prohibits the disclosure of information "compiled for law enforcement purposes" that "could reasonably be expected to constitute an unwarranted invasion of *personal* privacy." (Emphasis added). CompTel, a trade association representing AT&T's competitors, requested documents generated in the course of an investigation conducted by the Enforcement Bureau of the FCC into AT&T's pricing policies. In response, the Bureau decided to withhold certain information relating to AT&T's employees. The Bureau, however, found that disclosure of information relating to AT&T itself would be appropriate, reasoning that "businesses do not possess personal 'privacy interests'" under Exemption 7(C).

AT&T disagreed with the Bureau's position and an appeal to the Third Circuit Court of Appeals followed. In its brief to the Court of Appeals, AT&T argued that the word "personal" in Exemption 7(C) incorporates the statutory definition of the word "person." Since Congress defined "person" to include "an individual" as well as artificial persons, such as "partnership" or "corporation," then the term "personal" should also cover those entities. This interpretation, AT&T argued, was dictated by "basic principles of grammar" that "a statute which defines a noun has thereby defined the adjectival form of that noun."

The U.S. Supreme Court disagreed: When a statute does not define a term, "we give that term its ordinary meaning," the Court wrote. "Personal" is the key term here and the statute did not define it. "Adjectives typically reflect the meaning of corresponding nouns," noted the Court, "but not always"—the difference between "corn" and "corny" is a case in point. Hence, we do not speak of "personal effects" or a "personal tragedy" when it comes to corporations; in fact, we often use the word "personal" to mean "precisely the opposite of business-related..." Further, the Court stated that "when interpreting a statute ... we construe language... in light of the terms surrounding it." AT&T's argument treats the expression "personal privacy" as only the sum of the two words. However, "personal" in a context of "personal privacy" conveys more

than just "of a person"—much as the word "golden" in "golden boy" reflects more than a boy made of gold. The Court also adopted a broader-context reading of "personal privacy," in light of other exemptions under the Statute. Exemption 6, for instance, referred to "personal privacy" in connection with "personnel and medical files."

The Court acknowledged that corporations may indeed have privacy interests under the Fourth Amendment and in double jeopardy contexts, noting that its ruling is specific to whether the term "personal privacy" in exemption 7(C) applies to corporations. In light of this decision, corporations responding to FOIA's requests may find themselves obligated to disclose the same material to third parties. 

Jill Yaziji is the principal of Yaziji Law Firm, specializing in business litigation, and a member of the Editorial Board of The Houston Lawyer.

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