

Stay for NOLA's  
French Quarter Fest  
APRIL 6-9, 2017



# Civil Rights Étouffée

A FEDERAL BAR ASSOCIATION  
CIVIL RIGHTS CLE  
FRIDAY, APRIL 7, 2017  
NEW ORLEANS

## LAISSEZ LES BON TEMPS ROULEZ!

Join the FBA Civil Rights Law Section, in partnership with the New Orleans Chapter, for the first—and soon to be annual—Civil Rights Étouffée CLE in New Orleans on Friday April, 7, 2107 from 8:30am - 5:00pm CT.

Register Today: <https://fbacivilrightsnola17.eventbrite.com>

And stay the weekend for one of NOLA's premier music events, The French Quarter Fest, [www.fqfi.org/frenchquarter](http://www.fqfi.org/frenchquarter).

For more information on this 6.5 credit CLE, contact [FBACivilRightsLaw@gmail.com](mailto:FBACivilRightsLaw@gmail.com).



**Federal Bar  
Association**  
Civil Rights Law Section



**Federal Bar  
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New Orleans Chapter



PHOTO BY LARS PLOUGHMANN

# French Quarter Festival

Come experience the award-winning French Quarter Festival, a four-day local music showcase scattered throughout the French Quarter in New Orleans—the largest free music event in the United States! Featuring 1,700 musicians playing 400 hours of free, local music from a variety of musical genres on 23 stages throughout the French Quarter. Make sure to sample the festival food booths operated by some of New Orleans' finest restaurants, open throughout the festival weekend. For more info: <http://fqfi.org/frenchquarter>

**COME FOR THE CLE, BUT STAY FOR THE MUSIC, THE FOOD, THE N'AWLINS CULTURE THAT CAN ONLY BE FELT BY EXPERIENCING IT, AND AFTER YOU EXPERIENCE IT ONCE, YOU WILL KEEP COMING BACK TO NOLA!**

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## Hotel Information

A number of rooms have been blocked at the **Sheraton New Orleans**, 500 Canal Street. Rooms at \$220/night, single or double occupancy.

Book your hotel room today: <http://bit.do/FBA-CivilRights-Sheraton>

Ease into a relaxing getaway on one of the most celebrated parade routes in the world at Sheraton New Orleans hotel. From the French Quarter and Bourbon Street, across Canal Street to the Riverwalk and Warehouse District, you'll be fewer than two blocks from everything you want to see.

Start your day with a beignet at Roux Bistro before exploring the shops of Royal Street. Wind down with specialty cocktails and light fare in the wrought iron elegance of the Pelican Bar.





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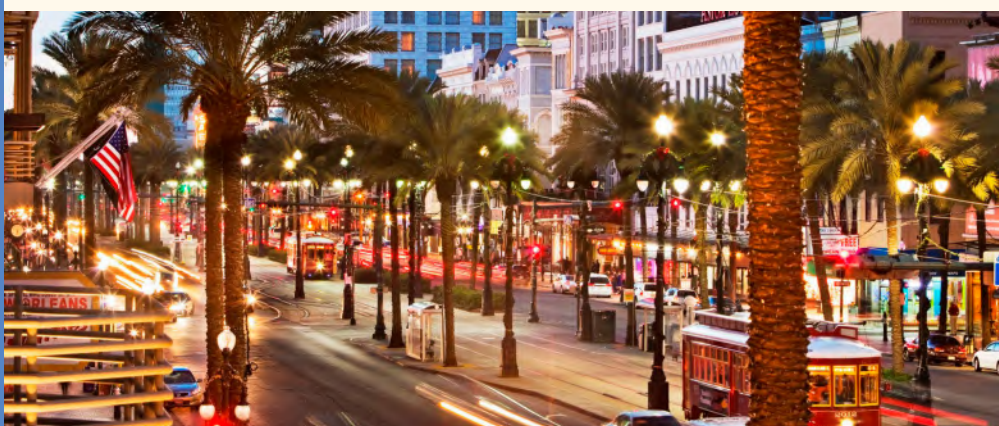
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# FBA Civil Rights Étouffée CLE

## Panels *(in formation)*

### A. Impact Litigation and Social Justice Warriors

*Elissa Johnson, Southern Poverty Law Center; Tracie Washington, Professor, Dillard University, Louisiana Justice Institute; Stanley Young, Covington Burling.*

### B. From Training to the Streets: What are the Standards for Street Protest and First Amendment Policing

*Wyllie Stecklow, NYC; Tara Johnston, Baton Rouge Sheriff's Dept; Eileen Rosen, Chicago Police Department. Moderator: Magistrate Richard Bourgeois*

### C. The Criminal Justice System as a Means to Create Revenue. For-Profit Policing: Fines, Fees, and Forfeitures

*Darpana Sheth, Arlington, Virginia; Sara Zampierin, Southern Poverty Law Center*

### D. Pre-Trial Detainees v. Post-Conviction Prisoners: Did the Supreme Court Decision in *Kingsley Mark* a Sea Change or Is It a Distinction without a Difference?

*Liz Cummings, New Orleans; Jim Mullaly, New Orleans; Theresa Powell, Springfield, Illinois. Moderator: Stephen Haedicke, New Orleans*

### E. Use of Force Continuum: Comparing Federal and State Standards

**(Defense of Gov't Entities Committee)**

*Paul Noel, Commander NOLA PD; Gary Bizale, NOLA; Susan Hutson, New Orleans Police Department Independent Monitor. Moderator: Theresa Powell, Springfield, Illinois*

### F. The Broad Immigration Enforcement Authority of DHS, and Civil Rights Consequences for Immigrants

*Laura Olson, DHS, Office for Civil Rights & Civil Liberties, Immigration Section Chief; Kathleen Gasparian, New Orleans; Hiroko Kusuda, Professor of Law, Loyola New Orleans Law School. Moderator: Jeffrey Feinbloom, NYC*

### G. Religious Exemptions Allowing Discrimination against LGBT People: Where will the Boundary be Drawn? (organized by the FBA LGBT Section)

*David Thompson, NYC; J. Dalton Courson, New Orleans; Alysson Leigh Mills, New Orleans*

### H. Disparate Impact Claims under the Fair Housing Act: What proof is required?

*Panelists: Toni Jackson Jones Walker, New Orleans; Cashauna Hill, Executive Director, Fair Housing Action Center, New Orleans; Laura Tuggle, Executive Director, South East Louisiana Legal Services. Moderator: Joy Willing, Jones Walker, New Orleans*

### I. Charters, Cybers and Special Education: Old Wine in New (and Leaky) Bottle

*Caryl Andrea Oberman, Pennsylvania; Eden Heilman, Southern Poverty Law Center; Jaimme Collins, Adams Reese, New Orleans. Moderator: Ken Gelburd, Pennsylvania*

### J. Panel Examining use of Federal Prohibitions and Medical Marijuana, Interstate Traveling with Medicinal Marijuana

*Jerry Goldman, Anderson Kill & Olick, NYC; Sean McCallister, Denver. Moderator: Bonnie Kift, Ligonier, Pennsylvania.*

**KEYNOTE SPEAKER: TBA**



## CIVIL RIGHTS ÉTOUFFÉE CLE

6.5 credits

Friday, April 7, 2017

8:30am - 5:00pm

ADAMS AND REESE LLP  
701 Poydras Street, Suite 4500  
New Orleans, LA 71039

Register Today:

<https://fbacivilrightsnola17.eventbrite.com>





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*Participants & Partners (in formation)*



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## **THURSDAY NIGHT OUT: KERMIT RUFFINS**

See Jazz trumpeter Kermit Ruffins at Bullets on Thursday, April 6. Tickets are \$20 and include 1 drink.



The Federal Bar Association serves to strengthen the federal legal system and administration of justice by serving the interests and the needs of the federal practitioner, both public and private, the federal judiciary and the public.

In 2016, Wylie Stecklow became the chair of the FBA Civil Rights Law Section and with Darpana Sheth, Stephen Haedicke, Theresa Powell and the support of the FBA NOLA Chapter and FBA National, the CLE in New Orleans coinciding with the French Quarter Festival was created. Join us in year one in New Orleans for what will absolutely be the best CLE experience a lawyer can handle.



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## **PLENARY PANELS:**

### **Morning – Session 1**

### **PANEL 1 9:00-10:15AM**

#### **Immigration & Civil Rights: An Exploration of Issues**

This panel will address key issues at the intersection of civil rights and immigration law. We will discuss the broad nature of the authority of the Department of Homeland Security (DHS) to interrogate, detain and remove non-citizens and how the agency exercises its authority. We will discuss a number of hot topics, including the recent Executive Orders and how they impact the civil rights of non-citizens. Other topics will include the now-defunct NSEERS program and the prospect of a so-called Muslim registry; Fourth Amendment issues and motions to suppress; immigration detainers; and issues affecting immigrant children, including the right to an education. Finally, the Immigration Section Chief of the Office of Civil Rights and Civil Liberties (CRCL) at the U.S. Department of Homeland Security will discuss her office and address how immigrants and their advocates can best utilize it as a resource.

**Moderator:** **Jeffrey A. Feinbloom**, Feinbloom Bertisch LLP, NYC

**Panel:** **Kathleen Gasparian**, Gasparian Immigration, NOLA;  
**Hiroko Kusuda**, Professor of Law, Loyola University of New Orleans College of Law, NOLA;  
**Laura Olson**, U.S. Department of Homeland Security, Office for Civil Rights and Civil Liberties, Immigration Section Chief, WASHINGTON, D.C.

### **Afternoon - Session 4**

### **PANEL 4 1:45-255PM**

#### **Impact Litigation and Social Justice Advocates**

Class-action lawsuits are an important tool to advance civil rights. This panel will focus on the value of impact litigation to advance social justice and civil rights. Attorneys from various jurisdictions will share their experiences in bringing impact litigation related to prison conditions, racial profiling, and other targeted and vulnerable populations. They discuss strategies to continue to use impact litigation as a tool to advance civil rights.

**Moderator:** TBD

**Panel:** **Elissa Johnson**, Southern Poverty Law Center, JACKSON, MS;  
**Tracie Washington**, Professor, Dillard University, & President and CEO, Louisiana Justice Institute, NOLA;  
**Stanley Young**, Covington & Burling, SAN FRANCISCO.





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## **Break-Out Panels**

**Morning – Session 2**

**10:20-11:20AM**

### **PANEL 2A**

#### **Pre-Trial detainees v. Post-Conviction prisoners: is the *Kingsley* Supreme Court Decision a distinction without a difference?**

In *Kingsley v. Hendrickson*, 135 S. Ct. 2466 (2015), the Supreme Court held that a pretrial detainee may prevail on an excessive force claim if he or she shows that the force used was objectively unreasonable, regardless of whether the officer had a subjective intent to cause the detainee harm. In reaching this decision, the Court granted greater protections to pretrial detainees under the 14th Amendment's Due Process Clause than convicted prisoners enjoy under the Eighth Amendment. The Eighth Amendment still requires proof of a subjective intent to cause harm before a violation will be found. The Ninth Circuit has interpreted the *Kingsley* decision to apply to all claims brought by pretrial detainees, not just those based on allegations of excessive force. This panel will explore the ramifications of *Kingsley* and query whether other circuits are likely to follow the Ninth Circuit's expansive reading of *Kingsley*. If so, what will that mean for jail litigation?

**Moderator:** Stephen Haedicke, Law Office of Stephen Haedicke, NOLA

**Panel:** Liz Cumming, Law Offices of Elizabeth Cumming, NOLA;  
Jim Mullaly, Martiny & Associates, NOLA;  
Theresa Powell, Heyl, Roster, Voelker & Allen, PC, SPRINGFIELD.

### **PANEL 2B**

#### **An examination of the use of federal prohibitions on medical marijuana and interstate traveling with medicinal marijuana**

The panelists on the marijuana panel will present an overall view of current legal status regarding the growth, production, distribution, and use of marijuana for medicinal and adult use in the new environment across the many states and their potential interaction with federal laws. Specific State laws that have legalized marijuana to various degrees or manners and their practical implications before, and at, trial will also be discussed.

**Moderator:** Bonnie Kift, Law Office of Bonnie Kift, LIGONIER, PA

**Panel:** Jerry Goldman, Anderson Kill & Olick, NYC;  
Sean McAllister, McAllister Garfield, PC, DENVER, CO.



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## **Break-Out Panels**

**Morning – Session 3      11:30AM-12:30PM**

### **PANEL 3A**

#### **Use of Force Continuum: Comparing Federal and State Standards**

This panel will discuss how local (non-federal) police officers are trained in terms of when it is appropriate to use force, how much force is authorized and the discretion given to law enforcement to make decisions. We will discuss the application of implementing law enforcement's understanding of the Use of Force Continuum to compare and contrast relevant cases which address the Court's understanding of reasonableness.

**Moderator:**    **Theresa Powell**, Heyl, Roster, Voelker & Allen, PC, SPRINGFIELD

**Panel:**        **Gary Bizal**, Pierce & Bizal, NOLA;  
                 **Susan Hutson**, City of New Orleans Independent Police Monitor, NOLA;  
                 **Bill Mullaly**, Special Operations Division, New Orleans Police Department, NOLA;  
                 **Jim Mullaly**, Martiny & Associates, NOLA.

### **PANEL 3B**

#### **Disparate Impact Claims: Recent Case History and Application for Fair Housing Claims**

On June 25, 2015, the Supreme Court, by a five-to-four margin, ruled that a disparate impact claim was cognizable under the Fair Housing Act. While upholding disparate impact theory, the Court imposed significant limitations on its application in practice "to protect potential defendants against abusive disparate-impact claims." In particular, the Court held that a racial imbalance, without more, cannot sustain a claim, and directed lower courts to "examine with care" the claims at the pleadings stage. This panel will address the history of this case and other laws affecting housing discrimination claims and how they now form the basis for Fair Housing claims and defenses to them.

**Moderator:**    **Joy Willig**, Jones Walker, NYC

**Panel:**        **Cashauna Hill**, Executive Director, Greater New Orleans Fair Housing Action Center, NOLA;  
                 **Antoinette "Toni" Jackson**, Jones Walker, HOUSTON;  
                 **Laura Tuggle**, Executive Director, Southeast Louisiana Legal Services, NOLA.





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## **Break-Out Panels**

**Afternoon – Session 5**

**3:00 -4:00PM**

### **PANEL 5A**

#### **From Training to the Streets: What are the Standards for Street Protest and First Amendment Policing**

From Occupy Wall Street to Black Lives Matter to Women's Marches and Anti-Trump protest, cities and towns in America have seen an increase in street protest over the past decade, and since January 20, there are almost daily street protests in frequency and volume of participants never before seen in our history. The panel will discuss how criminal laws apply when First Amendment activity is in play, how municipalities can properly train our police forces to properly apply such standards and how to protestors and police can work better to ensure expressive speech activities are given the proper constitutional safeguards.

**Moderator:** Magistrate Judge Richard Bourgeois, Middle District of Louisiana, BATON ROUGE

**Panel:** Tara Johnston, counsel for Baton Rouge Sheriff, Erlingson Banks, BATON ROUGE;  
Eileen Rosen, counsel for Chicago Law Dept., Rock Fusco & Connelly, CHICAGO;  
Wylie Stecklow, counsel for Occupy Wall Street, Stecklow & Thompson, NYC.

### **PANEL 5B**

#### **For-Profit Policing: Fines, Fees, and Forfeitures**

Reform of the American justice system has captured the attention of the American public. While the discussion has focused on sentencing policies, police accountability, and reentry issues, there is a less-examined, but equally significant issue: Our justice system has come to rely on the criminal justice system as a means to create revenue. This panel examines the problems of for-profit policing and the alarming trend of using fines, fees, and forfeitures to fund law-enforcement agencies.

**Moderator:** Glen Downey, Law Offices of Glen Downey, DES MOINES

**Panel:** Alanah Odoms Hebert, Deputy General Counsel, Special Counsel to Chief Justice Bernette J. Johnson, Louisiana Supreme Court, NOLA;  
Darpana Sheth, Sr. Attorney, Institute for Justice, ARLINGTON, VA;  
Sara Zampierin, Sr. Staff Attorney, Southern Poverty Law Center, MONTGOMERY, AL.



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## **Break-Out Panels**

### **Afternoon – Session 6**

**4:10 -5:10PM**

#### **PANEL 6A**

### **"Religious Freedom" vs. LGBT Equality: Legislative Attempts to Empower Anti-LGBT Discrimination**

Laws have been passed or proposed on the state and federal level which privilege anti-LGBT religious beliefs and give legal protection to anti-LGBT discrimination. Under the so-called First Amendment Defense Act introduced in the House of Representatives (HR 2802), federal employees or contractors could refuse service to LGBT citizens or terminate LGBT employees if they professed a religious belief that LGBT people should not be permitted to marry, or that sexual relations outside heterosexual marriage are improper. HR 2802 ironically defines "discriminatory action" as any action taken by the government against a person who discriminates against LGBT people. In 2016, Mississippi passed a nearly identical law: HB 1523. A federal court issued a preliminary injunction enjoining its enforcement.

Even if HB 1523 is struck down, it is unlikely to be the last word in the use of claimed "religious freedom" as a means to oppose LGBT equality. This panel, which includes attorneys taking part in the HB 1523 litigation, will discuss the legal issues raised by HB 1523, and will look forward to what might come next.

**Moderator:** David Thompson, Stecklow & Thompson, NYC

**Panel:** J. Dalton Courson, Stone Pigman, NOLA;  
Alysson Leigh Mills, Fishman Haygood, NOLA.

#### **PANEL 6B**

### **Charters, Cybers and Special Education: Old Wine in New (and Leaky) Bottle**

The Individuals with Disabilities Education Act (IDEA) has been around in its various forms for more than forty years. It guarantees a free, appropriate public education to students with disabilities, and that they will be educated to the maximum extent appropriate with their non-disabled peers. The IDEA's core principles, including full access to education, individualized evaluation and prescriptive program development, full parental participation, prior written notice, and parents' opportunity to challenge educational decisions for students with disabilities, have had a profound impact on the lives of children and their families. How will the growing emphasis on school choice initiatives, including charter schools, cyber-charter schools, and school voucher programs, affect those lives? In this panel, experienced counsel from both sides, representing parents and school districts, will explore the foundations of special education law and the impact of those initiatives on access, quality and accountability for today's special education students.

**Moderator:** Ken Gelburd, Esq., ELKINS PARK, PA

**Panel:** Jaimmé Collins, Adams and Reese LLP, NOLA;  
Eden Heilman, Managing Attorney, Southern Poverty Law Center, NOLA;  
Caryl Andrea Oberman, Law Offices of Caryl A. Oberman, WILLOW GROVE, PA.