



# COLBY FREE PRESS

## Ruling ends lawsuit against doctors

By PATTY DECKER

Free Press Editor

After 18 months of depositions, briefs and other court documents, a lawsuit filed by a Goodland surgeon alleging two Colby doctors tried to destroy his reputation is over.

The Thomas County District Court found no justification to continue the case in a ruling issued Monday.

In his remarks, District Court Judge Jack Burr said he could find "no genuine issues" alleging defamation or damages attributable to Drs. Victor Hildyard or Raymond Ketting with respect to Dr. Duncan Davis' lawsuit filed in November of 2002.

Burr further ruled that any statements, which Davis complained about, were made in one of two meetings.

The first meeting, Burr said in his opinion, was a medical staff meeting held at Citizens Medical Center in Colby. The second meeting was a meeting of emergency medical technicians also at the hospital in Colby.

"The court finds that both of said meet-

**"We felt from the beginning that the case had no merit but plaintiffs have the right to sue and you have to go to the time and expense to defend."**

Mike O'Neal,  
Drs. Hildyard and Ketting's attorney

ings are covered by the peer review privilege," Burr wrote.

In other words, statements made in those types of meetings are confidential and the only evidence contained in this case would indicate that if the statements were made, they were repeated outside of the meeting by others and not by Hildyard or Ketting.

Michael O'Neal, Hutchinson, attorney for both Hildyard and Ketting, had argued more than six months ago that a person cannot recover for defamation on privileged statements made in peer review protected meetings that are not open to the public.

"Particularly when quality of health care is being discussed," O'Neal said in a pre-

vious interview.

After hearing the decision, O'Neal said today, "we felt from the beginning that the case had no merit but plaintiffs have the right to sue and you have to go to the time and expense to defend.

"The court is there to determine, at the appropriate point, whether the plaintiff (Davis) has enough to proceed to a jury," he said.

"In this case, the court agreed with us that the Davis' case was insufficient and the case should end and we appreciate the fact that more time and expense won't be expended and a jury's time not taken up with further consideration of these allegations," O'Neal

said.

Burr also said he was not clear with regard to the alleged damages Davis claimed. In prior documents, Davis cited a monetary remedy and a trial by jury based on defamation, economic loss, to include lost income and non-economic damages, along with the embarrassment and humiliation caused by the statements Hildyard and Ketting made.

In Burr's ruling, he addressed that issue by saying, he wanted to take the evidence presented in the "best light of the plaintiff (Davis)."

Consequently, the judge assumed that the statements alleged by Hildyard and Ketting were made and further assumed that the statements were false.

"Defamation has been defined as a communication of false information exposing another living person to public hatred, contempt or ridicule or depriving another of the benefits of public confidence and social acceptance," Burr said.

Burr said he agreed with Hildyard and Ketting's attorney in that communication

which involved matters of legitimate public concern or matters involving employer-employee relations is considered qualified privilege.

"If a communication is qualified privilege," the judge said, "Davis can only recover by proof of actual malice on the part of the defendants (Hildyard and Ketting)."

In proving this, Burr said, it would require that the communication was made with knowledge that the defamatory statement was false or with reckless disregard to whether it was false or not and that it was made with actual evil-mindedness or specific intent to injure.

However, Burr said that if a defamatory statement is made in good faith on any subject matter in which the person communicating has interest and it is made to a person with a corresponding interest or duty, the communication is then considered qualified privilege.

Following Monday's ruling, Burr said no more filings from either side are necessary since no further justification to do so can be found.

## Visitor's Center opens with a 'snip' of a ribbon

By TISHA COX

Colby Free Press

Tourists and locals now have a new resource to find out almost anything they want to know about this area, and the state in general. The new Colby Visitor's Center officially opened Tuesday with a ribbon-cutting ceremony.

The building, west of Taco John's on Range Avenue, already has had a few out-of-town visitors, said Colby Convention and Visitors Bureau Director Leilani Thomas.

"Yesterday there were people from Arkansas, Wisconsin and California so that was good," she said. "We were pleased with the local support, really pleased despite the wind."

More than 50 people braved the wind for the ribbon-cutting, Thomas said, and she wanted to thank everyone for showing up.

Thomas said communities around the state have also been supportive, sending their brochures and other information to put at the new center. Everything from the Kansas Getaway Guide

and basic tourism information to brochures from Kansas Wildlife and Parks are available.

She said the building isn't just a resource for tourists. It can also be a source of information for locals who want to plan a trip around Kansas. She said the process to get a visitor's center in Colby started about eight years ago with actual construction beginning in 2002.

The silo-themed building includes inside tourist information with a sitting area and in the silo, a table and chairs and the walls are adorned with pictures from around the area. Also, she said they're still looking for volunteers to help staff the center. There is one full-time staff member, Ralph Fischer, and Thomas said anyone wanting to find out more about volunteer opportunities can call the center at 460-0076.

The center is open from 9 a.m. to 5 p.m. Monday through Friday until Memorial Day and summer hours will be from 9 a.m. to 7 p.m. Monday through Friday. The center is also open from 1-5 p.m. on Sundays.



TISHA COX/Colby Free Press

Ralph Fischer, a Colby Visitor's Center staffer, Susan Orr, Colby Chamber Diplomat and Leilani Thomas, Colby Convention and Visitors Bureau director, visited at the center's grand opening Tuesday.

## City police have busy Sunday; county says, 'all quiet'

By PATTY DECKER

Free Press Editor

Colby police were busy early Sunday morning with reports of six vehicles and one shed being vandalized.

But for the Thomas County Sheriff's office it was quiet, law enforcement officials said Monday.

No suspects have been charged in the vandalism cases as yet, said

Gary Shull, Colby police investigator.

"All of the incidents happened in the south part of town with the first vandalism discovered by a police officer at 4:06 a.m. after noticing a car had a (inappropriate) word spray painted on it," he said. The car was in the 600 block of S. Grant.

The next incident reported was about 25 minutes later when some-

one in the 600 block of W. Summit heard glass shattering. Twenty minutes later a report was made on the complaint, but Shull was unsure as to whether it involved glass breakage on a house or car, since the report was not completed.

During the shift change, Shull said, a third vandalism involving multiple vehicles was reported by another officer at 5:09 a.m. Again,

spray paint was used in making inappropriate wording. The total by that time was vandalism to six vehicles and the shed.

Other disturbances last weekend included a prowler report in the 300 block of S. Franklin at 10:36 p.m., Saturday; one domestic dispute at 11:30 p.m. in the Colby Theatre located downtown; and a noise complaint at 11:38 p.m. when neighbors

reported hearing loud noises, but no location was identified.

Then around 1:16 a.m., Sunday, officers were asked to evict customers from the Comfort Inn. Shull could not say whether or not it was prom-related since Colby High School's event was earlier in the evening.

When witnessing unusual behavior, call 462-4460 and report it.



### Much cooler

Colby, Oakley, Hoxie area  
Tonight...Mostly cloudy.

Lows in the 40s. Showers. East winds 10-20 mph, shifting to the north after midnight. Rain chances 40 percent.  
**Thursday**...Cloudy. Much, much cooler with highs only in the lower 50s. Rain chances 30 percent. North winds 10-20 mph.  
**Thursday night**...Partly cloudy. Lows in the mid-30s. Northeast winds 5-15 mph.  
**Friday**...Partly cloudy. Return to more seasonable conditions. Highs around 70. Southwest winds up to 15 mph.

### The numbers

Tuesday's high, 85  
Low this morning, 47  
Records for May 12, 99 in 1962 and 27 in 1953  
Year ago today, 80 and 46  
Precipitation past 24 hours, trace

May total, 0.09  
Soil temperature, 71

### The sources:

The forecast is from the National Weather Service, and other numbers are from the Northwest Research-Extension Center, Colby. A recorded forecast updated throughout the day is available by calling (785) 899-7119. Current temperatures are available by calling 460-TEMP.

## Briefly

### Amusement meeting Monday

The Thomas County Amusement Association will meet at 8 p.m., Monday, at the Thomas County Office Complex. With 2 1/2 months left before fair time, preparations will be among agenda items. Everyone is welcome to attend.

### Baccalaureate open to all seniors

The Thomas County Ministerial Alliance is once again sponsoring Baccalaureate prior to the Colby High School Commencement, Sunday, beginning at 1:30 p.m. in the Little Theater at the Colby Community Building. Due to confusion about when the service is held the past couple of years, sponsors wanted to make sure all seniors, along with their parents, relatives and other guests are welcome and encouraged to attend. "This is a time for encouragement," organizers said, "and a free Bible will be given to each one of the graduating seniors at Colby High School. Pastor Gene Rothfuss of the Wesleyan Church in Colby will deliver the message. Colby's graduation ceremony will begin at 3 p.m.

### Flea market donations needed

The Thomas County Alcohol and Drug Abuse Council is sponsoring its annual flea market. As in years past, organizers are taking donations, which will be tax deductible. Anyone who would like to contribute can do so by dropping items off Saturday from 10 a.m. to 3 p.m. at the old Taylor Motors Building (next to Service Oil) 445 N. Lake, Colby. Larger or

bulkier items can be picked up on request by calling the ADAC office. This year's flea market will be held Saturday, May 22, at 8 a.m. For other questions, or to request a pickup, call 462-6111.

### Captive Free to appear in Levant

Captive Free will be at the Levant Community Church in Levant tonight at 6:30 p.m. with a program starting at 7:30 p.m. The group is a contemporary music ministry team sponsored by Youth Encounter. The team's program will consist of Christian music, puppetry, drama and personal sharing.

### Colby College commencement nears

The Colby Community College will celebrate its 39th annual commencement starting at 2 p.m., Saturday, in the Colby Community Building. This year's commencement speaker is Sen. Stephen Morris of Hugoton. In addition to degrees and certificates being presented to students, the honorary associate degree will be given to Kenton and Sheila Krehbiel. Other awards include the Mosier Award to the year's outstanding graduate and the Tangeman Award to the college's distinguished teacher in 2004. For questions, call Debbie Schwanke, 462-3984, ext. 249.

### Scouts seeking donations

Two Colby girl scouts from Troop 162 are making hygiene and comfort disaster relief packages to benefit the Thomas County Red Cross. Jessica Kennedy and Sarah Oesterreich, girl scouts, have left boxes at Colby Photo, Pio-

neer Memorial Library, College Drive Assembly, the Berean Church or the *Colby Free Press*, for donations. Deadline for donations is Friday, May 21.

### Fair board to meet

The Thomas County Fair Board will meet at 8 p.m. Thursday at the 4-H Building at the fairgrounds. Items on the agenda include Thomas County Extension Agent report, financial report and bills, committee reports on the buildings and grounds, carnival, rodeo, parade, demolition derby, races, fair book and advertising.

Old business includes barbecue bids and the queen and princess contest and new business a monster truck show and on-ground storage.

### Soybean referendum requests begin

From now through Friday, May 28, producers can receive a form requesting a referendum on the Soybean Promotion and Research Order, said Ross Sloan, Farm Service Agency director. Mail-in requests must be postmarked no later than May 28. For questions, call Sloan at 462-7671.

### New school vaccinations required

Emily Strange, school nurse for the Colby School District, said the state will require chickenpox and Hepatitis B vaccinations for school entrance. If a child has chickenpox, the vaccine isn't required. Written documentation from a doctor or parent, with the date of illness, needs to be provided to the school. For information, contact Strange at 460-5111.

