



May 6, 2020, 8:30 pm

RE: Response by the American Board of Trial Advocates to the unfair criticism of District Court Judge Eric Moye

In the face of an unprecedented health crisis caused by the COVID-19 virus, County Judge Clay Jenkins issued an Emergency Order on March 22, 2020. Judge Jenkins' order required sheltering in place and temporarily closed most public businesses. Texas Governor Greg Abbott followed with his own state-wide Order on March 31, 2020. In particular, those orders shut down hair salons because of the close bodily contact involved in their services. These orders were issued to protect all citizens from the hazards of a deadly virus.

Shelly Luther, the owner of a hair salon in North Dallas, openly violated the orders of both Judge Jenkins and Governor Abbott. Her violations were blatant and part of a pattern by her of open defiance of the law. In violation of the Dallas County order and the state-wide order issued by Governor Abbott, Ms. Luther re-opened her salon in April. She ignored a citation by the City and kept her salon open. She then received a Cease and Desist letter from Dallas County. She not only ignored it, she defiantly tore it up at a local protest and stated she would *never* comply with the law. The City then obtained a temporary restraining order to ensure her compliance with the law, but she ignored it and continued to operate her hair salon.

The shop owner was finally brought to court to account for her continuing and willful violation of the law that could endanger the community at large. She came before State District Judge Eric Moye of the 14th Judicial District Court, who judiciously asked her simply to apologize for her admitted open defiance of Texas law and to confirm that she, like everyone else, would follow the law going forward. In a rebuke that would not be tolerated in any court in America, the shop owner adamantly *refused*, stating that her personal circumstances exempted her from following the orders of Governor Abbott and Judge Jenkins that otherwise applied to every other Texan.

Left with no other option in the face of the shop owner's open defiance, Judge Moye ordered her to seven days' confinement. Not long after, Attorney General Ken Paxton and others began to lead a chorus of criticism, but not of the law breaker. Instead, they criticized Judge Moye, the law *upholder*.

We strongly believe that the criticism of Judge Moye is unfounded, unfair and ultimately counterproductive to the rule of law that is so essential to our Democracy. As a State District Court Judge, Judge Moye was duty bound to determine whether Ms. Luther's conduct violated the Dallas County and State Orders. There was no question, according to Ms. Luther's own testimony, that she not only violated the orders but that she would continue to do so. Judge Moye's judicial acts form the very basis of the separation of powers under our Constitution. The very checks and

balances that the Founders of our Country envisioned played out in Judge Moye's 14th District courtroom.

As for the ruling, Judge Moye rightly ensured that the rule of law prevailed even under the emergency circumstances and enormous challenges of the pandemic. To be sure, the orders issued by Judge Jenkins and Governor Abbott have caused pain to *everyone*. But those orders are and remain the law. As Judge Moye rightly noted, if any citizen or business could violate those orders or, for that matter, any law as they saw fit, then no rule of law would exist and anarchy would prevail. Businesses might feel free to ignore health codes while individuals might ignore safety laws they do not like because the laws are inconvenient or cause them pain. This must never be the case. While people may disagree on the best approach for handling the pandemic, we all agree, as Judge Moye held, that the rule of law must endure.

Finally, we, as lawyers, never like to see people punished or sent to jail. But open defiance of the law is never an option for any citizen. Refusing to agree to follow the law during a court proceeding is not something any judge or court can allow. No person is exempt from this principle. Like all of us, Ms. Luther does not have the right to simply ignore the law. And, as Judge Moye wisely and correctly re-affirmed with his ruling, none of us should.